

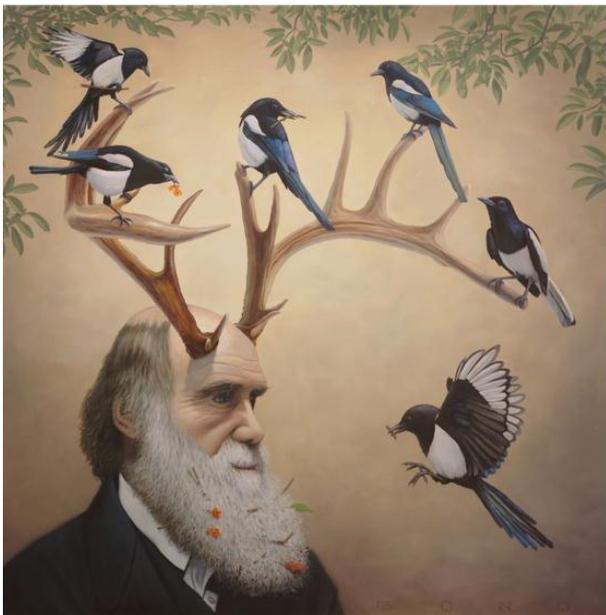
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Reconciliation In The Iraqi Code Of Criminal Procedure In Force

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Abstract

Reconciliation is one of the most important issues of criminal justice. Accordingly, the Iraqi legislator regulated the provisions of reconciliation between the conditions and its effects in Chapter V of Part III of Book III of Articles (194-198) of the Code of Criminal Procedure No. 23 of 1971 as amended. The reasons that led the Iraqi legislator to accept and accept the principle of reconciliation or conciliation in the criminal case are the serious desire to end and resolve the conflict in specific crimes in order to spread peace between the parties to the criminal case and to deter taking revenge and end it. The framework of not blocking reconciliation in some minor crimes itself and avoiding the complications of conviction and punishment for the crime. Although the legislator defined the methods for ending the criminal case as stated in Article (300) of the Code of Criminal Procedure in force, it is a first part as it is said that (peace is the master of judgments), therefore, reconciliation is a special reason for stopping the progress of the criminal case and its expiration The effect of the conciliation decision is similar to the acquittal. Thus, it is clear that the appointment of the peace by the legislator is acceptable and justified, but what is taken and that it has expanded in some cases, as it included crimes in which it was better not to accept reconciliation, such as crimes of threat, abuse and sabotage of funds that may be vetoed by the judiciary at the discretion of the crimes He did not approve the judgment of reconciliation or reconciliation for reasons related to the duration of the negative sentence of freedom.

Reconciliación En El Código De Procedimiento Penal Iraquí En Vigor

Resumen

La reconciliación es uno de los temas más importantes de la justicia penal. En consecuencia, el legislador iraquí reguló las disposiciones de reconciliación entre las condiciones y sus efectos en el Capítulo V de la Parte III del Libro III de los Artículos (194-198) del Código de Procedimiento Penal No. 23 de 1971, según enmendado. Las razones que llevaron al legislador iraquí a aceptar y aceptar el principio de reconciliación o conciliación en el caso penal son el deseo serio de terminar y resolver el conflicto en crímenes específicos con el fin de extender la paz entre las partes en el caso penal y disuadir venganza y ponerle fin. El marco de no bloquear la reconciliación en algunos delitos menores y evitar las complicaciones de la condena y el castigo por el delito. Aunque el legislador definió los métodos para terminar el caso penal como se establece en el artículo (300) del Código de Procedimiento Penal vigente, es una primera parte ya que se dice que (la paz es la maestra de los juicios), por lo tanto, la reconciliación es una razón especial para detener el progreso del caso penal y su vencimiento El efecto de la decisión de conciliación es similar a la absolución. Por lo tanto, está claro que el nombramiento de la paz por parte del legislador es aceptable y justificado, pero lo que se toma y se ha ampliado en algunos casos, ya que incluía delitos en los que era mejor no aceptar la reconciliación, como los delitos de amenaza, abuso y sabotaje de fondos que pueden ser vetados por el poder judicial a discreción de los crímenes. No aprobó la sentencia de reconciliación o la reconciliación por razones relacionadas con la duración de la sentencia negativa de libertad.

