

PARALLEL LAW AND SOCIAL SECURITY IN A LOCAL COMMUNITY: A FIELD STUDY IN THE BAGHDAD GOVERNORATE / NAHRAWAN AREA AS A MODEL

¹Prof. Adnan Yassin Mustafa

²Sura Ismail Amin

^{1,2} College of Education for Girls - University of Baghdad

Abstract

Iraqi society was distinguished by the dominance of traditional construction and the persistence of family and clan tendencies at the expense of civil concepts and cultural foundations and their penetration into the institutions of the modern state and its foundational pillars. In light of the social relations that control the structures and decisions of society and are characterized by their stability and acceptance by most members of society, it is not easy to try to change or alter them. They are the so-called conservative societies that are not affected by modernity and the changes taking place in other societies by parallel law, and the Iraqi society in general and the study community in particular is firmly committed to the traditions and parallel laws that dominate the scene of Iraqi social life. Parallel laws play a major role in the lives of members of Iraqi society and in the field of legal relations between individuals, and parallel laws have a great impact in the field of impunity.

This study is an analytical descriptive study, and it was relied on the field survey method by the sampling method. A number of scientific tools were employed to collect data (questionnaire, interview, focus group interview, and observation), and the study sample was determined by a group of sheikhs, dignitaries, active forces and workers in security and judicial institutions in the study population is the (Nahrawan) ,the most important results of the field study are as follows: -

1. From the results of the study, it was found that (43.3%) of the individuals surveyed confirm the effective contribution of the parallel law to achieving social security in the local community.
2. The results of the study showed that (47.7%) of the respondents indicated that parallel law is a necessary basis for the organization and cohesion of social life.
3. The results of the study show that most of the respondents stressed that continuing to implement the parallel law will weaken the authority of the official law and marginalize its mechanisms and contexts (79.3%.) region, and the number of respondents was (300) distributed among the members of the aforementioned study community, as well as a set of statistical methods were used to reach the goals that the study seeks to achieve, and it has been addressed. Statistical data for data dump.

The study also included some results, recommendations and suggestions, including:

1. The social cost of parallel law is often exorbitant because of the overlap between formal legislation for social practice and the hegemony of clan customs.
2. The parallel law is still moving effectively in the bowels of the local community due to the fragility of governance, the disintegration of the public policy-making system, and the slack and weak performance of the controlling institutions.

3. The traditional social practices represented by the parallel law often acquire a major role in strengthening social control, supporting the foundations of stability in society, resolving conflicts and addressing problems.
4. The necessity of educating the children of local community members in order to raise their awareness and get rid of customs, traditions, parallel laws and outdated values that intersect with the social security system, and to work in development projects for the (Nahrawan) region and rehabilitate the infrastructure, especially in the education sector.

The first topic

Study Elements

First: The problem of the study

Man is social by nature, as individuals live in the form of groups, they are in dire need of formal written regulations and laws and parallel unofficial laws agreed upon that organize their gathering through their similarity to them despite the human desire to live a life of his own. However, at the same time, he has a social need that pushes him to join a group of individuals that represents his goals, emotions, ambitions and desires. In order to satisfy these social needs, he has to give up some of his personal needs for the benefit of society. Controls are not the product of the hour, but rather a stock of them that is inherited from previous generations, and some of them are imposed by the controls of changing social life. During the last two decades, Iraq has been subjected to political and economic changes that have led to significant social changes and repercussions that have imposed themselves on the social reality. And it led greatly to the emergence of some problems and challenges that affected all life facilities, resulting in chaos, weak rule of law and a threat to the human security of society, which prompted some people to revert to the practice of traditional social systems, primarily relying on the clan because it is a safe fortress that leads them to an effective role in resolving conflicts, and overcoming them. Difficulties according to a formula and concepts inherited and others to the discretion of the elders and sages, but these laws and customs that represent parallel laws with the passage of time have turned into a phenomenon perpetuated by social traditions, including the (tribal bench) that has become rampant in an unruly manner in recent years and claimed the lives of many innocent and helpless people. Shedding the spotlight on such phenomena that caused chaos, fear and threat to community peace and citizenship, disturbed the security of Iraqi society and endangered innocent lives, requires strengthening and supporting the decisions of the Supreme Judicial Council from these phenomena that constituted a threat attended by society after it directed all courts to tighten sentences for a crime. The tribal bench “considered the threat in it as a terrorist act and is accountable under the Anti-Terrorism Law, which limits the growth of unjustified clan fighting. Second: The importance of the study: The emergence of the parallel law in dealing with issues of security fragility after the fall of the previous regime on 9/4/2003 is one of the most dangerous and difficult tasks to be blamed on these men, at a time when the law and state control were weak, and in light of the widespread and uncontrolled spread of weapons, and what This resulted in a legal vacuum and the absence of official authority, as many individuals took another way to seek refuge and shelter under the umbrella of parallel laws. Then the situation developed, resulting in new conditions and strange behaviors that crystallized in the production of effective centers of stability in society, coinciding with unknown phenomena such as displacement, killing and kidnapping, in addition to the emergence of a problem (tribal bench, revenge, evacuation, and

