
THE CRIME OF ASSAULT ON MEANS OF TRANSPORTATION AND NAVIGATIONAL FACILITIES AS A TERRORISM OFFENCE IN THE UAE AND JORDANIAN LEGISLATION COMPARATIVE ANALYTICAL STUDY

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Abstract: *There is no doubt that the crimes of hijacking of aircraft and ships and assaults on land means of transportation and navigational facilities are terrorism offences that are among the most serious and threatening for individuals' safety and security. Aircraft, ships, and trains are the most widely used means of transportation; therefore, they should be safe and protected against any terrorist act, and a severe penalty should be imposed on whoever commits such crimes. Therefore, this study aims to clarify how Emirati and Jordanian legislators have addressed these types of crime, and whether or not they addressed them in harmony with the international community's vision in combating terrorism offences. By end of this study, it is concluded that Emirati and Jordanian legislators have considered such types of crime as terrorism offences, and they have imposed severe penalties that are commensurate with the severity and seriousness of the criminal act committed, and that the two countries are in complete harmony with the international community's vision in combating and reducing terrorism offences. The study concludes with a set of outcomes and recommendations.*

Keywords: *Terrorism Offence, Terrorist Purpose, Aircraft Hijacking, Means of Transportation, Navigational Facilities*

I. INTRODUCTION

The terrorism offence is the most dangerous offence to societies; it threatens humanity in all its affiliations, organizations, institutions, and communities. It also threatens security and stability and leads to property destruction, the violation of sanctities, sacrilege, killing, kidnapping and threatening the safe lives of civilians.¹ This offence has become a global phenomenon affecting all aspects of the people's lives worldwide. Regardless of terrorism's causes, forms, aims, and even the nature of entities supporting it, terrorism no longer affects only certain parties, peoples or countries, but rather it affects everyone. Since the beginning of the twentieth century, it seems that the international community has realized this fact and sought to combat terrorism and reduce its devastating effects on the humanitarian, civilizational, economic, and political aspects of society by adopting a set of legal means and measures through which it has seriously contributed to eliminating the phenomenon of terrorism. The international community promptly concluded several international agreements to continuously combat terrorism offences, which was reflected on

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¹ ERIC, D. *Le Terrorisme en droit international, in réflexions sur le définition le répression du terrorisme*. Edition de l'université de Bruxelles, 1974, p. 125.

national legislation.² Within the framework of positivism legislation enacted by the United Arab Emirates and Jordan, the two countries approved various legislation to combat terrorism offences due to their severity. Accordingly, the Emirati legislator passed Law No. (7) of the year 2014 on Combating Terrorism Offences including many other crimes deemed terrorism offences, and increased – for the purpose of eliminating the phenomenon of terrorism – the penalties of other crimes committed in a criminal framework. On the other hand, the Jordanian legislator also adopted the same approach in an attempt to reduce such phenomenon, and passed the Prevention of Terrorism Law No. 55 of the year 2006, amended by Law No. 18 of the year 2014. By reviewing these two laws, it is concluded that the Emirati and Jordanian legislators clarified forms of terrorism offences in many legal texts. The crime of assault on means of transportation or navigational facilities is the most dangerous form of terrorism offenses, with respect to citizens' security and safety. The Emirati legislator addressed such crime in Articles (5) and (6) of the Law on Combating Terrorism Offences, while the Jordanian legislator mentioned such crime in Article (7) of the Prevention of Terrorism Law.

1.1 The Importance of Study

The study highlights the fact that the crime of assault on means of transportation or navigational facilities is one of the most serious crimes to have seen an increase in our modern age. The world has witnessed many crimes of the hijacking of aircraft and ships and even assault on trains and navigational facilities. The movement of persons and goods around the world is carried out by air, sea, or land means of transportation. Therefore, all such means and navigational facilities should remain safe and protected against any criminal act. Assault on (air, sea, or land) means of transportation threatens the security of communities and individuals, creates a state of panic and deep fear among individuals and causes significant economic losses. Hence, the Emirati and Jordanian legislators attempted to address such types of crime and considered them terrorism offences, and passed special provisions in criminalization.