Research importance:

The constant emphasis on the punitive element of criminal proceedings may lead to the emergence of a criminal justice crisis, which is evident in a number of aspects, including:

1 - Delay in the completion of criminal cases or so-called (procedural slow) as a result of formalities to resolve the criminal case, which wastes the right of the accused to a speedy and fair trial.

2- Increasing the expenses of the State and incurring expenses for the administration of its judicial facilities and consequently its impact on other aspects of the facility, which should be spent to serve

the community.

3. The decline in the idea of public and private deterrence has caused an increase in the number of prisons filled with convicts for crimes in which judicial reconciliation is more effective than punishment.

As a result of the above mentioned the need to work in the comprehensive reformulation of criminal justice procedures in a way that is a balance of public and private rights, both under the rule of law.

Reasons to choose your search:

The reasons for the research lie in the issue of reconciliation as one of the most important issues of renewed criminal justice in the interest of both parties, and despite the clarity of the drafting of the Iraqi law when dealing with this issue, the practical application of the reconciliation as a result of the issuance of the amnesty law of 2016 has changed the Some of the provisions laid down by the legislator in the Code of Criminal Procedure, so our research comes in a serious and real attempt in trying to take note of these changing provisions. research goals:

This research aims to study the criminal justice system, in terms of definition of its importance, conditions, effects and provisions, as well as distinguish it from similar terms such as waiver and forgiveness that raise some problems in terms of confusion and error in the initial judicial applications when issuing decisions or judgments on the above concepts Which is vetoed upon audit, indicating the scope of its judicial applications.

Research Methodology :

In this study we will follow the analytical research methodology of the relevant legal texts, with the study of the Iraqi judicial applications on the criminal reconciliation in the lawsuit or the criminal complaint.

Search Plan :

We will divide this study into two subjects, the first in the concept of criminal reconciliation, in the first section, we deal with the concept of reconciliation and its subjectivity, by dividing it into two requirements, the first of which is dedicated to the definition of the composition and the conditions, while the second requirement is dedicated to distinguish the peace from similar concepts.

As for the second section, we devote the second and the second to the effects of the peace.

The conclusion of the research will reflect the main findings of our recommendations.

The first topic

The concept of peace

We will address the concept of criminal reconciliation in two demands, the first to define it and its conditions, and the second to distinguish the peace from similar concepts.

The first requirement

First: the definition of peace

There is no doubt that every law issued by the competent legislative authority, the legislator to the definition of “clear in the law of the important terms to be considered as a guide” to the authorities concerned with the application, especially when there are terms that may have a common or identical meaning, or to avoid the difference of interpretation. However, the Iraqi legislator within the Code of Criminal Procedure in force did not give a specific definition of the criminal reconciliation and the statement of its legal nature, but dealt with its provisions, conditions and effects without definition, and perhaps raised the lack of definition resulted in a clear confusion with the waiver by judges and courts. Inquiry when application. Magistrate language means: reconciliation of people among them. Peace: Peace, but the term means resolving the conflict. The Iraqi Civil Code No. 40 of 1951 amended the definition of reconciliation in Article (198) of it as “a contract that raises the conflict and cut off the dispute by mutual consent.” Some jurists have given a definition of reconciliation, which means that the social body has waived its right to take criminal action in exchange for the fact that the peace was based on it. In another definition of reconciliation, the social authority shall be relinquished its right to punish in some crimes in exchange for the offense on which the peace is based or for the reconciliation of the accused with the victim in cases permitted by law). - within the limits of the application of the legal rule - as a descent from the Commission Social law for its right to criminal action in return for what was based on reconciliation.

For our part, we mean that the peace means (license authorized by the legislator to stop the criminal case and terminate it unnaturally in order to spread peace and avoid the grudge between the adversaries and avoid protracted formalities when litigating for a range of crimes), therefore, reconciliation is a legal leave to settle the dispute amicably by mutual consent of the parties Criminal proceedings are a class of non-serious crimes.

Second: the terms of the peace

In order to be in front of a judicial decision for reconciliation carrying the concept of criminal reconciliation as a product of legal provocation, the Iraqi legislator has set a number of legal conditions must be met by the decision of the reconciliation, namely:

First: The crime committed shall be one of crimes that are not moved only by a complaint filed by the victim or his legal representative, that is, claims of personal right. The crimes mentioned in Article 3 (a) of the Law shall mean the rules of criminal trials in force. Composition includes claims for public right and crimes against the employee.

