

Beat: Entertainment

## The Correct Characterization of Deliberate Offence of Spreading

### Or Causing to Spread Coronavirus Covid19

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**USPA NEWS** - As is well-known, talking about coronavirus has become a major concern of the whole world. It has, rather, become like an earthquake or a universe tremor, which severely shook the mankind, harshly damaged their morale and made them scared like their fear of atomic or hydrogen bombs. This virus has caused a great panic and horror among most of countries in the world, regardless of whether or not it is really frightening or extremely risky. As a judge, I may not touch upon this matter since it is a purely medical work, which should be dealt with by the concerned physicians. Anyhow, this issue has become the talk of the hour in every house, whether in the developed or underdeveloped world, and in every capital, city, village, human community and palaces of kings, presidents and princes, crossing over the most famous international concerned medical institutions, doctors, and labs in many advanced countries such as the USA, Europe, China, Japan, Russia etc.

This little microscopic virus has created the biggest cosmic disaster in the present century, may Allah save all humans on earth. It has, first, appeared in Wuhan city, China, and then in Islamic Republic of Iran, Italy and many other countries of over 170 countries including Iraq and Kurdistan region as well. This disease has also become a rich news item of all mass media, talking about it on daily, hourly and, rather, minutely basis and, thus, become a matter of concern of all people, including those specialized and non-specialized in medicine and bacteriology, and even the illiterate people started talking about this virus. According to one of the websites namely; Journalists Without Borders "Now we know about coronavirus more than it knows about itself"; a protein belongs to corona family could change its behavior within three months and got converted and converted and converted "1".

The countries along with the World Health Organization (WHO) and UNESCO started talking about their official and popular measures and the precautions to fight the virus through conducting numerous health interviews and organizing press conferences at high levels including presidents, prime ministers, ministers and other official authorities, NGOs and other various figures. The press talk deals with the risks of virus spread and how to control and limit its spread and the call for abiding by health instructions and prevention guidelines including quarantine, stay at home, non-socializing/gathering and lockdown of schools, universities and official working hours, being the best measures so far until a vaccine/medicine is discovered, which I believe it will be soon by virtue of the scholars' and specialized persons' efforts and the great international community attention towards it.

I preferred to talk about this subject from a legal prospective that has no relation with the nature of the virus and its inner components, which are out of my specialization as a judge and away from the argument, official and economic statements and declarations and exchange of accusations between the giant countries i.e. USA and China regarding the potential pathogenesis of the disease from a germ human-made warfare in which the peoples of the world got involved thereafter along with the peoples of two said countries themselves. Since this subject is beyond my article on one hand and talking about it is serious, having deep intelligence and technical dimensions beyond me and my this modest legal article on the other hand, I wish, through this article, to clarify the legal side of carelessness towards the virus and the man's role in spreading it, whether deliberately, negligently, mistakenly or by cause and the position of the Iraqi Criminal Code from whosoever deliberately or mistakenly spreads the disease and the legal characterization of the offence pursuant to law and our opinion thereon.

Before addressing the core of the issue, it is a must to make a passing mention that in Iraq, laws were issued in the 1950's regarding community health, preventive measures of diseases, organizing health shops and labs, carrying funerals, burying the dead and controlling the communicable disease and harmful insects and these are evidences of various Iraqi authorities' concern for the public health and special attention given to child health, nurseries, kindergartens, primary school students, health and public laboratories, periodic vaccinations by the authorities and school health and monitoring the chemical materials and formulations used for medical, industrial, agricultural, dyeing and cosmetics purposes. Further attention given by the health committees to fill up swamps, change of waterways, remove unpleasant rubbish and sources of insect breeding and abide by the conditions of transfer of the dead bodies died due to a disease, which is subject to international medical regulations, whether inside or outside Iraq.

