

Right to Privacy in Law (Sanctity of Private Life)

Dr Rabi mahmmud najeeb alamuor

Abstract

The right to privacy of the private life is one of the basic rights stipulated in international conventions and conventions as well as in national constitutions and laws, However, there is still no agreement in jurisprudence about its definition, in fact due to the flexibility of the idea of private life and its development from one society to another and from time to time, In light of the degree of development and progress of society, and the ethics prevailing in it, and according to the circumstances of each individual in society in terms of age and social status and the level of education, education and culture. The French jurisprudence has tried to define the right to privacy in a manner that allows the judiciary to apply it, and divergent opinions in this field are several doctrines that can be summed up in two directions. This is the positive definition of the right to inviolability of private life, where some believe that the right to privacy, is the right of the person to leave him without bothering and do not disturb one of his privacy, or the right to live away from the intrusion of people and curiosity. And there is another aspect of jurisprudence that tried to define private life through the enumeration of what comes within its scope, some of which are in it, where some considered it to be included in the right to privacy of privacy, right to name, right to image, right to human voice, The right to intimate, the right to honor and reputation, the right to forget and what is important to us in this chapter, and there are others who limit it in the emotional life, family life and sources of income, and the non-public aspects of professional life and leisure.

The First Topic

The Concept of Right to Privacy

People have disagreed to the definition of the right to privacy. However, the scope of its application varies according to the values and ethical rules of each society, as it is usual for every society in terms of private or public life. The circle of privacy is widening and narrowing depending on the difference between societies based on the amount of freedom enjoyed by individuals or media organizations in the scope of private life or public life. Many have defined privacy as all that comes within the details of a person's life and inside his secured fortress, not willing to inform others but have rather kept it secret to himself due to the fear of its spread. Some have also defined the right to privacy as one of the human right that allows someone to live alone with some privacy and with people that he is familiar with. This, however, is with minimal interference from others.

At the conference held in Stockholm in May 1967, the jurists defined the right to privacy as the right given to people to live their own lives, to protect them from interfering in their private and normal lives, or interference in their physical and mental integrity, or to assault their honor and reputation, or to be placed under false lights, espionage, snoop and surveillance, or the misuse of his personal contacts, or using the information obtained in cases of professional trust.

In this section, we will discuss the definition of the right to privacy in a separate claim, which is the legal nature of the right to privacy in another requirement. Also, we will discuss the elements of the right agreed upon in the right to privacy and the elements of the right disagreed upon in the right to privacy.

First Requirement

The Definition of the Right to Privacy

All human rights legislations have given special importance to the inviolability of private life. This has prompted humanity to seek and ensure the rights and duties of human rights. The Declaration of the Constitution on Human Rights has confirmed the right to respect human life as a human right. The right to privacy was recognized by the United Nations General Assembly in its resolution 10/12/1948, and the international conventions, including the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950. It was recognized by the International Covenant on Civil and Political Rights of the United Nations, in which Article 17 states that no one may interfere arbitrarily or illegally with the privacy of any individual. The various Arab constitutions have stipulated human rights as affirmed by the Arab Penal Codes (1).

Article (45) of the Egyptian Constitution stipulates that "the privacy of private citizens shall be protected by law." Article 57 states that any attack on the inviolability of private life constitutes a crime that does not preclude criminal and civil proceedings arising by statute of limitations.

Article 309 of the Egyptian Penal Code stipulates that: 1) Anyone who violates the inviolability of the private life of a citizen shall be punished by imprisonment for a period of not more than one year, by committing one of the following acts in a manner other than those authorized by law or without the consent of the victim: a) Record or transfer by means of a device of any kind, a conversation held in a private place or by telephone, b)

taking or transferring a device of any kind, a photograph of a person in a private place, as provided for in the Jordanian Constitution in Article 7 which stipulates that: Personal freedom is protected.

2) Any infringement of public rights and freedoms or the inviolability of private life of Jordanians is a crime punishable by law. Article 18 states that all postal, telegraphic, telephone and other communications shall be considered confidential and shall not be subject to surveillance, access, arrest or confiscation except by judicial order in accordance with the provisions of the Law. Article 48 of the Jordanian Civil Code stipulates that any person who has committed an unlawful attack on one of the inherent rights of his or her personality may request that such an attack be stopped with compensation for any damage that might have been caused. Article 49 states that any person who has been unlawfully disputed of the use of his or her name or title, without justification, has the right to ask to stop this assault and request compensation for any damage that might have been caused.