Crimes contained in articles 377, 384, 455, 463) of the Penal Code in force are not covered by the conciliation provisions but by the waiver provisions.

Second: The request for reconciliation shall be submitted to the investigating judge or the court from the victim or his legal representative. The request for conciliation must be made only to the investigating judge or the court, so the conciliation shall not take place if it is signed outside the doors of the Judicial Council, and “the conciliation decision shall not be issued by the investigator or the persons or entities authorized by law to investigate.”

Third: The request for reconciliation shall be submitted by the victim or his legal representative. The judge or court has been legally documented and has ruled in this regard: (... that the trial court decided to accept the conciliation of the complainant (LRM) in accordance with Article 197 / fundamentalism on the grounds that he did not request the complaint against the accused and note the statements

The complainant mentioned in the investigation phase found that he had not explicitly requested reconciliation with the accused either in writing or orally. In order for the court to accept his request for conciliation, it may not conclude that he has submitted a conciliation application from his statement to the investigating judge that he (does not request a complaint against (a) and his children (h) and (p)) as long as those statements do not contain an explicit request to accept the conciliation. The court should, if it finds that the complainant's statements (LR) have not been further substantiated, are insufficient to form the conviction of the accused to apply his article 182 / c / fundamentalism and not to accept the reconciliation. There was no explicit request from the complainant ...) In the same context, the Federal Court of (A) Reconciliation shall not be concluded, but shall be at the request of the victim or his legal representative.

Concerning the applicant of the peace, as long as the initiation of the personal criminal case takes place starting with the victim or his legal representative according to Article (3 / A) of the Criminal Procedure Code in force, the application for reconciliation shall be submitted by the above mentioned as stated in Article (194) of The aforementioned law, the right of reconciliation is the right of the victim or his legal representative, and thus has already ruled that: (... that the fixed from the agency granted by the complainant (privileged) to his lawyer that the latter is entitled to the right of litigation, acknowledgment, reconciliation and waiver and other Other rights and powers ...). In addition, it is stipulated that the applicant of the peace must be enjoying or fully qualified.

Fourth: The conciliation must be complete and accomplished, and this is confirmed by article (196 / a) fundamentalism (conciliation is not accepted if it is accompanied by a condition or pending on it), and the conciliation is not issued and is not accepted by the court if it is accompanied by a condition or pending it because judicial decisions and judgments. It is not possible to issue incomplete conditions so that they cannot be implemented or implemented, and therefore the purpose or purpose of the legislator is not lost in criminal reconciliation. In this regard, the Baghdad Court of Appeal ruled the federal Rusafa as discriminatory as follows: (... that the complain-

ant had reconciled with the accused and his brother Conciliation is suspended on certain conditions, since conciliation is not accepted if it is associated with There is no place for conciliation if it is an agreement with the payment of a sum of money or is suspended on the completion of a work or the passage of a specified period or the approval of a particular person or entity, as this is contrary to the wisdom dealt with. The legislator for reconciliation is built into the law.

Fifth: It is necessary to submit a request for reconciliation in the criminal case before the issuance of the decision or the judicial verdict therein. Article (197 / A) is a fundamentalist organization that has been convened. It states: (Reconciliation shall be accepted at all stages of investigation and trial until the decision is issued in the case). The peace is envisaged only at the time that it extends since the beginning of the criminal lawsuit and proceeding legally and before a decision is issued. Declaration of the conclusion of the pleading. "It is noteworthy that if a decision of the criminal case is issued for conviction and punishment and then it is overturned for legal reasons and it is decided to return the case file to the court of first instance, then the conciliation may be conducted in accordance with the conditions and procedures stipulated by the law. Issuing a final verdict of his conviction or innocence, or a verdict or decision that is not responsible for the crime assigned to him or a final decision to release him or to pardon the crime or to stop the proceedings therein in a final manner or in the cases stipulated by law. "However, there is only one case that can be excluded from this condition, which is the crime of adultery, which can be applied to stop the execution of the sentence, "although this crime is one of the fundamentalist crimes and applies to them. The provisions of waiver, not reconciliation. "