underage marriage, etc.). The Supreme Judicial Council tried to address this phenomenon, and from here comes the importance of this study, a decision to deal with this phenomenon in accordance with the anti-terrorism law, which is a positive step towards organizing society and protecting it from manipulators with authentic tribal values. Third: Objectives of the study: This study aims to achieve the following objectives:

1. Identifying the spread of parallel law and its role in achieving social security for the population in the studied society.
2. Shedding light on cultural references and their relationship to parallel law practices and the extent of community members' confidence in parallel law
3. Demonstrating the strength of the official law versus the parallel law for the availability of social security and community cohesion.
4. Determining the areas of parallel law overlap with the official law and their impact on achieving social security in the study area.
5. Revealing the nature of complementarity and the strength of the relationship between state law and parallel law and their role in protecting members of society from social violations.

The second topic

Define scientific concepts and terms

1. Law: Law is one of the most important branches of human studies because it interacts with its subject, human behavior, analogues, actions and reactions, because its goal is to rule human groups, so that relations between people are not regulated, as well as family, economic or political aspects. The law limits chaos and does not Everyone is left according to his will and will, otherwise the saying of the philosopher Basut was true and fulfilled: "As everyone has the right to do what they want, no one has the right to do what he wants, and if there is no master, then everyone is master, and if everyone is a master, then everyone is slaves." Hence, every society has a system that governs relations between people and imposes rules to achieve safety in society, and the law has many topics because it is a social science in the first place. and social conflict between individuals and the regulation of their behaviour.

Law as language: The law defines language as the way and the standard, for the law of everything is a method and a measure, and its combination is laws.

The law idiomatically: The English jurist Austin (1861-1790) defined the law as: (an order of sovereignty or political authority, or it is the will of the state) and in this sense he also took Thomas Hobbes. The law is defined as a set of abstract legal rules established to regulate the behavior of people in society through the public authority that compels the addressees to respect it and imposes punishment on those who violate it. As for the procedural definition of the law: it is a set of rules aimed at regulating relations between people and imposes a penalty on those who violate them.

Parallel Law: None of the researchers has ever used the parallel law, so we try in this study to provide the terminological definitions of what some terms have close to the parallel law, which is a set of rules that people follow without interfering with a text issued by the authority of the group While Dr. Muayyad Zaidan argues that it is the parallel law: it represents the set of laws that arise from people's habit of their behavior in a certain way, with the frequency of its work, generation after generation, in a way that creates a belief in its imperativeness for fear of punishment when violating it. Parallel law sometimes gains its deprivation from the prevailing

cultural structure that added to it. Parallel law is also known as: it is an unwritten law, but it is preserved in the issuance of judges concerned with the parallel law to resolve differences and disputes between all tribes and clans in society . It represents a tool of social control whose goal is to achieve security, stability, social justice and fairness to society from social disadvantages and grievances in order to achieve balance and impose order within the local community. Security: The concept of security has been linked to stability, satisfying needs and meeting the desires of society. It is a concept rooted and interconnected with the existence of human life. It was a common concern for all societies, despite the diversity of its objectives and elements and its relationship to other societal variables. The rule of law and the security of citizens are among the main components of social security and sustainable development when it seeks to enhance opportunities for justice and law enforcement and to provide security and stability in society. Security and peace are two basic components inside the human being, not from outside. The more a person is filled from within with reassurance and peace, the more it spreads to those around him and overflows with mercy, safety and stability. And faith in God Almighty is what achieves internal security. Internal security is inevitably reflected on the security of the external person, and therefore on the security of the external community.