Among these laws are the Belharcia and Schistosoma-Carrying Snails Control Law No. 38 of 1952, Public Law No. 45 of 1958, revoked by Law No. 89 of 1981, Communicable Diseases Control Law No. 121 of 1963, Funeral Carrying Law No. 52 of 1967 and their related instructions, the effective Public Health Law No. 89 of 1981, which revoked the above mentioned laws as it contained

provisions of such laws. Iraq was among the developed countries in the middle east in terms of its health and educational institutions, if not in the front thereof. Rather, it saved no efforts to provide assistance, scientific, medical and academic consultations to the institutions and universities of the region countries, regardless of its then modest financial capabilities, due to its outstanding health, scientific and educational institutions with specifications of the advanced countries, job commitment, sincerity, honesty of personnel and less financial and admin corruption in spite of the political turmoil and problems, persecution, military coups, internal strife, wars and blockade.

Back to the subject article and the position of the Iraqi Criminal Code from some people, who underestimate coronavirus and mock or neglect the health recommendations and instructions issued to limit it, whether issued by the WHO or official health and security authorities, and yet, they prevent others from abiding by the same, deliberately, negligently, stubbornly mistakenly or by cause, to spread the (corona) disease, which results in death or harm.

The reasons behind writhing this article are the aforementioned cases that took place on the one hand and on the other hand due to many people's indifference to deal with health and security orders, instructions, decisions and guidelines issued by the Administration, to prevent the spread of disease, in accordance with the exceptional legitimacy enjoyed by the Administration to face a grave danger on the citizen health and community health security, despite their reverse impacts on citizens' rights and freedoms including curfew, shut down of private businesses, lockdown of most of commercial markets, economic institutions, labs, factories, chambers' activities and disruption of schooling etc. However, the Administration's actions and measures remain legitimate as they serve legitimate objectives including preservation of the State's supreme public interest, protection of the citizens' lives, safety and health, which are the core of the Administration's duties. I believe so far that such measures have been proportionate to the danger, which we face and so does the world as a whole.

The exceptional circumstance, we are going through, legalize the Administration's illegitimate measures and make them legal and legitimate under such exceptional circumstances. However, the Administration has, in the meanwhile, to abide by restrictions and controls that cannot be transgressed in order to maintain a state of balance between the protection of community from a real danger on the one hand and the protection of individual freedoms that should not be overused on the other hand. To this end, the legislator is trying to face the exceptional circumstances with legitimate solutions in case there is a serious danger threatening the public order such as wars, natural catastrophes, economic crisis, virus epidemic, as in this case, and issue laws to address them such as General Mobilization Law, Civil Defense Law or Emergency Law including the National Safety Law No. 4 of 1965 and National Safety Defence Order of 2004. The Iraqi Constitution of 2005 addressed the state of emergency in article No. 61 and no need to get into it now.

In all cases, the executive authority in Iraq and Kurdistan region, while they face the exceptional condition of this epidemic, have to take the necessary measures to fight it and choose between activating the Administrative Apparatus' performance and respecting the principle of legitimacy in protecting the individuals' rights and public freedoms, which allows going beyond the exceptional circumstance, as deemed necessary. The Administration measures, nevertheless, remain subject to the administrative judiciary control while performing its legal duties through issuing orders and instructions or taking actions to restrict the individuals' freedoms, shut down their business by imposing quarantine and curfew and their resulting indefinite and unpredictable economic and legal consequences until this virus is over.

They have to maintain a balance between the community interest through protecting it from the epidemic threat, guard the freedoms secured by the constitution and the day-to-day living requirements and take the requisite steps, in this regard, by means of schemes, decisions, instructions and orders commensurate with the critical situation in a way that keeps life going smoothly. Thus, the most important and urgent step at present is to allocate cash amounts to cover the daily basic needs for those who live on daily wages. The legal matters concerning lawsuits, periods of appeal, prescription and acquired rights will be legally addressed in future, if not addressed by the applicable laws in time.