The definition of the right to privacy is still one of the most controversial issues in jurisprudence and comparative law. Legislation that explicitly states the inviolability of private life has not, in fact, defined this right (2).

Privacy in language is the case of particularity, which is contrary to the general. Therefore, it was said that someone has kept the matter for himself and didn't share it with anybody. Privacy is closer to secret, but is not synonymous with it. The secret is what is concealed by the human and what is hidden. In addition, it assumes full secrecy, but privacy may exist despite the lack of confidentiality. Therefore, it is not always correct to confuse them, and if this is sometimes permissible, they may be inseparable at times. At other times, each of them has their own independent field. For example, the incidence of a debilitating disease, such as syphilis, is considered to be a matter of confidentiality and privacy. At the same time, this is done so as to expose the violation of the right to secrecy and the right to privacy. However, the publication of a photograph of a person without his permission is an assault to his privacy, even though his image does not fall within the scope of the secret.

In the field of law, there is no definition of privacy or the right to privacy, neither in the Constitution nor in the law. As mentioned earlier, the Egyptian Constitution stipulates that the private life of a citizen is inviolable without defining this right. As mentioned before, the inviolability of this life is explicitly stated in the Egyptian Penal Code.

This legislation, which recognized the right to privacy in its texts, did not define this right. Its definition remains controversial in jurisprudence and comparative law because private life is a flexible idea that has no fixed or stable boundaries. Some of them like to be the realities of his private life like a published book, and he is a fugitive. So he is not to these and he is not to them, but he seeks a path between that.

This difficulty is due to the appreciation of each society for values that conflict with the protection of opinions. This protection contradicts the right to press and it constitutes a constraint. Therefore, a convoy is narrowing and expanding according to society's view of freedom that must be given by the press.

It should be noted, however, that the difficulties in establishing a specific definition of the right to privacy do not preclude us from touching upon some of the fundamentals that can be used to determine the meaning of this right.

The difficulties that hinder the development of an agreed general definition of the right to privacy did not stand in the way of jurisprudence, which has been striving in this regard with a view to understanding some of the foundations that can be used to determine the meaning of this right (3).

In reference to the jurisprudential attempts made in this regard, some of them have developed a general descriptive definition of the right to privacy, while others have relied on the statement of the elements within the scope of this right, including what brings together both of them. It is clear to us that there is no general definition of the right to privacy at the level of legislation, jurisdiction, work or jurisprudence, both internationally and locally, for the reasons mentioned. If the judiciary did not establish a general definition of this right to determine its nature and limit, it however did so in the judgments made in different cases based on the scope of private life.

What is presented above about privacy is only a theoretical abstraction of the personal aspect of private life. This vision is essential for the consolidation of this life and its role to its first roots within the human psyche, which is based on a definition of the right to life that can be applied in the field of law.

Based on this perception of privacy, it is possible to define a right in which it is valid as a legal criterion for distinguishing this right from the other rights. However, this can be shown in the next demand.

The right to privacy is the authority of the person to put down the curtain on the facts of a part of life that the legislator has entrusted to the body of secrets, and to protect it from the curiosity of others, provided that there is nothing to permit violation. This definition obviously has two basic elements (4). These are the privacy facts to which a person is entitled to, and the reasons for the violation of the right to privacy. For the first element, we have already mentioned that privacy is a flexible idea that has no fixed or stable boundaries. It varies from one society to another and from one individual to another within the same society and from one age to another within the same person.

Thus, the assessment of these facts cannot be left to the persons themselves, but the legislator, assisted by that jurisprudence and the judiciary, can intervene in order to incriminate in his texts certain acts that he considers to violate the sanctity of this life. This can be seen in the light of societal and cultural frameworks, including religion, philosophy and societal variables, as well as the existing legal system.

This is what the Egyptian legislator did in article 309 of the Penal Code, where he stipulated the most prominent cases of privacy in violation and punishment for; thus, what the Egyptian legislator did was not an innovation, but it was preceded by the American judiciary as well as the French judiciary (5).