Security linguistically: security in the silence of the meme language: against fear, and security by breaking the meem: that is, the one who seeks refuge to be safe from himself, and from him is security, that is, the one who is not afraid (10). Security is defined by language: security - safety and trust, meaning: I have believed, so I am safe, and I have secured others from security, and safety is against fear, which is self-confidence and the removal of fear, and from it is faith and trust. Security idiomatically: Many researchers dealt with defining the term security, and perhaps the most prominent of this concept was the thinker Muhammad Imara, who confirmed that security: is the tranquility corresponding to fear, panic and terror, in the world of the individual and the group, and in urban and urban areas, and in the ways and methods, and in relationships and transactions, and in the world. and the hereafter.

Security is known to the jurists as a state in which people are reassured about their religion, themselves, their money and their honor, and their thinking is directed to what raises the status of their society and advances their nation. It thus represents the reassurance of the person and the family about their lives and their money from any violations, and that the person obtains and exercises all his rights in safety and reassurance. Therefore, security indicates the comprehensiveness of all aspects of life. It refers to freedom from fear, whatever its type and source, as well as freedom from want, whatever its source (13). As for the procedural definition of security: it is the feeling of not being afraid of assault and protecting oneself from any assault, in which the individual is protected and free from any manifestations that threaten him and threaten the chances of his stability.

Social: After we have defined what is meant by security linguistically and idiomatically, we must stop at the term (social) so that we can define the concept of social security as an additional compound that includes all the relationships that exist between people in society, because the human being cannot live, grow and develop outside the context of society. Man is a social being. Social linguistically: a noun attributed (meeting) and its source is (meet) and the meeting is the meeting and meeting (individuals) in a specific place and time and means a field related to man and his society. The word "social" is attributed to the language, and its origin is from the verb plural and indicates the solidarity of the thing.

The social idiomatically: The social is defined as a description of the behavior and attitude towards others. It means situations in which there is a mutual influence between parties that have temporary or permanent social ties and relations. A social concept means that the individual participates in society with the roles he plays in the life of society, and observes its general rules and laws. The social is defined procedurally: it is a group of individuals living on a specific spot, linked by mutual ties and interacting with each other according to specific standards and controls, everything that goes beyond the limits of the individual to the group, as the members of the group organize.

Social Security: Social security is a complex term whose semantic field expands to include multiple intertwined meanings that gain it an important semantic and cognitive power. While sociologists view social security as a state of reassurance that members of society feel as a result of their contribution to the institutions of socialization, as they are reinforced by skills, practices and capabilities that achieve for the individual a sense of fearlessness in his present and future and seek to protect himself, his mind, his honor, his money and his religion, and time emphasizes Self-recognition of his presence and his position in society allows them to participate in positive and effective community. **Social security idiomatically:** social security is defined as: a degree of reassurance felt by members of society resulting from the contribution of state institutions in detailing all strategies and capabilities that achieve for the individual a feeling of satisfaction and fearlessness in his present and future and seeks to protect his religion, mind, money and honor. Therefore, social security in its general sense includes all aspects of life that concern the contemporary man. It includes living and economic sufficiency, human social stability and peace of mind for the life of the citizen. Social security also deals with providing basic services to the human being without feeling helpless or needy. This includes school and cultural services, human care, social and material insurance, and aims to secure personal well-being and thus prevent crime and delinquency. Social security is defined procedurally as the individual's sense of tranquility and stability, due to the absence of social phenomena that conflict with the original values and supreme principles of society.