Going back to talk about the characterization of premeditated deliberate action or criminal intent to spread the disease or infect others with (coronavirus) and touch upon the characterization of the action due to a mistake, whether this mistake is committed by way of negligence, thoughtlessness, lack of due care and attention and disregard for laws, regulations and decrees. Among such cases are giving unscientific or Pseudo-religious opinions through deluding people, individually or collectively, that he/she is protected from the disease and driving people to practice group rites and rituals as followed before the spread of corona virus, ignoring the risks of current situation and the official orders that prevent unjustified social gatherings and neglecting the instructions of the competent doctor and even the religious scholars regarding the risky situation.

Among such cases also, is the act of smuggler, who smuggles a corona-infected person or more persons from a country to another without passing through the government check-points for coronavirus medical test or putting him/them in the quarantine as a precautionary measure, to make sure of being infected or not, although there could be an infected case among the smuggled individuals, whether the smuggler is aware of or not. An example of such cases was about people transported from the Islamic Republic of Iran to Kurdistan region or other regions of the Republic of Iraq against cash money at a time when Iran, according to the media of the region countries, was the most disease-widespread country.

In view of all such cases, the person puts himself before great legal responsibilities from both criminal and civil perspectives. I shall explain the criminal side later on. The civil side is, however, confined to compensation for which there is no way explain here. Likewise, the person, who returns from a foreign country, abstains from being tested from corona or who hides himself from others and he knows or suspects of being infected with the disease from the noticeable symptoms or he is not a carrier at all but abstains from being medically tested or evades the test by way or another carelessly or indifferently; this person puts himself before legal responsibilities and endangers the lives of others due to the virus or its associated threats. Negligence and indifference to health instructions taken by the Administration could possibly amount to being reckless and careless of the risks to life(ves) of himself, his family and people with whom he socialized and transmitted the infection, whether directly or indirectly because the infected person becomes a source of infection to a number of people and, thus, the virus is transmitted quickly within a wide geographical area.

Our evidence for this is the statements by specialized doctors and official authorities, which we listen to and watch in various mass media that urge people to stay at home and their domiciles and warn of socializing, gathering and disregard for the health guidelines and instructions. The greater risk lies in intentionally spreading the disease through irrational, rather, immoral behaviors (such as intentional sneezing, coughing and blowing on the faces of others or doing another behavior to transmit the virus to everyone, who is near him through spitting saliva and discharging the exhaled air from the chest and pharynx to others deliberately while he knows or suspects of being infected, having the premeditated intent of transmitting it to others and revealing a sinful will instead of precaution, prevention, self-control and staying away from others till he is admitted at hospital and uses the medicine.

Similar to such cases, persons from Norway were arrested for committing such actions and scaring people at trains and other places. The DAGBLADET.NO newspaper published on 22nd March that a Norwegian teenager spitted on the faces of people in Norondhime city, Norway to infect others with the disease. According to the newspaper, this person committed the same behavior on the face of the policeman when attempting to arrest him.

According to the same newspaper, another Norwegian person of 30 years old was arrested while he was blowing on the faces of people sitting in the train at (OL-stasjon station) on 13th March and attempting to touch them through shaking hands, creating panic and fear to them. Similarly, a third person committed the same behaviors in one of the hospitals in a Norwegian city pretending that he sick and blew on the faces of the hospital staff. Another person was at one of the markets as reported by the Norwegian newspaper, who was tested positive as stated by the Norwegian authorities.

The same newspaper mentioned later about similar follies and criminal acts in (Birth) district, Germany that a number of young people (blew and coughed) on old people's faces to cause panic to them and shouted on their faces with the word (Corona). One of my academic colleagues told me about such behaviors in Belgium as well. In Zaragoza city, Spain also, a woman with corona positive (spitted) on the face of a policeman while trying to arrest her and return her to the quarantine as she violated and quarantine regulations and got out without the official authorities' permission. This is what my Iraqi colleague Dr. Samer Al-Nasser narrated from Spain, who sent me through Whatsapp the Spanish National Emergency Law issued on 15/3/2020 under a Royal Decree to control and fight coronavirus, imposing variety of fines according to the criminal offense ranging between 100-60,000 Euros.