In the second element, which relates to the reasons for the violation of the right to privacy, we make it clear that the legislator is the one who sets out the list of acts committed by the violation of privacy and its means of criminalization and punishment.

Indeed, the effective and strong protection of the right to privacy is achieved through the imposition of a criminal sanction on those who infringe upon this right (6). However, this does not preclude the existence of certain cases in which infringement of the right to privacy is permitted if there is a legislative provision for such permissibility within the balance between the interest of individuals in not interfering in their private lives and in the interest of the community.

To illustrate this, it can be said that the Egyptian Penal Code, in article 309, criminalizes the registration and electronic imaging of human life scenes. However, the procedural law was stated in certain circumstances in accordance with certain procedure and confirmation of this meaning. The Code of Criminal Procedure allowed the investigating judge the power to order all communications, letters, newspapers, publications, and parcels at post offices, all telegrams at telegram offices, as well as the command to monitor wire and wireless conversation. This takes place when it is useful for the appearance of the truth in a felony or misdemeanor punishable by imprisonment for more than three months.

As for the elements of the right to privacy, claims have been allocated, including elements of the right to privacy. Based on a separate demand for the various elements of the right to privacy, we will demonstrate these elements in the manner described in the next requirement.

The Second Requirements

We have already discussed the definition of the right to privacy and have already demonstrated the legal nature of the right to privacy by defining the legal nature of the right to forgetfulness. In addition, we are mindful of the self-determination of this right, its scope, and the constituent elements of its content. It would be useful to clarify this right to indicate whether privacy is vested in the situation in which the person is located. This, therefore, is regardless of the nature of the place where the attack takes place, or whether privacy is assigned to the place where the abuse takes place. Thus, this is irrespective of the nature of the situation on where the person is located. This has two different directions in the comparative legislation. One of which is the content of privacy in itself, without regard to the nature of the place where the attack occurred. Secondly, the other depends on the nature of the place where privacy is violated without regard to the nature of the situation of the person. In this demand, we will discuss the two directions (the recognition of the place where privacy is violated and the respect for the content of privacy itself) which led to this trend. This trend entails the lesson in the availability of privacy and the status of the person, and whether this situation expresses a certain aspect of privacy or not, which is regardless of the nature of the place where the attack occurred. The privacy is reflected in the place, and it gives it the same features. Whether the place is public or private, what is important is the nature of the situation in which the person is entitled to in regards to legal protection (7). This distinction distinguishes between what affects the public life of the person and what affects his or her private life. Therefore, this makes it possible for the protection to be limited to the second only.

This trend is based on the distinction between what affects public life and the private life of the individual. Nevertheless, this is the main flaw because it is almost impossible, according to Maurice Bataa, to distinguish them from their close association and they cannot be separated in practice as the law seeks (9).

In every person who is in the public and private sphere, they are, in other words, two basic features of the human being, or two sacrosanct ideas. It was so intertwined that it is difficult to say in advance the limits at which private life ends and public life begins.

It makes it more difficult to draw a distinction between privacy and generality. The scope of the first varies according to the ages, societies, customs, and cultures. What is a special situation for a given person may be the same for another person. For the same person, what is considered specific at a particular age may not be the same. In light of this, in our view, it seems impossible to invoke the privacy situation as a criterion for determining the scope of legal protection for persons who are against the violation of their private lives.

The second element is the attack on the place where privacy is violated. According to this approach based on the specificity of the place, irrespective of the nature of the situation on which the person is located, the private place in our estimation is the yardstick that can be used to determine the scope of private life. It follows that an individual who voluntarily presents himself to the public is a waiver of his right to life, which

the law gives him; however, it cannot be invoked to protect this protection by his presence in a public place (10).

This approach was adopted by the French legislator, which limits the criminal protection of persons against the recording and transmission of their conversations and taking photographs of them in private places only (11), as well as the work of the Egyptian legislator.

There has been controversy in the jurisprudence about what a private place is. Professor Chavanne went on to say that a private place is a place that is fit to be used as a framework for private life, and no one has the right to enter it without the consent of the person (12). Thus, it helps to determine the nature of the private place according to the double standard of the nature of the place on the one hand, and the consent of the owner on the other hand. This has greatly restricted the idea of the private place which, according to this criterion, is not considered as a special place. For example, the place is used as a private office for a project or facility based on the fact that it does not serve as a framework for private life. Furthermore, it is reconciled as a framework for civic life.

