



RESEARCH ARTICLE

## The Crime of Electronic Forgery in Jordanian Criminal Legislation

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ARTICLE INFO	ABSTRACT
<p>Received: Oct 16, 2024</p> <p>Accepted: Dec 2, 2024</p> <p><b>Keywords</b></p> <p>Forgery Electronic forgery Document alteration Cybercrime</p> <p><b>*Corresponding Author:</b> h.balas@anu.edu.jo</p>	<p>Electronic bonds (e-bonds) are a new type of contract that has emerged due to advancements in information technology. Given the fertile environment that has helped the spread of cybercrime, these bonds are now typically vulnerable to digital forgeries. Therefore, legal protection for e-bonds has become essential due to their substantial legal significance in transactions between individuals, institutions, and governments. The descriptive and analytical approaches were used in this study. The results demonstrated that thanks to amendments made to the Jordanian Penal Code in 2022, electronic forgery was explicitly and directly criminalized under the crimes against public confidence. For the e-bond or the data of the official information system to be legally protected, it must have a legal and probative value, including electronic writing. It also requires linking the creation of the bond to its signature and retaining it in the form of an electronic record, thereby producing its legal effects as long as it is preserved in a manner that ensures no changes or modifications to its content.</p>

### INTRODUCTION

Electronic bonds, a new type of contract writing without conventional paper support, have emerged due to technical advancements, the information revolution they sparked, and the rise of electronic governance. Owing to the legal significance of these bonds in transactions, it became imperative to hold criminally accountable those who violated, altered, or distorted the facts they contained. This was particularly true in light of the rise in easily committed but hard-to-prove cybercrimes, such as electronic forgery.

#### Objectives:

The study aims to elucidate the concept of electronic forgery, how it is conducted, and what elements it requires. It also seeks to clarify electronic bonds' nature, characteristics, and the grounds that must be met to acquire legal protection. In addition to identifying the legally protected interest behind criminalizing such acts, the damage resulting from them, and clarifying the position of the Jordanian criminal lawmaker in confronting the attack that occurs on e-bonds and its information system.

#### Approach:

The researcher employed a descriptive-analytical approach to explore the nature of forgery as a cybercrime-targeted electronic bond. The researcher examined the relevant text in the Jordanian Panel Code to achieve the required objectives. The research was divided into two chapters. The first chapter includes the introduction, and the second comprises two sections discussing the legal

structure of the crime of electronic forgery and the criminal protection for electronic bonds and the information system.

## **1: The Legal Structure of Electronic Forgery Crime**

Prior to the amendments of the Jordanian Penal Code of 2022, criminal forgery was addressed in Chapter Two, Part Five under the Crimes against Public Confidence Articles 260-272. The subject of criminal protection in this crime was limited to a document or a traditional certificate only. Pursuant to the amendment mentioned above, the lawmaker has included the official information system data within the scope of this protection. This study deals with the legal framework for this crime in terms of explaining the concept of electronic forgery in the first subsection, where the second subsection was devoted to defining the relationship between criminal intent and damage in forgery, as follows:

### **1:1: The concept of electronic forgery and its subject matter**

**1:1:1:** Forgery is defined as an attempt to distort the truth using any method—verbal or written—to alter the data contained in a document using an illegal technique that would inflict harm in addition to the intention of using the forged document for the intended purpose (Halil, 2006, p. 177). It is also defined as every unlawful means a person applies to deceive another (Al-Shazly & Kamel, 2003, p. 232).

Electronic or information forgery is defined as altering the truth in automatically processed documents and information with the intent to cause harm to others (Al-Qahwaji, 2000, p. 63). Others describe it as altering the truth in data or information processed via a computer corresponding to the original written document (Hegazy, 2007, p. 180). Some define it as changing the truth by any means, whether in the document or its support, as long as this support has an effect in establishing a right or is essential in producing a specific result (Tammam, 2000, p. 407).

However, electronic forgery is defined in Article 260 of the Penal Code as 'the intentional alteration of the truth in the facts, which is meant to be proved by a document or certificate, thereby causing physical or mental or social harm.'

Based on the legal principle, no crime without law '*Nullum crimen sine lege*,' forging documents involves altering the truth; hence, it can be considered a criminal offense (Salama, 1982, p. 366). If the falsification of the truth is eliminated, then forgery is also abolished. The Jordanian lawmaker uses the expression "the intentional alteration of the truth in the facts" to define forgery. Altering or modifying the truth are synonymous. Forgery, then, is a written falsehood in a document. Nonetheless, if a person proves that the information in a document accurately matches the truth, no, the crime of forgery does not occur, and he escapes liability.

In cases where the data is partially altered, the forger will still face legal consequences (Abu Amer, 1983, p. 269) because any alteration, no matter how small, is sufficient to jeopardize the data's integrity or the document's credibility. However, if the modification occurred due to a mistake committed by the offender and is rectified, then it is not considered forgery. This is because the correction's consequence is consistent with the truth, and the person who made the significant error did not have any criminal intent (Al-Saeed, 1997, pp 25-26).

**1:1:2:** The subject matter of the forgery: In a forgery case, the document is the primary subject of legal protection (Abdel Tawab, 1988, p.35). The Jordanian lawmaker referred to this document as "a document or certificate" under Article 260 of the Penal Code; however, they do not specify how these phrases should be interpreted. According to some definitions, a document is any written record, regardless of its physical characteristics, kind, language, or markings used to generate it, that, upon review, conveys a specific idea or meaning from one person to another (Zwain, 2004, p.79).