Sixth: The crime to be reconciled (offense or misdemeanor). Here it is acceptable to walk with reconciliation procedures and there is no room for acceptance if the crime is a felony. In this context, Judge Yasser Mohammed Said Kaddou states that this condition is subject to disagreement among the jurists as follows: - The first opinion is the minority and the dispute lies in articles (412) and (430) of the Penal Code, since Article (3) fundamentalism did not include an ex-

ception for crimes, but The second opinion, the majority, which is settled by the Court of Cassation, stated that the dispute was settled under Article (195) fundamentalism, which stipulated (a) if the offense referred to in Article 194 is punishable by one year imprisonment or a fine. If the crime is punishable by imprisonment for more than a year ... Therefore, the legislator, when referring to imprisonment, leaves no doubt that he has excluded felonies for which the prison sentence is excluded from the conciliation provisions, and we find that the Court of Cassation has ruled accordingly. The penalties set the penalty for imprisonment from three months to five years. This is not acceptable for reconciliation for crimes punishable by imprisonment, acceptance for reconciliation in the crime punishable by imprisonment, a wound in the skull did not cause a break is a misdemeanor may be reconciled where the wound entering the spinal cord is an attempted murder does not accept reconciliation. Consequently, reconciliation is permissible for offenses and misdemeanors and is not acceptable for felonies, for their gravity.

Seventh: "Peace is not valid if it is signed with ignorance of the basis on which it is built." Therefore, the applicant must be aware of it and what it contains is not compelled or compelled to submit it and walk or request it before the judiciary.

Eighth: Reconciliation shall not be for crimes related to money, public right or assault on the employee or withheld funds in accordance with the law as stipulated in Article (3) of the Law of Criminal Procedure in force, and there is a case of reconciliation or settlement represented by Article (242 / first) of Customs Law No. (23) for the year 1984 amended and Article (59) of the Income Tax Law No. (113) for the year 1982.

It is worth mentioning, through reading and analyzing the above legal texts, we see that the legislator did not indicate whether the confession of the accused or who was returning affected the issuance of the conciliation decision. In our opinion, it is up to the authority and assessment of the seriousness of the crime and the behavior of the accused.

The second requirement

Recognition of peace from similar concepts (waiver and forgive-

ness)

In order to take note of the issue of conciliation, we must mention some of the similar legal systems or concepts contained in the Code of Criminal Procedure in force as special or exceptional methods for the expiry of the criminal case based on the desire of the victim, namely, the waiver and forgiveness of the accused or convicted.

Reconciliation and waiver: After we have known the terms and conditions of reconciliation, we must address the provisions of the waiver, even in a brief manner in line with the objectives of this research. The criminal lawsuit just as it has a way between the legislator in how to move it and walk until the decision of the ruling is decided, there are special ways to expire, including the so-called waiver.

Articles 8 and 9 of the Code of Criminal Procedure No. 23 of 1971, as amended, regulate the waiver of a complaint. If the criminal complaint, as defined by the legislator, is a request to take criminal proceedings against the perpetrator and impose punishment on them by the competent authorities, however, the legislator gave The victim has the right to waive the complaint in writing, either implicitly or implicitly. If left for three months without a legitimate excuse Wei The investigating judge in the complaint issued a decision either to reject the complaint or to close the investigation permanently. Judicial decisions have been issued in this regard, stating that “the perpetrator attributed to the released defendants applies the provisions of Article 432 of the Penal Code No. 111 of 1969 and the crime stipulated in Article above The offenses in which conciliation is accepted without the consent of the court under article 195 / a of the Code of Criminal Procedure, and that the trial court may conclude from the absence of the complainant that he has waived his complaint as provided for in articles 150 and 181 / a of the same law. “The complainant did not attend the hearing despite being informed The crime may be conciliation which is a waiver of his complaint according to explicitly articles (9150) of the Code continued Criminal Procedure Since the Court committed legal destination outstretched and proceeded to reject the complaint and the closure of the final investigation it decided to ratify the decision distinctive mentioned Regulations discriminatory ... “

The waiver is a right that is subject to the victim alone and does not depend on the consent of the accused. This is different from the conciliation held by the parties to the criminal complaint. Therefore, waiver according to Article (9) of the Code of Trial Procedures in force is the right of the complainant and is not transferred to the heirs in the event of the death of the complainant. If there are multiple complainants, the assignment of some of them does not apply to the right of others. If the assignment of a defendant has gone away, it does not cover others unless the law provides otherwise. Waiver of the complaint shall result in a waiver of the criminal right and shall not include the civil right unless it is authorized and a waiver of his right. The aforementioned does not go to the criminal right only in the past. The waiver of the complaint or the civil right prohibits the renewal of the waiver right before any court, and the waiver of the complaint prevents the criminal court from considering the civil right unless it is declared. If he waives his right to appeal the conviction and sentence, the minor shall be awarded compensation, even if his guardian waives it.