1.2 The Study Problem

The study problem lies in how the Emirati and Jordanian legislators have addressed the crime of assault on means of transportation and navigational facilities as forms of terrorism offences, and whether it was a sufficient response or whether some amendments should be added, taking into account the fact that the Emirati and Jordanian legislators passed special laws to address such offences.

² In Article 314 of the Penal Code, the Lebanese legislator defined terrorist acts as: all acts aimed at creating a state of terror, which are committed by means such as explosive devices, inflammable materials, poisonous or incendiary products or infectious or microbial agents likely to create a public hazard. The Arab Convention For The Suppression Of Terrorism defined terrorist acts as: Any individual or collective act that aims at or intends to use violence or commit acts of violence against people with the aim of intimidating or harming them, endangering their lives, destroying, occupying and seizing public facilities and properties. AL-MANQOURI, A. Z. *Legal Concept of Crimes of Domestic and International Terrorism*. Lebanon. Al-Halabi Legal Publications, 2008. WASEL, S. G. *State terrorism in the Framework of Public International Law*. Alexandria. Monchaat Al Maaref, 2003.

1.3 The Study Methodology

In this study, we adopted a comparative analytical approach based on analyzing legal texts in UAE legislation and comparing them with those of the Jordanian legislation to achieve the desired outcomes and recommendations for this study. I will divide this study into two main topics; the first topic is “Hijacking of Air, Water, or Land Means of Transportation”, and the second topic is “Crimes of Destructing, Disrupting, or Endangering Means of Transportation or Navigational Facilities”.

1.4 The First Topic – Hijacking of Air, Water, or Land Means of Transportation

Hijacking means the quick snatching, looting and stealing of something.³ Idiomatically, it can be defined as violently taking something away from those who have legitimate control over it.⁴ Hijacking of air, land and water means of transportation is a method used by terrorist groups in order to bring pressure on states to achieve their terrorist purposes.⁵ The Emirati legislator addressed these types of offence in Article 5 of the Law on Combating Terrorism Offences. This Article stipulates that “Life imprisonment shall be imposed on whoever kidnaps, for a terrorist purpose, any of the air, land or sea means of transportation. Capital punishment or life imprisonment shall be imposed, should the act mentioned in the preceding clause result in the injuring of a person or should the offender resists the public authorities with force or violence upon the performance of their duty to recover the means of transport. Capital punishment shall be imposed should the offender’s act result in the person’s death.” With reference to this Article, it is concluded that the Emirati legislator identified kidnapping crimes that are deemed terrorism offences, including, but not limited to, the hijacking of air (aircraft), land, or sea means of transportation.

A. Aircraft Hijacking:

It can be defined as a seizure of an aircraft by threatening to use violence and coercion in order to achieve a terrorist purpose.⁶ The Emirati legislator defined the terrorist pur-

³ ACADEMY OF THE ARABIC. *Al-Moajam Al Wajez*, Academy of Arabic, 2009, p. 203.

⁴ Some jurists defined hijacking as “taking a person away from its environment and transferring it to another place, where the person will be hidden from whoever is responsible for their safety”. AL-OMARI, A. H. *The Crime of Kidnapping People*. San Francisco: Modern University Office, 2009, pp. 14–16. “The crime of kidnapping is mainly a crime detrimental to individuals and was addressed by the Emirati legislator in Article 344 of the Penal Code.” Dubai Court of Cassation defined that “the kidnapping crime stipulated in Article (344) of the Federal Penal Code No. (3) of the year 1987 simply means arresting, confining or depriving a person, by any means whatsoever, of their freedom without a legitimate legal right, and such crime occurs when a victim is taken away from their place in cases stipulated in such Article and with the intention of committing any of the acts mentioned therein,” Dubai Court of Cassation, Penal Department, Kidnapping Crime, Judgment No. 132/1999 published on the Emirates Lawyers website.