Society: There is no doubt that the term society includes a wide range of definitions, each of which deals with an aspect of society in which individuals and groups live according to the customs, traditions and common goals in which the members of that society believe. Since time immemorial, man has been making his local community, not only by building, reconstruction and organization, but also by making his human consciousness, and regulating his relationship with the outside world. and behavioral controls, which, over time, turn into traditions that he bequeaths to the generation that comes after his generation, when he begins to accept them, Also, these behavioral rules often avoid conflict despite their dominance and dominance, which gradually turn into norms or as a law to which all individuals belong without exception. Perhaps it is important to note that the minds of the actors acquire from social rules obtained from the social environment, so they adapt, draw and formulate these minds in order to harmonize with the environment in which they live. **Language:** plural: plural: plural: plural, plural, plural, plural, plural. And the group that gathered from here and here, even if he did not make everything one and gathered the ways: gathered in every place. It can be said that the history of any human group is an expression of the collective ego action in cultural contexts with cumulative and socially inherited features that determine the features of the identity of that group. Society is defined (in the broad sense) as a group with an organized culture that seeks to satisfy basic needs and human

interests, and (in the narrow sense within the framework of the culture in which they live) to form a social structure. Idiomatically: **Society:** The word society is applied to a group of members of any small or large group who live in one place, which entails that they participate in the basic conditions of human life and do not share in particular an interest only. Sociologist Ibn Khaldun believes that society is not just a population group that increases and decreases due to industry, nor is it just individuals who are subject to civil laws.

First of all, they are related to the *Asabiyyah*, which represents the basic link for the sons of the tribes, that is the people of the cities, many of whom form a human society with their social ties, and they are united by intermarriage, attracting each other to be flesh and kinship, and there are clans and clans between them. As for the procedural definition of society: it is a group of people who are distinguished by a common culture, reside in a specific geographical area, are governed by clear laws and rules, have a sense of unity and consider themselves a distinct entity.

Through these definitions, society includes a set of elements: - a geographical location, a group of individuals, interaction, laws, and common controls.

Dr. Khalis Al-Ashaab defines the concept of the locality, as it brings together a number of dwellings, the relationships between which are organized by an organic network of paths and alleys in a hierarchy that rises with the approach to the main attraction such as a mosque, a school, or others.

The local community idiomatically: The concept of the local community was used by many sociologists and those interested in rural and urban studies to refer to many meanings. To achieve common general goals in light of a system of cultural and social values that determine the social status of each of them as well as their roles. These people practice a variety of economic activities in order to satisfy their basic needs, in addition to the fact that they do not live in isolation from the local communities surrounding them on the one hand, and the regional and global community on the other hand. As for the procedural definition of the local community: a group of individuals and groups living in a specific geographical area governed by a social organization consisting of a group of families and other social units interacting with each other and mutually dependent on each other, in order to satisfy their daily needs.

Overlap between cultural references and parallel law:

Since the existence of humanity extended on the surface of the globe, as man formed separate human gatherings in which individuals work and live together, and each of them has different cultures, values, customs, traditions and laws that were formed over time, and this constituted a diversity of cultural references (28), and for each A community of values stemming from behaviors and things through cultural situations that guide it in judging the good or ugliness of specific actions from a specific time, social that reflects its peculiarities and cultural references are closely linked to the parallel law. Cultural references are the criterion for selection from among alternatives or social possibilities available to a person in a social situation. However, this selectivity is not left to individual freedom, but rather is weighed by the values and preferences of society that were favored by that society for itself, and the success of a particular law depends on the extent to which individuals accept it and society's acceptance depends A law depends on the extent to which it embodies their social existence,(29), especially to ensure the formation of a social entity and the preservation of its continuity and the integration of the actual society based on the principle of effective and effective participation of individuals and groups in social, economic and political life, especially for participation in the maintenance of social norms and common values and in the production of common wealth in fair use of its benefits. From this