According to the said law, whosoever commits any action harmful to the public health including prediction of the disease risks or forwarding unscientific information or false speculations for precautionary measures about coronavirus disease in the social media or any means of communication that may confuse the society and detract the duties of health authorities is sentenced to fines ranging between 3000-60,000 Euros and whosoever goes outside the quarantine or breaches the isolation system for whatever reason and without a cause intentionally or unintentionally, which shall expose the people's lives to infection and spread the disease is sentenced to fines ranging between 60,000-600,000 Euros. Moreover, whosoever provides false information or presents fake evidences to evade the curfew is sentenced to 600-3,000 Euros and between 100-600 against those who remove the 'No Entrance' signs or the barriers placed on public roads and civil facilities. Likewise, in Russia a penal law was issued on those who commit such actions that lead to the spread of disease.

However, the Iraqi Penal Code had addressed the spread of a disease, which is dangerous to people's lives in Chapter Seven ""

Section Seven of the Iraqi Penal Code No. 111 of 1969 amended under (Offences of Public Danger - Offences Detrimental to the Public Health in articles (368) and (369), whereby Article 368 states as follows: "Any person who willfully commits an act which spreads a dangerous, disease that endangers the lives of others is punishable by a period of detention not exceeding 3 years. If the offence results in the death of others or permanent disability the offender will, according to the circumstances, be punishable by the penalty prescribed for the offence of assault leading to death or that of permanent disabling".

Article (369) states as follows: "Any person who accidentally causes the spread of a dangerous disease that endangers the lives of others is punishable by a period of detention not exceeding 1 year or by a fine not exceeding 100 dinars. If the offence results in the death of others or permanent disability the offender will, according to the circumstances, be punishable by the penalty prescribed for manslaughter or accidental wounding".

As such, the Iraqi legislator has differentiated between the offender, who spreads a disease dangerous to man's life deliberately and the offender, who spreads it by mistake. The death resulted from intentional will be punishable by the penalty prescribed for the offence of assault leading to death as below stated in Article (410) of the Penal Code the penalty of which may be up to twenty years imprisonment (life imprisonment): "Any person who willfully assaults another by striking or wounding him with the use of force or harmful substances or by committing another unlawful act and who does not intend to kill that person but the assault leads to the death of such person is punishable by a term of imprisonment not exceeding 15 years. The penalty will be a term of imprisonment not exceeding 20 years if the offence is premeditated or if the victim is a parent of the offender or if he is a public official or agent and the offence is committed against him while in the course of executing his duty or employment or as a consequence of it".

If the offence resulted in permanent disability, the maximum penalty will be imprisonment of a term not exceeding fifteen years as stated in Article (412) of the Penal Code: "(1) Any person who willfully assaults a person by wounding or beating him or with the use of force or harmful substances or by committing another unlawful act with intent to cause permanent disability is punishable by a term of imprisonment not exceeding 15 years.

There is permanent disability if the act results in the severance or amputation of a limb or part thereof or the loss or diminution of the benefit of such limb or madness or mental disability or permanent loss in whole or part of any of the senses or bodily disfigurement that is not expected to disappear or imminent danger to life.

(2) The penalty will be a term of imprisonment not exceeding 7 years or detention if the offence results in permanent disability which the offender did not intend."

The penalty of manslaughter or accidental wounding offence referred to in Article (369) of Penal Code in case a person died or had a permanent disability will be imposed on whoever causes it due to his action to spread a dangerous disease harmful to others' lives as stated in both Articles (411) and (416) of Penal Code, whereby Article (411) reads: "(1) Any person who accidentally kills another or causes him to be killed without premeditation so that it is the result of negligence, thoughtlessness, lack of due care and attention or lack of regard for any law, regulation or decree is punishable by detention plus a fine or by one of those penalties.