This result is contrary to the opinion of the French jurist public that the personal offices of those working in public places should be allocated special places in the concept of press crimes, as long as they receive only those they want (13).

Another direction adopted by a part of French jurisprudence is based on identifying the idea of a private place in the field of inviolability of private life in the light of the idea of the public place in the field of press crimes. This is so that if the public place is in the last area, it is permissible for everyone to attend without the need for any special permission (The public place by its nature) or open to the public under certain conditions (the public place of allocation). The private place on the contrary shows that no one is permitted to get in without the permission of its occupant (13).

After entry into the place, the occupant's permission must be regarded as a private place, whether it is possible to see what is going on inside from the outside with the naked eye or not, and whatever the person's situation is.

On this basis, it is a private residence, TV cabins, hotel room, private car, restaurant kitchens, and actors' theater rooms. Recently, in France, the private yacht is considered as a private place.

One of the photographers took a picture of one of the most famous actors in the cinema, completely naked on the roof of her private yacht in Saint Tropez Bay. The actress called for the compensation of one thousand francs for the damage she had suffered as a result of the violation of her privacy. On the other hand, the Civil Court of Seine, which considered the case, ruled that the assault in this case had infringed upon the right to the image, not the right to respect for her private life, and they awarded her compensation of 200 francs. The Court of Seine argued that the actress, stripped off the surface of a boat by the eyes of other boat operators, could not claim that the image taken in this situation violated her privacy and supported her by referring to a previous district where the seashore was not considered as a private place.

However, the Court of Appeal in Paris raised the amount of compensation to twenty thousand francs, and corrected the Court of Seine's denial of the privacy status of the private yacht at sea. In addition, they decided on the contrary that the boat acquires special status if it is at sea close to Umina Beach. This is because everyone on a boat thinks that if there are no boats running nearby, it is safe from the looks of other (14).

Here, we found a split in the jurisprudence in this matter, where some considered that the presence of the person in a public place makes it to be viewed by the eyes of others to not have the right to object taking the picture because the picture in this case is only a fixation of the shape and visual appearance of the eye. This is the case if there is an objection to the publication of the photograph, or if this results in prejudice to the person (15).

In the opinion of some, the presence of a person in a public place does not mean his absolute departure from his right to object taking his image, but must distinguish between two assumptions.

It is no exaggeration to say that private life is the heart of freedom in the modern state. This high status of the right to privacy for both the individual and the society has been embodied in the various laws of the various classes. The law of Islam was the first in this field.

The Third Requirement Elements of the Right to Privacy Division

With the difficulty of reaching a comprehensive definition that contradicts the idea of private life, the jurisprudence tried to enumerate matters that fall within the realm of private life. The review of the available writings of jurists and reference to the provisions of the judiciary can be stated. The most important of these are housing and private space, personal conversations, the right to correspondence, emotional, marital and family life, health and medical care, the person's place of residence and telephone number, political opinions, financial and religious beliefs, Professional life, leisure, the right to honor and consideration. Nevertheless, some disagreed with the right to enter into oblivion as elements of the right to privacy and we will demonstrate these

views in a separate form.

One of these elements is what is the subject of the jurisprudence agreement and the judiciary? On the contrary, what is the subject of disagreement, such as the subject of our research on the right to forget? Thus, it was rightly observed that this census was not included exclusively. For example, the judiciary may consider some of these matters as private life. In such cases, the jurisprudence did not repeat the rulings of the judiciary (16).

All these cases revolve around the concept of private life, which is in turn based on two axes. The first is the freedom of private life, that is, the freedom of the individual to choose his or her lifestyle without interference from others or any power. Thus, this freedom is not absolute for the individual, but is restricted to the social system within the community and the secrecy of the private life, that is to say, the secret of all that results from the individual's exercise of his or her private life, whether it is a data or fact (17).

The agreed elements in the right to privacy, housing, and the concept of housing relatives are different according to time and place. The prevailing opinion in the jurisprudence does not support some illegitimate action such as rape, and this does not agree with logic. As a result, the rapist benefited from the fruit of his wrongdoing (18).