⁵ The French legislator criminalized acts of assault on air, sea and land means of transportation and deemed them terrorist acts, if such acts are combined with a terrorist purpose in accordance with the provisions of Article 421-1 of the Penal Code.

⁶ The first aircraft hijacking was recorded in 1930 when some opponents of the Peruvian regime hijacked an aircraft belonging to a local airline company. EID, M. F. *Reality of Terrorism in the Arab World*. Riyadh: Publications of Naif Academy for Security Sciences, 2002, p. 71.

pose, in paragraph 6 of the Law on Combating Terrorism Offences, as “The offender’s intention to commit a criminal action or inaction in order to cause the occurrence of a direct or indirect terrorist result or whenever the offender is aware that the action or inaction is intended to cause the occurrence of a terrorist result”. The terrorist result, according to the same Law, means “Inciting fear among a group of people; killing or causing them serious physical injury; inflicting substantial damage to property or the environment; disrupting security of the national or international community; opposing the country; influencing the public authorities of the country or another country or an international organization while discharging its duties or obtaining a privilege or a benefit of any kind from the country or another country or an international organization.”⁷ **Considering Article 5 of the same Law, it is concluded that the Emirati legislator used the term “kidnapping” without clarifying the method adopted by the terrorist kidnapper.** Also, the legislator did not demonstrate where this aircraft is located or the individuals hijacking it. Therefore, the crime of hijacking aircraft can be committed using violence against the crew or holding them at gunpoint, or by any means whatsoever, in order to force them to abide by the orders of the hijackers.⁸ **But can this crime be committed by deception or deceit? In other words, can the hijacker resort to deception and deceit to hijack an aircraft?** At this point, we should differentiate between two cases. **The first one** is when an aircraft is in the airspace, we believe that this crime cannot be committed by deception to taking control of and landing the aircraft at a certain location, but rather by violence and coercion. This is because the cockpit cannot be accessed; therefore, it is unimaginable that the hijacking crime can be committed by deception and deceit when an aircraft is in the airspace. For example, the hijacking of the Indian aircraft on 30 January 1971, when two persons belonging to the Kashmir National Liberation Front hijacked and forced an aircraft to land at Lahore Airport in Pakistan. Such aircraft was blown up after it had been evacuated and the Indian government refused to respond to their demands, which was the release of Kashmiri political prisoners.⁹ **Regarding the second case**, when the aircraft is on the ground at the airport; we believe that the crime of hijacking an aircraft can be committed by deception and deceit, and the hijacker can impersonate the aircraft’s captain by forgery and enter and control the aircraft. **At this point, there is another question to be raised: Can such crime be committed by the crew or by other individuals?** By referring to the aforementioned Article (5), it is concluded that the Emirati legislator did not

⁷ Article 1, paragraph 7 of UAE Law on Combating Terrorism Offences, 2014.

⁸ Some Arab countries witnessed cases of seizing aircrafts using violence and coercion; two Egyptian young men illegally seized an aircraft under coercion and forced its captain to divert it. Such aircraft was heading from Cairo to Aswan; it was forced to divert to Saudi Arabia, and it landed at (Al-Wajh) airport, north of Jeddah. There were 30 passengers and the crew on board. The Saudi authorities arrested the hijackers, referred them to the Egyptian justice, and returned the aircraft on the same day to Cairo. ZUHAIR, T. A. R. *Role of the police in confronting aircraft and ships hijacking and preventing the use of such aircraft and ships in terrorist operations*. Police Academy, 2016, p. 34.