(2) The penalty will be a period of detention of not less than 1 year plus a fine of not less than 300 dinars and not more than 500 dinars or by one of those penalties if the offence is committed as a result of a flagrant breach on the part of the offender of the basic obligations of his employment, profession or business or if he is under the influence of alcohol or drugs at the time of committing the error which results in the accident or if he refrains from assisting the victim at the time of the accident or from seeking assistance for the victim while being in a position to do so.

(3) The penalty will be a period of detention of not less than 3 years if the offence results in the death of three or more persons. If there also exists any other circumstances described in the preceding Sub-Paragraph, the penalty will be a term of imprisonment not exceeding 7 years".

Article (416) of Penal Code reads: "(1) Any person who accidentally causes another harm or to become ill and such act is the result of negligence, thoughtlessness or lack of due care and attention or disregard for any law, regulation or decree is punishable by a period of detention not exceeding 6 months plus a fine not exceeding 50 dinars or by one of those penalties.

(2) The penalty will be a period of detention not exceeding 2 years if the offence results in permanent disability or if the offender causes a flagrant breach of the obligations of his office, profession or employment or if he is under the influence of alcohol or drugs when he commits the act that results in the accident or he refrains at the time of the accident from assisting the victim or from seeking such assistance for him while being in a position to do so or if such act leads to the assault of three or more persons". In view of the brief reference to the legal provisions of the Iraqi Penal Code, which addressed both cases of manslaughter and willful killing or causing the spread of a dangerous disease harmful to others' lives and their safety,

I would like also to modestly clarify my opinion on the characterization, which I deem valid for the offences committed with intent to spread (coronavirus) among people in a premeditated and cold blood manner. If the action leads to killing, it constitutes a willful killing crime associated with an aggravating circumstance set forth in clause (1)(a) of Article (406) of the amended Iraqi Penal Code No. 111 of 1969, which states: "(1) Any person who willfully kills another is punishable by death in the following circumstances:  
(a) If such killing is premeditated".

I, nevertheless, do not support applying the capital punishment, in principle, and demand abolition thereof and have it replaced with other penalties in all of our laws in Iraq and in other countries in which it is being applied, wherever they are.

Actions by mistake or causing to spread the disease by way of carelessness, negligence in dealing with its risks, thoughtlessness, disregard for its consequences and ignorance of prevention deliberately in a way that leads to the murder of a person or more, I think the valid characterization for this action is a simple willful killing pursuant to Article (405) of Iraqi Penal Code, which reads: "Any person who willfully kills another is punishable by life imprisonment or imprisonment for a term of years". If the action does not lead to death in either case above, it is deemed as attempted murder, as the case may be, even if others were not infected with the disease due to the action. Article (30) of Iraqi Penal Code states about the attempted murder as follows: "This is the initiation of an act with intent to commit a felony or misdemeanor which is prevented or frustrated for reasons unrelated to the intentions of the offender.

An attempt to commit an offence is considered to include all acts that are impossible to carry out and which are attempted with intent to commit a felony or misdemeanor whether or not it is for a reason relating to the object of the offence or to the means by which it is committed as long as the offender does not believe as a result of misconception or total ignorance that it is within his power to achieve the result of the offence. Merely the intention to commit an offence or preparations to do so are not considered an attempt unless otherwise stipulated by law". In the attempted murder offence, the penalty is applied with various forms pursuant to Article (31) for which no need to quote.

Accordingly, if the infected person is aware of, or suspected to be infected with (corona) disease and yet commits deliberate actions intending to infect others with the disease such as coughing, sneezing, blowing or spitting on the faces of people, who are passing near him or meeting on his way or at his domicile even if by way of entertainment, joking, juvenile scaring or doing any other behavior such as touching the vehicle doors or spitting thereon, while parking in front of buildings, shops or touching other things, being touched by others, intending to spread the virus to them, this action is, however, deemed as a willful murder offence associated with an aggravating circumstance; if this action leads to infection or death of a person as a result thereof, and if the person did not die or even not infected with the disease at all, this action is deemed as an attempted murder.