The owner of the dwelling has different rights to his residence. He has the right to own it either on the basis of the contract of ownership, lease, or other contracts that allow him to use the dwelling (19).

Some see that the dwelling of man is the place where one withdraws from social life, in order to enjoy tranquility. It is defined by some as a closed and habitable place owned by a person, regardless of the duration of his residence. It is not permissible for strangers to enter it except with the permission of its owner, it is a repository of its secrets, and it derives its sanctity from the sanctity of its owner (21).

The Egyptian Court of Cassation has defined the residence as a place where a person has taken a safe place and no other person is allowed to enter it without his permission (22).

One of the elements of the right to privacy is also the inviolability of personal or private conversations, and it was settled in the Egyptian jurisprudence that everyone has the right to enjoy freedom regarding his private conversations using various means of communication. Thus, personal conversations, such as phone calls, are considered a way of life for people.

There is no doubt that personal conversations appear as an application of the principle of inviolability of private life, which is a true repository of individual secrets. Here, the speaker when communicating to others calm down, either directly or through telephone wires. These conversations and telephone calls facilitate the exchange of secrets and the transfer of personal ideas without embarrassment or fear of listening by others. Also, it is safe from the curiosity of overhearing, and then these conversations are an area of the secrets of private life that must be protected (23).

The secrets of private life that are emitted through personal conversations must be protected against all means of listening and publishing. It is not permissible at all to record and monitor personal conversations and phone calls, and to listen to them by any means (24). Violation of personal conversations is an attack on the right to privacy, which is a restriction on freedom that may be invoked only within the limits set forth in the Code of Criminal Procedure (25). Hence, because of the importance of personal conversations and private calls, the law has been protected.

One of the elements of the right to privacy, which is also agreed upon, is the inviolability of emotional, marital, and family life. The jurisprudence and the judiciary have been established. The emotional, marital, and family life of the person is one of the most intimate elements of private life. It cannot be infringed by publishing it in the newspapers or by any other mean (26).

The emotional life of man, an important part of his life in general, all relationships, secrets and emotional attitudes are very important to the person. Therefore, it must be surrounded by a fence of secrecy and must be kept away from the eyes and tongues of all people. It is never permissible for a person's relationships and emotional life to be published because they have a significant effect on the individual's morals and behavior.

Therefore, he ruled that it is not permissible to publish the emotional adventures of a young girl. He also stated that the emotional issues of girls in general are considered to be one of the most special aspects of private life, and therefore cannot be made public, whether real or fictional (27). The secrets of family life are to be kept private, whether related to paternity or sonhood, divorce or marriage. It is agreed upon that the secrets relating to the relationship between spouses and marital life is a component of the right to privacy. As a result, he has banned the publication of real or alleged news about the speech of a person or the circumstances of divorce of spouses (28). It is not permissible to publish what is related to the husband's relationship with his wife and the success of the marital relationship, as well as the divorce and its circumstances and the conclusion of a new marriage.

One of the elements of the right to privacy is also agreed upon, the state of health and medical care, because the health status of each person is one of the most specific privacy that every person is keen to keep secret from the sight and listening of others. This is because the disclosure of these things causes unpreventable pain and

damage, especially if this person is a person that people want to hear his news, and know every small and large detail about his life, as is the case for artists, politicians, and football stars (29).

The judiciary is keen to provide some kind of protection to the health of individuals through a range of secrecy. Therefore, journalists are required to be more confidential in this field. They are required to publish the publications issued by the medical bodies without any distortion or addition. Therefore, there is a dissemination of rumors and false news in this field forbidden.

In this century, many types of serious communicable diseases, such as HIV / AIDS, have emerged and the personality of one of the patients is causing an irreversible damage. This is an attack on his right to private life because of the effect it has on the patient and the resulting alienation and isolation from the patient (30). Therefore, the elimination of the consideration of the health of the person and the diseases that are considered private life are not allowed to be published, especially anything relating to the health of the person only after obtaining permission (31).

It is also a right to inviolability of correspondence, where correspondence is an important area for the deposit of the secrets of individuals, whether it relates to the sender or to others, as personal conversations embodied in the form of a message (32).