⁹ AL-NASERI, H. *Aircraft Hijacking – Study of International Law and International Relations*, Arab Institute for Studies and Publishing. Beirut: Third edition, 1988, p. 69, AL-TENEJJI, O. S. Crimes Against Aircrafts and the Factors that Affect the Rates of Hijacking Crimes. *University Of Sharjah Journal for Law Sciences*. 2018, Vol. 15, No. 1. Robin PEYRAN. L’acte terroriste. Memoire – master 2 recherche droit penal. Anee 2009-2010. Universite montesquieu-Bordeaux IV. p. 38.

specify the capacity of the offender; such crime can be committed by the crew (such as the captain, his/her assistant, or a flight attendant), by hijacking and landing the aircraft at a certain airport in order to force the country to meet a demand. Such crime can also be committed by other individuals who are not related to the crew. **Hence, we should address an extremely important issue, namely that the Emirati legislator should increase the penalty by adding a paragraph to Article 5, to be “Capital punishment shall be imposed should the hijacking be committed by the crew of the air, land or sea means of transportation”.** It should be noted that **the crime of hijacking an aircraft referred to in Article 5 of the Law on Combating Terrorism Offences is committed in a dual manner.** It may be committed whether there are passengers on board or not. On the one hand, if an aircraft is empty and on the ground at the airport, the hijacking crime can be committed, and the provisions of Article 5, paragraph 1 of the above-mentioned Law will be applied in line with what is referred to by the Emirati legislator; “kidnaps, for a terrorist purpose, any of the air, land, or sea means of transport...”. In this case, the purpose of criminalization is to protect the aircraft from any hijacking. On the other hand, if there are passengers on board and the hijacking results in the injuring of any person, life imprisonment or capital punishment will be imposed. In this case, the purpose of criminalization is to protect the aircraft and the passengers; therefore, the penalty is severe. The Emirati legislator also increased the hijacking penalty to be life imprisonment or capital punishment should the offender resist the public authorities with force or violence in the performance of their duty to recover the means of transportation.¹⁰ Capital punishment will be imposed should the offender’s act result in the person’s death, according to the provisions of Article 5, paragraph 3 of the Law on Combating Terrorism Offences.

B. Hijacking Ships and Water Means of Transportation

There is no doubt that the hijacking of ships is not less dangerous than the hijacking of aircraft; therefore, international conventions and national legislation attempted to ensure that air and sea navigation are protected against risks of piracy and endangering passengers and ships. The efforts of the International Maritime Organization (IMO) resulted in the concluding of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) in 1988, as a method used by the international community to confront maritime terrorism, which is not so far from the international efforts exerted to protect air means of transportation against terrorist acts.¹¹ Such SUA came within the

¹⁰ See Article 5, paragraph 2 of UAE Law on Combating Terrorism Offences, 2014.

¹¹ Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, also known as the SUA Act, is a multilateral convention wherein states agree to prohibit and punish behavior that may threaten the safety of maritime navigation. The SUA was concluded in 1988, approved on 10 March 1988 and entered into force on 1 March 1992. The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (SUA PROT) was thereafter issued. Such protocol was approved on 14 October 2005 and entered into force on 28 July 2010. The SUA was concluded as a result of the concerns raised in 1980 due to illegal acts threatening the safety of ships and security of their passengers and crews, and in conjunction with the reports of crews that were kidnapped and ships that were attacked or blown up, and passengers were not spared, were threatened and sometimes killed. In November 1985, the problem was raised in the General Assembly of the International Maritime Organization, and the United States proposed to develop mea-

covered all means of transportation in order to ensure freedom of movement for individuals. Land means of transportation refers to the vehicles used to transport individuals and goods from one place to another, such as buses, cars, and trains as well.¹² Whoever attacks and controls passengers inside a train and forces the train driver to drive and obey their demands, shall be deemed a hijacker of a land means of transportation, as referred to in the aforementioned Article.¹³ By scrutinizing Article 5 of the Law on Combating Terrorism Offences, it is concluded that the Emirati legislator aims to protect citizens in their movements, not the means of transportation itself; the legislator intended to ensure the security of passengers of the land, sea or air means of transportation. At the same time, if the hijacking of land means of transportation results in the injuring of a person or if the offender resists the public authorities with force or violence in the performance of their duty to recover the means of transportation, capital punishment or life imprisonment shall be imposed, pursuant to provisions of Article 5, paragraph 2 of the Law on Combating Terrorism Offences. Capital punishment shall be imposed should the offender's act result in the person's death, pursuant to provisions of Article 5, paragraph 3 of the same Law.