framework, the social transformations taking place in our societies lead to the emergence of a new era, the most prominent title of which is the rejection of all forms of exclusion and discrimination due to social status, geographical location, ethnic, religious or sexual affiliation...etc, and the ambition to establish a civil society that helps in consolidating a socio-political modernity. Democracy, based on the social integration of all members of society, because they are free and equal citizens. Based on the foregoing, it must be noted that the cultural references about which the jurists differ, are divided between socialization, religion, customs and traditions, laws, law and social and cultural changes). **Social Control, the Rule of Law and Parallel Law: The Controversy of Overlap and Integration.** Social control is one of the pivotal topics in sociology, which includes the foundations and rules for controlling the behavior of individuals in society. Or religious, that these normative foundations become the determinants that draw the nature of judgment on moral and ethical behavior according to the main premises from which they are based. The goal of social control is the system that is accepted or approved by society, and the regularity of social interactions between members of society and its groups, in a way that maintains its stability, cohesion, and continuity. This is because control represents an individual need that requires fulfillment. It is a societal need because in order for every society to remain and continue stable in systems, it must define the rules, systems, values and standards that speak to the behavior of its members, so that life in it does not become a kind of chaos and deviations. Therefore, we find in every society different organization that monitor those who try to tamper with the law, traditions, custom, religion and morals established by the society. These organizations may be formal or informal, and the function of these organizations is social control by imposing penalties with reward or punishment, approval or disapproval, starting with the final disposal of the criminal deviant against society with the punishment that suits that crime until the attempt to persuade and guide.

Parallel law and social security

The importance of social cohesion among members of a disciplined clan lies in the birth of an environment of harmony, peace, coexistence, love, and brotherhood within the framework of the unity of the entire society, while family disintegration and departure from the standards and laws of the state and parallel, heavenly laws lead to paths of (individual - collective) behavior resulting in a society Virtue united and cooperating in thick and thin. On the other hand, societal fragmentation, moral collapse, treading the paths of vice, murder, violence, rape, abuse of the rights of others, insulting the dignity of women, aggression and moral perversion are incompatible with the values of faith, the laws of the state and the customs of the clan that are based on its values, ideals, morals, temperament and parallel laws that are attached to it. It fulfills rights and deters falsehood. . The jurists and scholars have attached great importance to the role of the clan politically and socially, as the duty of the clan is to repel the attempts of aggression from the other and to support, support and assist those who resort to protecting it. Wars, armed conflicts, accidents - intentional or unintentional killings - divorce and marriage issues, and those responsible for them spare no effort to bring the litigants closer, solve all problems and sensitivities, defuse crises, and calm the tense situations that are estimated as a result of accidents. It is no secret to anyone that there are many negatives and the ashes of the past that are renewed by the traditions and customs that are condemned by all the laws and the sound mind (opposite marriage, Nahrawan, and the season). Enhancing opportunities for integration between state law

and parallel law provides protection for all individuals from injustice and insecurity, which requires legislators, sheikhs, dignitaries and active forces in society to have a real desire to be responsible for the rest of society, and to consider each other accountable before the laws. On the other hand, achieving this desire on both sides is a huge challenge. If the active forces do not show a desire to protect the rights of all individuals in society, then submission and submission to the laws will lead to the emergence of a state of loss of confidence between the active forces and the members of society. And in order to rely on the force of law. This relationship of trust should be rebuilt with care and complete trust. The process of building trust between the actors and members of society may take time and require great patience and endurance. This is because the active forces in society, in the researcher's belief, that respect rights and comply with the law, do not arise by themselves, but rather require the active participation of all members of society. In conclusion, it can be said that security is a human need, a human necessity, and an innate instinct, without which happiness cannot be achieved, and stability does not last with its loss, because it expresses the interests of the individual and society that are dependent on its provision. Security must be achieved in society, when each of its members performs his role, and assumes his responsibility, which in order to achieve the cohesion of society, God created in each individual characteristics before jobs, whose functions are realized through his characteristics, and he assumes his responsibilities with the cooperation of everyone in performing duties. Because security is not imposed by force, Rather, it stems from the will and conviction of the members of society, their consciences, and the way they are treated, that what clans do in resolving disputes and disputes is one of the most important ancient social, legal and moral systems known to man. Satisfying their necessary needs and living together, which calls for setting rules to organize their life affairs in different ways. Therefore, if the society wants to continue its social existence, it must have its own conditions and controls to control and direct its members to adhere to its rules, standards and values that it set and found as a means that connects them to goals and laws in order to make them identical. In their behavior and thinking, the parallel law has a fundamental role in instilling social controls for individual behavior.