It is understood that the waiver has a wider space of conciliation if it includes, in addition to the claim of the person's right, the waiver is acceptable or can be made in the offenses set forth in Articles 377, 378, 379, 384, 385, 455, 463) of the Iraqi Penal Code No. 111. For the year 1969 as amended except for the crime stipulated in Article (385) because the movement of the complaint misses the purpose that the legislator wanted for considerations and reputation of families or family ties, just moving them is not accepted after the waiver becomes a crime of public right.

Consequently, the waiver shall result in the expiry of the criminal case as one of the exceptional methods on the roads mentioned in Article (300) of the Code of Criminal Procedure in force for the expiry of the criminal case. The decision to reject the complaint and to close the case is final.

Reconciliation and forgiveness: When the legislator adopted the principle of conciliation for the purposes of the legislation, we find that its basis is close to forgiveness, and we have previously considered the definition of conciliation and its terms. In articles (338, 339, 340, 341) of the Code of Criminal Procedure in force, according to the legislator's details, the request for forgiveness is submitted by the victim or his legal representative, and is not transferred to the heirs as a personal right since the complainant's death does not affect the case. The court that issued the decision or replaced it for the purpose of accepting the Who was sentenced examination of the death of the original restricted freedom rather than the death penalty in a crime in which the Magistrate accepted from both acquired the private penalty judgment of whether or not the bits.

The request for forgiveness is not accepted unless it is submitted by all the victims if they are multiple. If the convicted persons are multiple, the forgiveness of some of them does not include others. The court accepts forgiveness if the crime is permissible to be forgiven without the consent of the court. The acceptance of the forgiveness shall result in the abolition of the remaining original and subsidiary penalties except for confiscation. The convicted person shall be released immediately. The court shall send the case papers within (10) ten days from the date of issuing its decision to the Court of Cassation for consideration According to article (337) of the above law, it is noteworthy that the competent court has discretion in rejecting forgiveness. In this context, the Basra Court of Appeal ruled as discriminatory in more than one domicile. If you refuse to ask for forgiveness, you have noticed that the offense for which you are convicted is a threat and is one of the crimes in which conciliation is only accepted with the consent of the court. The perpetrator is a policeman who is supposed to show high morals. Security in the hearts of people do not intimidate them And decided to "the cause of the judgments is the duty of all the courts because it is proof that the court examined the case in depth and established its elimination of factual and legal arguments for the adversaries to see his justice, the court and this case to indicate in its decisions It is worth mentioning that "to accept forgiveness for the convicted person must

be sentenced to an original penalty restricting freedom and does not include the alternative prison sentence imposed in the case of non-payment of the fine.”

It is noteworthy that “the crime of dishonesty is not covered by the provisions of forgiveness of the victim unless the victim is the husband of the perpetrator or one of his assets or branches.”

In summary: “forgiveness cancels the rest of the original penalties and not the entire penalty” and that “acceptance of forgiveness is limited only to crimes for which reconciliation is accepted without court approval” and we conclude by saying “forgiveness is the reconciliation of the crime and pardoning the perpetrators after the verdict. Raise grudges and remove hatred or is an attempt to break the hatred and hostility between individuals and re-familiarity between them, especially in those crimes does not pose a great danger to society, and that his attachment to the claims of personal right only, and to whom he (convicted) the decision to convict in the criminal complaint.

The second topic

Scope and effects of peace

We will discuss within this section the scope and effects of reconciliation in two demands, the first of its scope, and the second of its effects, reinforced by jurisprudence and judicial applications.

The first requirement

Scope of Peace

Conciliation relates to the individual victims (personal right) and does not enter into crimes relating to the right or public property, with careful consideration of the provisions of Article (195) of the Code of Criminal Procedure in force we can divide the scope of the conciliation of crimes according to the authority of the judge or the competent court to the following branches : -

Section (1) Article 195 (a) of the law stipulates that (if the offense referred to in Article 194 is punishable by imprisonment for a year or a fine, reconciliation is accepted without the consent of the judge or the court). In these crimes reconciliation is done between the parties to the case and the judge or the court does not have the refusal of the peace because it was done by force of law as long as it took

place between them and the lesson here because these crimes are not serious and do not need to preoccupy the judiciary, such as crimes, for example, the crime of insulting, for example.