By comparing what is mentioned with the Jordanian legislation, it is concluded that, in Article 7 of the Prevention of Terrorism Law of 2014, the Jordanian legislator states that “without prejudice to any more severe punishment stipulated in any other law, penal servitude for life shall be applied if a terrorism act results in the following: A. Causing damage, even partially, to a public or private building, industrial establishment, ship, aircraft or any other means of transportation or facility. B. Capital punishment shall be imposed should the offender's terrorist act result in a person's death”. This text is general and comprehensive for many terrorist acts; it is not limited only to assaults on means of transportation, but also includes other acts. Therefore, it is better for the Jordanian legislator to adopt the same approach adopted in the Emirati legislation, and add Article 7 bis to the Prevention of Terrorism Law, so that Article 7 can be as follows: “(penal servitude for life shall be imposed on whoever kidnaps a means of air, land, or water transportation for a terrorist purpose. Capital punishment or penal servitude for life shall be imposed, should the act mentioned in the preceding clause results in injuring a person or should the offender resist the public authorities with force or violence in the performance of their duty to recover the mean of transportation. Capital punishment shall be imposed should the offender's act result in the person's death or should the hijacking be committed by the crew of the air, land or sea means of transportation”.

¹² In order to explain the land means of transportation, the Moroccan Supreme Council states that “...as long as the contested judgment does not indicate whether the theft was committed on a car, which is a land means of transportation as defined in Article 216 bis second paragraph, Moroccan Penal Code, applying the provisions in this case shall be vaild”. See ABDEL-MUTTALIB, E., SOBHI, S. *The Criminal Encyclopedia Explaining the Moroccan Criminal Law in Light of Jurisprudence and Provisions of the Moroccan Supreme Council and the Egyptian Court of Cassation*. The National Center for Legal Publications, first edition, 2010–2011, p. 192.

¹³ An Austrian train hijacking incident occurred in December 1975 by South Mulciaz Group.

II. THE SECOND TOPIC – CRIMES OF DESTROYING, DISRUPTING OR ENDANGERING MEANS OF TRANSPORTATION OR NAVIGATIONAL FACILITIES

These crimes are terrorism offences referred to in Article 6 of the Law on Combating Terrorism Offences, which stipulates that “life imprisonment shall be imposed on whoever deliberately destroys, damages, or endangers any of the air, land, or sea means of transportation or the air, land or sea navigational facilities, or impedes the services therein for a terrorist purpose.” According to the above-mentioned text, the Emirati legislator limited criminal behavior of this crime to three forms, as follows:

A. Destruction of Means of Transportation or a Navigational Facility Offence

This means attacking the means by destructing or disrupting it, in whole or in part. The destruction of sea, air or land means of transportation can be whole, if the hijackers completely destroy the aircraft, car, or ship by burning, detonating or drowning it for a terrorist purpose.¹⁴ It can also be partial, if the hijackers burn a part of the ship, train or aircraft, while some other parts of the means of transportation remain intact. Hence, the Emirati legislator uses the term “destroys” in general, and the method used in the destruction can be explosion, fire, cutting, disruption, destruction, or such like. Such crime may be committed by the crew members or by other individuals. Therefore, we should address an extremely important issue, namely that the Emirati legislator should increase the penalty by adding a paragraph to Article 5, to be: “Capital punishment shall be imposed should the deliberate destruction, damaging, or endangering of any air, land or sea means of transportation or a navigational facility be committed by crew members of the air, land, or sea means of transport, or by staff working in the navigational facility.”