The correspondence refers to all written messages whether sent by mail or by a private messenger. It does not matter if the form of correspondence is a speech or telegram or telex, or other forms developed by technology. The right to inviolability of correspondence is one of the elements of the right to privacy. The Egyptian legislator has enjoined the preservation of the inviolability of the correspondence and the violation of any of them. The constitutions and laws have been careful to preserve the privacy of all its elements.

The person's place of residence, telephone number, and phone number are among the most important elements of privacy, which are settled by the jurisprudence and the judiciary. Therefore, the disclosure of the person's place of residence, telephone number, and address of the house where he spends his spare time without his consent is considered as a violation of his or her private life, especially if the person is concerned about this secrecy (33). In addition, the extent of the inconvenience to which a person is exposed to when such matters are revealed, where the person loses calm and tranquility in the place originally allocated, and the risk of violation increases as the person is known in regards to his/ her characters.

It is also agreed upon the political views of the person i.e., the views of an undeclared citizen in existing political parties, competing to attract public confidence, and to assert the greatest number of people in order to reach the rule of the country or at least share power. The law provides protection for those views through the secrecy of the vote, and therefore cannot be disclosed without the permission of those who embrace it, and the violation of this obligation violates the private life of the citizen (34).

Also, the financial obligation of the person is one of the most important elements that are considered to be at the heart of private life. It concerns the financial responsibility of the person and it has to do with a person's set of financial rights and obligations. The disclosure without authorization is considered as an attack of the inviolability of private life. In addition, the publication of anything that would reveal financial disclosure is considered a violation of the right to privacy.

Religious beliefs are also agreed upon. Freedom of belief means that a person has the right to adopt any religion and, if he does not belong to any religion at all, no one has the right to ask him about his religious beliefs, and does not have to submit an account statement to anyone. Hence, religious beliefs are considered to be among the elements of the right to privacy, which the journalist or others cannot disclose without the consent of the owner, as prejudice to them is a violation of one's private life (36).

We have presented in this requirement the agreed elements in the jurisprudence as well as the judiciary on the elements of the right to privacy. Also, we will discuss the demand that follows the different elements in the jurisprudence and the judiciary.

The Fourth Requirement The Unagreed Elements of the Right to Privacy Division

We discuss in this section the elements of the right to privacy, which differentiate jurisprudence from judiciary as one of the elements of the right to privacy. Also, we have shown in the previous requirement the most important elements that fall within the scope of the right to privacy, without any dispute, whether in jurisprudence or the judiciary. The differences between jurisprudence and the judiciary are the right to enter into oblivion, the subject of our research, the inviolability of the human body, the right to image, the right to name, professional life, the right to leisure, and the right to honor and consideration.

Of the different elements, the right to enter into oblivion, and the meaning of the right of individuals to enter into oblivion, is the right of the person to keep his past surrounded by a fence of secrecy, and not leave after a period of time to the light. In other words, it does not shed light on the events and facts of the lives of individuals, when forgotten, for a period of time to occur (37). As one of the jurists stated, the right to enter into

oblivion is "the right of the person not to bring back the past of darkness and shed light on it" (38).

There has been a debate among jurists as to whether the right to privacy includes the right of a person to be forgotten or not, and whether the right to be forgotten is an independent and exclusive right to privacy or not. An independent study has been devoted to the study of this dispute entitled "Jurisprudence Trends in the Right to Forgetfulness and the Right to Privacy".

One of the unagreed elements is the sanctity of the human body. Here, the human body is the physical refuge of his personality, and is intended that the body by the will of the owner is the living body that is characterized by each person from the other in terms of features or image. In this distinction, some aspects of his personal identity are determined in each person different from the other. Regardless of the right of every person to protect his body, he has the right to exercise his own life through his body. In this case, this body is a repository of his secrets in a health institution or in the state of health (39).

Some jurists believe that the sanctity of the human body, despite its importance and protection by law, does not fall within the realm of private life and therefore is not covered by the protection prescribed for private life. The proponents of this view believe that saying otherwise means only mixing. I mean, first, the confusion between individual freedom in general and the inviolability of private life. Although the safety of the body and the inviolability of private life are only manifestations of individual freedom, they aim to preserve individual freedom, which is secondly confusing the sanctity of life and life itself. This is because the integrity of the body is aimed at preserving itself, while the inviolability of private life protects one aspect of Life only, which is to enjoy life. Therefore, the difference is clear between life itself and enjoyment (40).