Cases of actions by mistake, carelessness, negligence of prevention from the disease, ignorance of the health and security instructions and disregard for the disease are also considered as a premeditated offence, whatever the type of negligence therein, which, however, constitutes an unpremeditated offence in other circumstances, from a legal prospective, as set forth in Article (35) of Penal Code as follows: "An offence is not premeditated if the criminal consequence occurs as a result of a mistake on the part of the offender whether or not such mistake is due to negligence, thoughtlessness, lack of due care and attention or lack of consideration for any law, rule or regulation". Our evidence for that is the Article (34) of the effective Iraqi Penal Code, which states as follows: "An offence is premeditated if the offender has, criminal intent. An offence is therefore considered to be premeditated if:

(a) It is prohibited by law or by an agreement binding upon a person and he fails to act in accordance with that law or agreement, intending to commit the offence that results directly from such omission.

(b) The offender foresees the criminal consequence of his action and embarks on that course of action, accepting the risk involved".

In this connection, we have to, from a legal prospective, define the criminal intent and premeditation set forth in Article (33) of Penal Code along with its 4 points as follows:

- (1) Criminal intent is the existence in the mind of the offender of an intention to commit the criminal act with a view to realizing the consequence of the offence that has occurred or any other criminal consequence.
- (2) Intent maybe simple or premeditated.
- (3) Premeditation is the resolute contemplation of the commission of an offence before it is committed and is far removed from an outburst of jealous rage or mental turmoil.
- (4) Premeditation can be established whether or not the intent of the offender is directed towards a specific person or merely a person he has met or encountered or whether the intent is dependant on something happening or on some condition.

As such, the Iraqi legislator in Article (34) of Penal Code added other cases of criminal intent to identify the premeditated offence that combines between the offender's criminal intent, violation of law or agreement with intent to commit an offence directly resulted from such violation and the offender's prediction of the criminal consequences of his action and embarkation on that course of action accepting the risk involved. Consequently, I believe that the above mentioned provision could be applied to many cases of causing or facilitating the spread of coronavirus disease, taking into account the internal and external events and circumstances that took place all of a sudden and appeared as an enormous and painful humanitarian tragedy reported by various mass media on daily basis inside and outside the country and the huge numbers of deaths, let alone the other huge number of infections, being treated and recovered, in various countries of the world,

Particularly among the most advanced countries in science and medicine within a short period of the disease's age and in view of the widespread news and information thereof everywhere; in every house on daily and hourly basis, hence, there is no excuse for anyone of being ignorant of the real risks and imminent threats of this disease, as confirmed by the WHO, causing death in certain cases, especially the ones that does not have access to artificial respirations and suffer from other previous diseases among the elderly or even youth and young people as reported by medical statements.

In addition, there is no way to justify careless prevention from this virus, under any pretext, concerning this risky situation that does not accept mistake and negligence of the necessary preventive measures to prevent the perpetrator himself or others from such disease for its very quick spread through applying the proper medical instructions including quarantine, stay at home, not going out, unless precautions are observed, and only when strictly necessary for living requirements such as buying medicine, household supplies and provisions 'food, water, child milk and medicine, fuel etc'. in addition to those who are performing their official duties like the medical and security teams who should take extra cautions to avoid random socializing with others. Failure to observe and comply with the health system for prevention from this disease shall put the person before a premeditated offence.