It is also noted that the scope of protection in this text is not limited to the means of transportation hereinabove referred to, but rather includes navigational facilities. Any destruction to such (air, land, or sea) navigational facilities represents such offence, provided that it is committed for a terrorist purpose. Navigational facilities mean lands or buildings of air, sea or land navigation and the equipment or machinery related thereto, if they are designated for public benefit, regardless of whether they are owned by the government or individuals and whether they are managed by the government, a natural and/or legal person. Therefore, if the purpose of destructing a port or an airport is to endanger a ship or an aircraft, cause loss of lives or destruct equipment or a traffic control tower, so that aircraft, ships or trains collide with each other and this leads to loss of life, this is deemed a terrorist act. The Emirati legislator indicated that if an act is deemed a terrorist act, it is intended to create a state of panic among a group of people; kill or cause serious physical injury to them; inflict substantial damage to property or the environment; disrupt security of the national or international community; oppose the country; influence the public authorities of the country or another country or an international organization while dis-

¹⁴ AL-NASERI, H. *Aircraft Hijacking – Study of International Law and International Relations*, op. cit. p. 69.

charging its duties, or obtain a privilege or a benefit of any kind from the country or another country or an international organization.¹⁵

B. The Crime of Causing Disruption to Means of Transportation or a Navigational Facility Offence

The Emirati legislator referred to this offence in Article 6 of the Law on Combating Terrorism Offences, wherein disruption means hampering an air, sea or land means of transportation or a navigational facility. This offence can be committed using violence against the means of transportation or facility so that it is ruined and becomes unusable as intended. Such disruption should be focused on a means of transportation or a navigational facility, as mentioned in Article 6 of the Law on Combating Terrorism Offences; not every disruption constitutes a terrorism offence. Rather, the mens rea of the disruption act is to create a terrorist result and cause a state of terror among society. If a terrorist group accesses the electronic network of and diverts the aircraft or trains, so that they collide with each other causing more loss of lives, this constitutes a terrorist offence. With regard to the first paragraph of the aforementioned Article 6, the criminal protection imposed by the Emirati legislator is related to the means of transportation or navigational facility, not individuals. The provisions of the paragraph apply once the disruption caused to a means of transportation or a navigational facility is for a terrorist purpose. Meanwhile, paragraphs 2 and 3 of the same Article increase such protection, to include individuals. If such disruption causes harm or injury to individuals, capital punishment or life imprisonment shall be imposed, and if it causes death, capital punishment shall be imposed. Therefore, in this Article, the Emirati legislator succeeded in the criminal legislation by providing maximum protection in the event of injury or death of individuals. However, we hope that the Emirati legislator increases the penalty imposed on individuals working on such means or facilities and committing such acts since, they are entrusted with such means, navigational facilities, and the lives and safety of individuals.

C. The Crime of Deliberate Endangering of a Means of Transportation or a Navigational Facility

This crime constitutes a special type that differs from the preceding ones; it is an abstract behavior crime representing a potential infringement on rights.¹⁶ Endangerment means that an offender behaves in a way that would endanger air, sea or land means

¹⁵ See Article 1, paragraph 7 of UAE Law on Combating Terrorism Offences.

¹⁶ HOSNI, M. N. *Explanation of Penal Code - General Section*. Cairo: Dar Al-Nahda Al-Arabiya, fourth edition, 1977, p. 284. AL-HADITHI, F. A. *Explanation of Penal Code – General Section*. Cairo: Al-Atik for Book Production, second edition, 2010, p. 191. AL-JABOURI, K. *General Theory of Preventive Criminalization*. Cairo: Arab Center for Publishing and Distribution, first edition, 2018, p. 77. In this context, the Federal Supreme Court of Switzerland defined realistic endangerment as a crime the occurrence of which the legislator relates to the existence of a potential harm. Realistic danger means a realistic case wherein, based on the normal course of matters, there is a probability or some degrees of possibility of endangering an interest subject to legal protection. See reference of ABDEL-MONEIM, S. *General Theory of Penal Code, Comparative Study*. Beirut: Al-Halabi Legal Publications, 2003, p. 478.