Section II: - Article (195 / b) of the above law stipulates that (if the crime is punishable by imprisonment for a period of more than one year, reconciliation is not accepted except with the consent of the judge or the court). The crime here is not resolved by the consent of the judge or the court as long as the penalty prescribed for more than a year, and from judicial applications point out that “the complainant waives his complaint in accordance with article 413 of the Penal Code for the reconciliation between them (between the complainant and the accused) depends on the consent of a judge The investigation under article 195 (b) of the amended Code of Criminal Procedure. “

Section III: - Article (195 / c) of the above law stipulates that (conciliation shall be accepted with the consent of the judge or the court in the crimes of threat, harm, destruction or destruction of funds, even if punishable by imprisonment for a period not exceeding one year). The court may consider that accepting the peace here does not achieve its purpose and therefore apply the punitive text as being the first to take into account the realization of the objectives of the punitive text. He was punished by imprisonment for a period of Lazzi The conviction of the accused in accordance with Article 413/1 is incorrect and contrary to the provisions of the law. In order not to link the final medical report to acquire the injured full recovery to know the legal article applicable and indicate the extent of acceptance of the peace or not.

In connection with the foregoing, the judge or the court accepts conciliation in crimes where the penalty is less than one year or a fine. It is decided to reject the complaint and close the case definitively in accordance with article 130 / a and article 195 / a of the Code of Criminal Procedure in force.

However, if the legislator decides that the composition is not concluded except with the consent of the judge or the court, the judge may accept the composition and close the case in accordance with articles (195, 197, 198) of the above law, with the need to note that the application of the provisions of articles (181 / A) should not be

confused. And (182) of the Code of Criminal Procedure in force.

It should be noted that the decision of the peace does not require or require the presence of the accused for the issuance of this, and if the court accepted the request for reconciliation, it shall be in an independent newspaper with the reasons to be the subject of discriminatory audits as it may be reversed in the absence of the conditions of the peace or in the adaptation of the incident The punishment for the criminal act committed, that is, the reconciliation must be made by a decision of reconciliation.

The second requirement

Effects of peace

The legislator, as the legal way of filing the criminal case in order to protect the rights and freedoms, has drawn the road for its legality and expiry of the law and perhaps peace is one of the ways to end it in accordance with the law, by the text of the legislation we find that article (198) of the Code of Criminal Procedure No. (23) for the year The amended 1971 dealt with the impact of the composition, which stipulated that “the decision to accept the composition shall have the same effect as the acquittal”.

First of all, before dealing with the impact of reconciliation, we see the feasibility of giving a definition of the acquittal verdict if it can be defined as “the return of the individual to what he was before the indictment of his discharge and his yard, which he was accused of when the court was convinced ...”.

As for the judicial interpretation of the Iraqi State Council, he stated that “... the decision of accepting the peace shall have the same effect as the acquittal ... and the defendant whose case ends shall be treated as innocent and shall have all the rights resulting from the acquittal.”

On the part of the judicial application, many judgments have been issued confirming that “... the decision to accept the peace has the same effects as the acquittal ...” and “the court cannot decide to accept the peace after it has decided to convict and convict the accused in accordance with Article 413. 1 / Penalties where it has to decide whether to accept the peace if it finds it in accordance with the law and its decision becomes a verdict of innocence, and if it decides to

convict it must judge it where it is not acceptable to accept the peace after conviction “likewise” if the conciliation between the parties in a crime where the reconciliation is not the court To issue a decision condemning and then accepting the peace, but a decision to accept the peace only because the peace represents Pric innocence, which is contrary to the evidence may not be contradictory meeting two resolutions in one crime. “ Therefore, as for the victim, it is considered a waiver of his right to continue and proceed with the criminal complaint against the accused with whom he was reconciled, but this does not prevent him from claiming civil compensation unless stated otherwise, and “compensation shall be awarded to the minor for his injury and that the guardian waives him.” However, if the victim is a very adult, the waiver of her father does not apply to her right, so it remains for the victim and the victim to claim compensation as prescribed by the legislator.