Similarly, whosoever mocks, disregards this disease, by way of stupidity, recklessness or ignorance, neglects the health instructions, incites, instigates the others, paves the way or helps them by any means to spread the disease or infect others with it will be deemed as an offender of a premeditated offence pursuant to clause (b) of Article (34) even if he did not intend to spread the disease and even if no one was infected, because whosoever errs or neglects preventing from this disease has to expect infecting himself and others and expect the consequent severe results including death and below it. For that reason and under the circumstances of coronavirus, the offender expects the criminal consequence of his action, whatsoever the mistake could be as set forth in the aforementioned Article (35) of Penal Code. Mistake and willfulness, in this connection, overlap in causing the spread of (corona) epidemic,

Which is harmful to people's lives, given the fact that the mistake consequences are expected and whosoever embarks on that course of action, accepting the criminal consequences of the risk will be held responsible for a premeditated offence, which is either death of person(s) or serious injury or permanent disability i.e. below death in case of injury occurred and the tracks appear on the injured because the effects of some injures may not appear due to the self-resistance of the person for which he becomes hostile to others.

Accordingly, the root of offence is murder in case of death and an attempted murder in case of non-death because the disease is infectious and deadly in accordance with the competent practitioners' opinion. The legislator, in Article (369) of Penal Code dropped the penalty of death against whosoever causes, by his mistake, the spread of a dangerous disease that leads to death, but determined the penalty of "manslaughter" set forth in the aforementioned Article (411) of Penal Code. I believe the legislator, in Article (368) of Penal Code, could have imposed the penalty of "murder" against whosoever commits an action deliberately that would spread a disease harmful to people's lives and results in death of a person and not the penalty of "striking that leads to death" set forth in Article

(410) of Penal Code as it stands now.

In view of above, I believe that every cases of mistake as aforementioned and that whosoever be in agreement with, helps or incites others to commit and whosoever breaches or makes others breach the health instructions, orders and guidelines issued by the coronavirus-covid19-related security authorities by way of carelessness, thoughtlessness, ignorance or indifference to cause and increase the spread of this virus among people will be characterized and charged with as a simple willful murder or attempted murder, as the case may be. Similarly the person, who smuggles or makes persons cross from a coronavirus-afflicted county to Iraq or vice versa against an amount of money or free of charge or the person, who transports an infected or suspected person from a place to another within Iraq for whatever reason without permission from the concerned authorities or gets him across the official checkpoints to avoid virus tests and also the person, who drives others not to abide by the medical instructions or creates the conditions thereof;

And any human gatherings not permitted by the medical and official authorities such as social, religious occasions or parties attended by scores/hundreds of people or the gathering at masjids, mosques, churches, places of worship, holy shrines of Muslims and non-Muslims and performing the religious rites therein in such a dreadful circumstance and that shall lead to and facilitate the spread of coronavirus, which is in contradiction with one of the most important objectives of Islamic Sharia viz. self-preservation and protecting it from perdition, with due respect to such places and the feelings of their visitors, whether to be Muslims or non-Muslim, there would be no harm if such rites, especially the ones, which are performed in congregation, are postponed temporarily till this disease is controlled or is over,

And that postponement would not underestimate the religious position of such places, which are deeply rooted in the hearts of their followers. Therefore, committing any mistake under the aforementioned circumstances and consequences and doing any other action that causes or facilitates the spread of the said virus among people, whether infecting a person or not, this is covered under the provisions of murder offence set forth in Article (405) of Penal Code in case the action causes the death of a person or (attempted murder) in other cases below the death pursuant to clause (b) of Article (34) of Penal Code.

On the other hand, committing any action deliberately with intent to spread the disease and get others infected premeditatedly and in cold blood through blowing, sneezing, coughing, spitting saliva (by infected person) on the faces of others or on materials, places and handles touched by others or doing any other behavior to spread the (virus) or even scaring or causing panic to them, whether getting them infected or not, the offender will be held responsible for a willful murder associated with an aggravating circumstance set forth in clause (1)(a) of Article (406) of Penal Code, if a person dies because of him as long as the offender has the proved criminal intent to spread the disease. If the action causes injuries below death or even does not cause infection with the disease/virus for any reason beyond the offender's control due to the victim body's resistance, this action, however, constitutes an offence set forth in clause (1)(a) of Article (406) of Penal Code as indicated in both Articles (30 & 31) of the same Code i.e. the offence of (attempted murder associated with an aggravating circumstance).

**Article online:**

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