of transportation or navigational facility. An aspect of jurisprudence defines danger as “the possibility of causing or leading to damage;¹⁷ danger occurs whenever an infringement on a right protected by law is possible.”¹⁸ However, there is another aspect of jurisprudence that defines endangerment based on the criterion of probability; not possibility. Therefore, jurists pointed out that the criterion of “noticeable possibility” is insufficient, if the presence or lack of danger largely depends on the occurrence or lack of an incident of individual or social importance, such as crime. The possibility should be of a high great and the probability should exist to achieve the result.¹⁹ Therefore, the act of endangerment can be defined as that behavior that gives rise to the probability of a damage affecting the criminally protected interest.²⁰ Considering Article 6 of the Law on Combating Terrorism Offences, it is concluded that endangerment is realistic, not fictional, i.e. it has a real presence in physical reality, and such presence is represented by the occurrence of physical effects in the external world, which constitute a warning of a serious probability of damage. If such damage is not serious and conceivable, it does not constitute a deliberate endangerment crime, i.e. when some people put a small piece of cloth on the railway, this does not endanger the train since it is just a piece of cloth that will not cause the train to derail or overturn.²¹ Also, endangerment in this crime is general as it directly threatens to harm the protected public interests. The deliberate endangerment of the means of transportation and navigational facilities threatens an unspecified number of people, such as passengers on board an aircraft or a shipetc. When a person damages parts of the road, destructs a means of transportation (aircraft, bus or train), gives signals, provides instructions or warnings or makes misleading appeals to harm people or objects and achieve a terrorist purpose, this constitutes a deliberate endangerment crime of a means of transportation as referred to in Article 6 of the Law on Combating Terrorism Offences. In addition, this crime may also occur when some railroad rings are removed by some individuals, which endangers the train and passengers on board. In the same Article, the Emirati legislator specified that this crime is a deliberate crime; it cannot be committed by mistake. The Emirati legislator used the term (deliberate endangering), which means that an offender willfully endangers the means of transportation, individuals or navigational facilities. The Egyptian Court of Cassation ruled that “the crime of deliberate endangering or disrupting of the public means of transportation, which is **punishable** according to Article 167 of the Penal Code, is a deliberate crime wherein the mens rea is established, if the offender deliberately commits an act

¹⁷ PENTER, G., CARNIKAS, D. *Danger in Greek Law*. Group of Researches on Serious Crime, translated by Istabraq Saeb Al-Samarrai. Bagdad: Al Masara Press, 2001, p. 54.

¹⁸ LEMELL, C. Les delits de mise en danger. *Revue internationale de droit penitentiaire*. 1969. p. 217.

¹⁹ AL-OBAIDY, N. *Foundations of the Punitive Policy in Prisons and Extent of the State's Commitment to International Conventions – Detailed Study of International Criminal Law*. Cairo: The National Center for Legal Publications, first edition, 2015, p. 37.

²⁰ HOSNI, M. N. *Explanation of Penal Code – General Section*. Cairo: Dar Al-Nahda Al-Arabiya, fourth edition, 1977, p. 284.

²¹ ABDEL-MUTTALIB, E. *Modern Encyclopedia Explaining the Kuwaiti Penal Code – according to the most recent amendments to the Kuwaiti Penal Code and provisions of the Court of Cassation compared to provisions of Egyptian Court of Cassation since its establishment until 2014, third volume*. The National Center for Legal Publications, first edition, 2015, p. 25.

in a manner prohibited by law and willfully endangers or disrupts the public means of transportation, being aware that he/she acts illegally.