As for the accused, “the request for reconciliation with one defendant does not apply to another defendant, if the legal conditions are fulfilled in the request for reconciliation, the investigating judge or court shall issue a decision accepting him and releasing the accused if he is detained.” No other case is required. Arrest in case of prior issuance, since the peace entails the acquittal of the accused.

With regard to the tools of crime seized articles (307) to article (316) of the Code of Criminal Procedure in force dealt with how to be disposed of by the judiciary and the competent authorities.

However, it may be recalled whether it is possible to return to the investigation procedures and request the complaint after the conciliation has been issued and has gained a definitive degree.

The first opinion goes to the possibility of this by returning to the investigation procedures and requesting the initiation of the criminal complaint despite the issuance of the decision of reconciliation and support in this is what the legislator addressed in the text of article (303) of the Code of Criminal Procedure in force and examples of what may result from complications in the body of the victim in Crimes of victimization.

The second opinion, which often confirms that the reconciliation and its legal effects prevent the return to the investigation proce-

dures, “If reconciliation is not heard then the complainant’s claim again for the crime for which the reconciliation,” “This means that the criminal case expires definitively is not entitled to the complainant The re-initiation of the case or the reversal of his application for reconciliation, by the judicial application, confirms that the accused shall not be tried for the same act for which the composition has been accepted under articles 300 and 301 of the law.

The conclusion of the order in the legal effect of the decision of the composition of the peace is: “that the effect of such an effect as the result of the issuance of the final decision of the innocence and therefore may not be tried again for the incident of interest, and is not a reason for recidivism”, “ “Acceptance of the conciliation is an argument in relation to the determination of the fact that constitutes the crime, its attribution to the perpetrator and its legal description.” We cannot fail to recall the value of conciliation in the case of imposing the penalty for crimes that do not accept the conciliation because of the lack of legal conditions or not approved at the time of sentencing, when looking at the judgments issued by the judiciary, we find that the reconciliation has a legal value deliberately commute the sentence, which takes Part of the jurisprudence is that, although some of the jurisprudence stipulated by the street on the composition of the peace system is apparently procedural, in fact it establishes objective rules that restrict the state’s right to punish the expiry of the criminal case for reconciliation instead of punishing the accused. , Which is achieved by the meaning of a of the fittest law in Article 5 of the Penal Code.

Under this concept, it is necessary to mention this by a number of discriminatory decisions issued by the competent courts if the Court of Cassation ruled that “the court may commute the sentence, in accordance with Article 132 of the Penal Code, if the parties are members of the clans and have been reconciled according to tribal customs.” The complainant with the accused in the attempted murder is a reason to commute the sentence. “Recent decisions include the decision of the Muthanna Court of Appeal as discriminatory, which ruled that” the court must respect the complainant’s waiver of the complaint and reconcile with the accused when imposing the

punishment.

Conclusion

To conclude this research study we can include the results and recommendations reached by the researcher.

First: Results:

- 1 - show us the concept of reconciliation within the Code of Criminal Procedures in force and the settled by the judiciary in the application and between men and scholars around the law.
2. Reconciliation is one of the special non-judicial methods for the end of the criminal case, that is, the conciliation is considered as a legal patent.
- 3 - Reconciliation is one of the objectives of the criminal policy that seeks to deal with crime in psychological ways, since reconciliation is aimed at peace, avoiding judicial slowdown and reducing the momentum of cases.
4. We dealt with the terms and scope of the peace and the legal implications for the parties to the criminal and civil proceedings.
5. Reconciliation is a legal system for the expiry of the criminal case by the decision of the investigating judge or the trial court or even the decision of the Court of Cassation.

Second: Recommendations:

- 1- Expansion of crimes that may be reconciled in order to avoid the weight of the judiciary as long as the intention is to reconcile between the parties.
- 2 - Re-drafting Chapter V of Part III of Book III related to reconciliation in terms of impact and determine the type of crime, which indicates that the crime is not included explicitly to avoid diligence and interpretation.
3. Threats of threats, abuse and destruction should not be included until compensation has been established and the accused is obliged to make a pledge of good conduct in order to achieve deterrence.
- 4 - Adoption of the provisions of the waiver of the complaint in the system of reconciliation through the restoration of the legal version of its provisions.
- 5 - The relevant authorities to provide social legal leaflets to increase

social awareness of the law and culture of the rule of law.

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