Others have argued that the inviolability of the human body is a right to privacy because it is impossible to say that there is a boundary between life itself and the enjoyment of life. The enjoyment of life can only be achieved through the existence of the very idea of life. We support the view that the physical attacks on the human body should be distinguished and protected by the inviolability of the human body and the penal code. Therefore, they do not fall within the scope of private life, and the attack on the human body to disclose the status of photography or publication. However, this is a right to privacy and protection.

One of the unagreed elements is the right of picture. The image of man is a simulation of his body or part of it. Scientific and technological progress has been able to extract the image of man apart from his body. However, this extract does not preclude acknowledgment of the fact that the image of man and his body are identical. Hence, it is the optical extension of his body.

The separation of the image from the body under the influence of the invention does not separate the image from the body; so the image takes the rule of the body in terms of privacy of private life (41).

If jurisprudence, justice, and law admit the human right to protect its image against illegal publication, it raises the question as to whether the right to image is independent and is a distinct right to privacy or that the right to image is an element of private life and one of its essential manifestations. It is indispensable. Therefore, some jurisprudence stated that the right to the picture of the most prominent manifestations of the right to privacy is a component of private life as well as emotional and marital life. Another group of jurists goes on to say that there is a need to distinguish between the right to privacy and the right to image, and each of them is independent of the other (42).

If the right to the photo gives the author the power to prevent publication of his or her image without his permission or to object to publication if it is published without his consent, there are cases in which a person's image may be published in the newspapers without the owner's permission. These cases are stipulated in Article 178 of the Law on the Protection of Intellectual Property Rights. In all cases, the publication is to be in good faith and to be published in a contemporary history of the trial.

This is in issuance of the judgment in relation to the publication of the images relating to the judicial proceedings (43), and in a decision of the Jordanian Court of Cassation on this matter on Article 49 and 48 of the Civil Code (Judgment of the Jordanian Court of Cassation in its Jurisdiction No. 2171/1997 (quorum) dated 7/2/1998).

Based on Adalah's publications, if the defendants use the distinguished name and surname of the deceased without his knowledge and consent, for a period of six years, in order to maintain the license of the company's branch in Aqaba and not to stop it from work, and without the provision of branch managers to these companies that meet the legal requirements, this is in itself regarded as a benefit to the defendants. Therefore, the company's license exists at the expense of the plaintiff.

* The legislator, in articles 48 and 49 of the Jordanian Civil Code, prohibits the violation of any of the inherent rights of the person, including his or her name and surname, and that this assault requires suspension and compensation together.

* The use of the name of the plaintiff and his misappropriation as the manager of the respondent company for six years includes the meaning of the damage without the need to prove it and generate interest to the defendant in the claim to respond to the assault and stop it. In addition, there is material and moral damage which is evidenced by the expert appointed by the court to use the company papers and documents on behalf of the

plaintiff and to submit applications for license to the company, and also to renew the license in the name of the distinctive manager. After that, it is submitted to Aqaba Customs for the purpose of not stopping it from work. This brought severe damages to his name and status because the papers that were used are forged, thereby causing material and moral harm to the plaintiff.

* Article 266 of the Jordanian Civil Code stipulates that the guarantee shall be estimated in all cases to the extent that the victim has suffered damage and loss of profit, provided that this is a natural result of the harmful act.

* If the expert estimated compensation of the salaries that would have been received by the plaintiff, during the six years in which the defendants used his name illegally, as the director of the company's branch in Aqaba, the expert's findings in this regard are in accordance with the provisions of Article 266 of the Civil Code.

One of the unagreed elements is the right to name. A jurist defined the name of the person as a word that is commonly used to identify the person and distinguish him from others. The name may be used narrowly to denote the name of its owner alone. It may also be used in a broad sense to indicate the name and surname of the person (44).

There has been a dispute between jurists regarding this right, including those who considered the attack on this right as a violation of the right to privacy. Some of them went on to say that the person's right to his name is not considered a right to privacy. Dr. Husam al-Din al-Ahwani said, "If we look at cases where the name is considered a right to privacy, we find that it differs from the cases protected by the right to name; the right to a name protects a person from impersonating his name, or using it in a way that leads to confusion with others" (45).

