Value of International Treaties in Bahraini Legal System and Comparative

Research plan to complete the requirements of obtaining a PHD degree in public law

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Abstract:

The thesis deals with the legal value of the international treaty in Bahraini legal system. In order to prepare, the stages of treaty are communication and negotiation, until the adoption of the text and signature, then determine the constitutional rules the competent authority to ratify the treaty to become effective at the national level, with informing the United Nations Secretariat and the registration of the treaty to gain acceptance in all branches of the organization.

The jurisprudential basis for the value of an international treaty lies on the theory of dualism and the theory of the monism. Bilateral theory holds that international law is different from national law, and each law has rules to control. In order to be legally binding, the treaty must be incorporated into national legislation by incorporation or referral. Unlike the theory of the unity of law, which is based on the fact that international and national rules are one, and international rules are in force once the international treaty is concluded.

In Bahrain, the Constitutional Court recognized that the treaty is in equal to the law while criminal courts differentiates between the procedural criminal treaty and the substantive criminal treaty. It is determined that the substantive treaty does not have a criminal judge as opposed to the procedural treaty. The administrative judiciary and the civil judiciary have determined that the treaty should be directly enforceable in order to apply it to the disputes before it, applying the rules of copying previous legislation and restricting the generality of the legal provision.

In order to enforce the treaty in the Bahraini legal system, the treaty must fulfill the formal requirements and substantive conditions. Formal requirements are ratification, publication and registration. The objective conditions are the competence of the State representative to conclude the treaty and the will of the State should be impeccable and that the provisions of the Constitution and public order in the Kingdom of Bahrain shall be respected by the Treaty.