References

- [1]. Dr. Moayad Zeidan, *Legal Sociology*, Syrian Virtual University Publications, Syria, 2018, p. 3
- [2]. Dr. Moayad Zaidan, *Legal Sociology*, same source, p. 5
- [3]. Dr. Moayad Zaidan, *Legal Sociology*, previous source, p. 5
- [4]. Dr. Numan Ahmed Al-Khatib, *the mediator in the political and constitutional legal systems*, Dar Al-Thaqafa Library for Publishing and Distribution, 7th edition, Jordan, 2011, p. 440, p. 11
- [5]. Abdul Razzaq Naji Barani, *The Impact of Customs and Traditions on Understanding and Working with Discourse*, Master's Thesis at Al-Azhar University, Faculty of Theology, Shuba, Islamic Sharia, Egypt, 2018-2019, p. 35.
- [6]. Dr. Moayad Zaidan, *Legal Sociology*, previous source, p. 79
- [7]. Rami Al-Manadi, and others, *The Tribal Judiciary in Deir Ezzor, Local Roles in Building Community Peace*
Harmon Center for Contemporary Studies, Social Research, 2020, pg. 9
- [8]. Prof. Adnan Yassin Mustafa (*The problem of social security in Iraq after 2003, a sociological reading*), Professor of Sociology of Development, University of Baghdad, 2014, p. 2.

- [9]. Mr. Dr. Ali Gomaa, **Community Security and Stability from an Islamic Perspective**, Cairo - Egypt, Dar Al Maaref Press, 1, 2014, p. 39.
- [10]. Amjad Al-Din Muhammad bin Yaqoub Al-Fayrouzabadi, **The Ocean Dictionary**, Dar Al-Hadith, Cairo Press for Publishing, Cairo - Egypt, 2008,
- [11]. Dr. Fayez Al-Basha, **Social Security and Globalization**, Scientific Center for Studies and Research, The Green Book, The Cultural Season at Al-Fateh University, Algeria, 2006, p. 6.
- [12]. Muhammad Emara, **Islam and Social Security**, Dar Al-Shorouk, 1, 2007, p. 11.
- [13]. Aziz Ahmed Salih, **Family Security Concepts - Constituents - Obstacles**, Al-Andalus Journal for Humanities and Social Sciences, No. 12, Vol. 15, 2016, p. 169.
- [14]. Dr. Mohamed El Gohary, **Introduction to Sociology**, Faculty of Arts, Cairo University, Egypt, 2007, p. 78.
- [15]. Falah Khalaf Al-Rubaie, **The Role of Social Protection Networks in Protecting the Poor**, Al-Hawra Foundation, 2008, No. 2288, p. 17.
- [16]. Abi Al-Hassan Ahmed bin Faris bin Zakaria, **Standard of Language**, Volume 1, previous source, pg. 479
- [17]. Muhammad Emara, **Islam and Social Security**, previous source, p. 11.
- [18]. Dr.. Muhammad Saeed Farah, **What is Sociology**, Tanta University, Faculty of Arts, previous source, p. 35
- [19]. Dr. Dalal Malhas Stetieh, Omar Musa Sarhan, **Social Problems**, Wael Publishing and Distribution House, 1, Jordan, 2012, p. 309.
- [20]. Dr. Ali Swailem Al-Jazi, **Community Police and their Role in Achieving Social Security**, Gulf House for Publishing and Distribution, 1st Edition, Jordan, p. 17.
- [21]. Rashad Salih Al-Kilani, **Social Security and its Concept**, Correspondence of Sharia and its Relation to Shariah Purposes, International Conference, Social Security in Islamic Perception, College of Sharia, Al al-Bayt University, Jordan, 2012, p. 9.
- [22]. Maimouna Manasir, **The Identity of the Local Community in the Face of Globalization**, a thesis submitted to obtain a Ph.D. in Sociology of Development, University of Mohamed Khedir - Biskra, Algeria, 2012, p. 15.
- [23]. Dr. Musleh Al-Saleh, **Al-Shamil Dictionary of Social Sciences Terms**, Dar Alam Al-Kutub for Printing, Publishing and Distribution, 1st Edition, Saudi Arabia, 1999, p. 511.