Here, we supported the Panel, which considered that the right to a name was not a component of the right to private life but was parallel to it. Each of them protects a certain value indispensable to the person. The assault on one of them takes different and distinct images from the other.

One of the unagreed elements is the professional or functional life. It is intended to be a function exercised by a person or profession, and it is recognized that each profession has its own secrets, and must be preserved to consider the breach of this duty arranged in regards to civil and criminal liability (46).

A professional activity, professional life or career activity is one of the elements for which there is disagreement in jurisprudence. Is it considered a professional or career activity as a component of the right to privacy or not? Basically, there are those who consider them elements of public life. This can be seen on the grounds that they are publicly practiced during the exercise of the person's activity in life within the community in which he lives. In addition, there are those who consider them the most important elements of private life and we will talk about it in an independent study.

One of the unagreed elements is leisure time, where someone spends periods of rest outside the status of the secrets of his private life. His movements and behavior and place of residence during the holiday from the privacy of the owner are not permissible to be published. Also, strict confidentiality of himself is maintained. It is the freedom to choose individuals for their own way of life, which makes this life to be a secret, and this meaning is removed if individuals are pleased to inform others about this life and provide them with meaningful information. Here, the secret of the news falls, provided that this satisfaction comes before publishing the secrets (47).

The question arose as to whether a person's leisure time was one of the things that went into private life, even if he was spending it in a public place. Some people make mention of virtually everything in a public place, even if the activity was related to leisure. Thus, it is considered to be within the scope of the public life (49).

Another trend goes to say that the person in the modern age have the most need of spending a vacation to remove the fatigue of work, and restore their strength and nerves. Even if the person spent vacation in a public place, he seeks tranquility and even self-confidence to the same as long as there is no one among the people who knows them. However, the judgment should not be generalized. Each case should be considered according to the circumstances involved, and ultimately it is up to the judge to assess the case through the circumstances surrounding the case he has (50).

One of the unagreed elements, too, is the right to honor and respect (the right to repute). The concept of honor and consideration varies according to the values and traditions prevailing in the society. It also varies from one state to another and from one person to another according to its social status, and in light of the values and controls that prevail in a particular society at a given time and place.

The right to honor and consideration is intended to protect the moral entity of the person (51). The distinction between the right to privacy and the right to honor is an extremely important matter. The violation of the inviolability of private life may at times violate the right of the person to protect his or her honor. In this case, private life may be considered as one of the elements that enter into a meaning that determines the nature of honor and consideration. Crimes against honor and consideration of the crimes of result require that the act harm the right to protection, other than crimes affecting the private life. Thus, it is considered a crime of prohibition and its availability does not harm the right to protection. From the above, it is clear that the right to honor and respect for the right to private life is distinguished even if the single act constitutes an infringement of both rights.

The right to honor and consideration is therefore not an element of the right to privacy.

In this requirement, we have reviewed the different elements of the requirement to be within the scope of the right to privacy. We have also found that the right to enter into oblivion, which is the subject of our research, is one of the different elements. Furthermore, there are those who consider that the right to forget falls within the right to privacy. Nevertheless, there is a trend opposed to this idea and it tends to the right to forget, which is an independent right. Also, we mentioned that we will expand on this in the next subject under the title "Jurisprudential Trends in the Right to Forgetfulness and the Right to Privacy." Due to the importance of the distinction between the two directions, we would work to show the trends in detail in the next research.

Conclusion

The private life of man has become very dangerous in modern times as a result of the combination of several factors. The most important of which is the enormous technological development through which the secrets of people have become almost naked. It is difficult for man to exercise his right to forget, and it is possible and easy to record events, conversations, and actions easily and without the knowledge of the owner and the dissemination of one's past life to the public.

Thus, the idea of protecting the right to private life is a matter of concern to all societies and the place of interest of Islamic law. It is also recognized as the right to privacy in the provisions of the Islamic Shariah and it was made part of its educational approach in building the individual and societies.

We have noted that the jurisprudence and the judiciary agreed on the need to protect some values from any aggression based on the right to privacy. It is regarded as necessary elements, and it has a direct impact on human life. Every person is keen to be far from publication or advertising, and the people are not different. In contrast, we found that there are different things about the entry into the right to privacy.

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