In the Jordanian legislation, it is concluded that, in Article 7 of the Prevention of Terrorism Law of 2014, the Jordanian legislator states that “without prejudice to any more severe punishment stipulated in any other law, penal servitude for life shall be applied if a terrorism act results in the following: A. Causing damage, even partially, to a public or private building, industrial establishment, ship, aircraft or any other means of transportation or facility. B. Capital punishment shall be imposed should the offender’s terrorist act results in a person’s death”. As mentioned above, the Jordanian legislator adopted generality and did not specify a special text with regard to the deliberate destructing, disrupting or endangering of means of transportation or navigational facilities. Therefore, it is better for the Jordanian legislator to adopt the same approach adopted in the Emirati legislation and add Article 7 bis to the Prevention of Terrorism Law, so that Article 7 can be as follows: “penal servitude for life shall be imposed on whoever deliberately destructs, disrupts or endangers any air, land or water means of transportation or any air, land or water navigational facilities, or disrupts the services therein, for a terrorist purpose. Capital punishment or penal servitude for life shall be imposed, should the above-mentioned act result in the injuring of a person. Capital punishment shall be imposed should the offender’s act result in the person’s death or should the deliberate destructing, disrupting or endangering of any air, land or sea means of transportation or a navigational facility be committed by crew members of the air, land or sea means of transportation, or by staff working in the navigational facility”.

III. CONCLUSION

After we have studied the “Crime of Assault on Means of Transportation and Navigational Facilities as a Terrorism Offence in the UAE and Jordanian legislation”, we conclude that the (Emirati and Jordanian) legislators fully agree with the international community’s vision in combating terrorism offences, mainly hijacking aircraft and ships and all the assaults on the means of transportation and navigational facilities. Since the study is based on analysing legal texts in the UAE and Jordanian legislation, and comparing them with each other to achieve the desired outcomes and recommendations, the study concluded a set of outcomes and recommendations as follows:

III.1 Outcomes

1. The Emirati legislator is more accurate than the Jordanian legislator because he drafted special provisions for confronting the crimes of assaults on the means of transportation and navigational facilities. Also, the Emirati legislator clarified the aggravating circumstances of such crimes in clear and disciplined legal texts. On the other hand, the Jordanian legislator drafted a general and comprehensive provision for many crimes, according to Article 7 of the Jordanian Prevention of Terrorism Law.

2. The Emirati and Jordanian legislators did not consider the crime of assaulting the means of transportation by public officials, or those charged with public service, as an aggravating circumstance. If the captain of an aircraft or a ship commits the crime of hijacking the aircraft or the ship, this constitutes an aggravating circumstance that shall be applied.

III.2 Recommendations

1. Article 7 bis 1 should be added to the Jordanian Prevention of Terrorism Law to be as follows: “penal servitude for life shall be imposed on whoever kidnaps a means of air, land or water transportation, for a terrorist purpose. Capital punishment or penal servitude for life shall be imposed, should the act mentioned in the preceding clause results in the injuring of a person or should the offender resists the public authorities with force or violence in the performance of their duty to recover the means of transportation. Capital punishment shall be imposed should the offender’s act result in the person’s death or should the hijacking be committed by the crew of the air, land or sea means of transportation”.

2. Article 7 bis 2 should be added to the Jordanian Prevention of Terrorism Law to be as follows: “penal servitude for life shall be imposed on whoever deliberately destructs, disrupts or endangers any air, land or water means of transportation or any air, land or water navigational facilities, or disrupts the services therein, for a terrorist purpose. Capital punishment or penal servitude for life shall be imposed, should the above-mentioned act results in the injuring of a person. Capital punishment shall be imposed should the offender’s act result in the person’s death or should the deliberate destructing, disrupting or endangering of any air, land or sea means of transportation or a navigational facility be committed by crew members of the air, land or sea means of transport, or by staff working in the navigational facility”.

3. A paragraph should be added to Article 5 of the UAE Law on Combating Terrorism Offences to be as follows: “Capital punishment shall be imposed should the hijacking is committed by the crew of the air, land or sea means of transportation”.

4. A paragraph should be added to Article 6 of UAE’s Law on Combating Terrorism Offences to be as follows: “Capital punishment shall be imposed should the deliberate destruction, damaging or endangering of any air, land or sea means of transport or a navigational facility be committed by crew members of the air, land or sea means of transportation, or by staff working in the navigational facility”.