For a document to qualify as a subject of forgery, it should meet the following criteria: be in writing or contain some phrases in handwriting and others printed (Al-Saeed, 1997, p.79). We believe that to have a legal effect in legal transactions, the document must convey an idea explicitly.

Bonds under the Evidence Law are divided into two types: official bonds and standard bonds. The Jordanian legislator defined official bonds in Article Six of the Evidence Law as: "A- The bonds that are organized by the employees whose competence is to organize them according to the legal conditions and to judge them without assigning them to prove what was stipulated in them and to work with them unless fraud is proven. B- The bonds are organized by their owners and authenticated by the employees authorized to authenticate them according to the law. Their work is limited to the date and signature only."

Based on this text, to deem the bond official, it must be prepared by a competent public official or a person entrusted with a public service role, conveying that it is issued by the state or one of its institutions. Generally, it expresses the state's intent in a specific matter within its jurisdiction and is issued by a representative, typically a public employee. It is worth noting that a state official, according to Article 169 of the Panel Code, means any public official in the administrative or judicial authority and any officer who works in the civil or military authorities or any of its members in addition to any worker or employee of the state or the public administration.

However, the bond must also be issued in compliance with the conditions specified by the law. The law establishes the essential data that must be included in the bond and determines the form and manner in which it should be written in Article 7/1 of the evidence Law.

Official bonds are divided into four types: political bonds, such as those issued by the central authorities in the state, whether legislative or executive and laws and regulations. Whether central or non-central, administrative authorities issued administrative bonds such as birth certificates or driver's licenses. Judicial bonds, which include judgments, investigation minutes, sessions, etc. Civil bonds, such as the marriage contract, the official mortgage, and the official sale contract (Obaid, 1984, pp. 136-142).

However, according to Article 6-10, a standard bond includes the signature of the person who issued it, his ring, or his fingerprint and does not have the capacity of an official bond because it did not meet the conditions required by law to be considered official.

To have a probative value, a standard bond must include a written statement of a legal incident signed by the person credited with creating the document, provided he acknowledges his signature and the issuance thereof (Al-Nawafleh, 2007, p.38). On the other hand, documents and bonds that do not require signing, such as private diaries and documents and commercial ledgers, are not considered proof as specified in Articles 15 and 18 of the Evidence Law.

Technology has advanced to the point where targeted criminal acts, such as digital forgeries, can now be carried out through digital technology. This phenomenon is known as cybercrime. As a result, electronic writing, also referred to as electronic documents, has become a new genre of writing. In this kind of writing, electronic supports replace conventional physical supports like paper.

Electronic bond is referred to in Article 2 of the Jordanian electronic transactions as 'A bond that is created, signed, and dealt with electronically.' Article 2 addresses several related concepts, including the electronic Information message, which is generated, sent, received, or stored through any electronic means, including Email, short messages, or any other means for exchanging information electronically. Electronic means means the technology of using electronic, magnetic, optical, electromagnetic, or any other similar means. Electronic Information is defined as data, texts, images, figures, shapes, sounds, codes, databases, or other similar means. However, an electronic record is an information message that includes a register, contract, record, or any other document generated, stored, used, copied, sent, communicated, or received electronically.

Article 4 of the same law permits any ministry, public official institution, public institution, or municipality to carry out its transactions using electronic means, provided that it fulfills the requirements of electronic transactions stipulated in this law and the regulations and instructions. Furthermore, when they carry out any transactions through electronic means, they shall determine the provisions and procedures related to the issues of establishing, depositing, retaining, or issuing electronic records, in addition to the matters pertaining to using electronic signatures, guaranteeing

the security, protection, confidentiality, and safety of electronic records and transactions and the date of commencing its transactions using electronic means.

As a result, as the usage of electronic instruments increased, the electronic government began to take shape. Government organizations have interconnected through electronic communication networks, enabling them to offer public services without needing physical relocation.

Electronic commerce has expanded due to information technology, allowing for the electronic completion of business and legal transactions. Without a doubt, the agreements pertaining to these transactions are documented electronically through electronic bonds, which made it simple to conclude them without the need for an intermediary, consequently cutting costs and removing international borders (Ramadan, 2001, p.3).

### **1:1:3: The relationship between criminal intent and harm in the crime of forgery**

Forgery is included in the Penal Code under the crimes against public confidence in Articles 260-272, conveying that public confidence is the interest protected by the Penal Code, and any violation of it is punishable under the law. However, public confidence is the criterion for determining the sort of documents or bonds protected by the law (Al-Gharib, 2001, p.283).

According to the legal meaning of the criminal result, crimes have been divided into crimes of endangerment and harm. The crime of harm presupposes criminal behavior that results in material effects represented by actual aggression against the right protected by the law. As for the endangerment crime, the legal consequence of the criminal activity merely endangers the protected interest, which is at risk. Risk is the potential harm that threatens the legally protected interest. Cases of endangering are determined under the legislator's criminalization policy (Hosni, 1982, pp 276-277).

Within the legal framework of forgery, harm is considered an essential component of the offense and for filing a lawsuit. This is because penalizing forgery goes against the idea that changing the truth in any way should not be penalized. It is possible that falsifying information in a document won't have an adverse effect if it isn't used. On the other hand, as is frequently the case with official records, harm may arise only from changing the facts in a document, even if it is not used (Abu Amer, 1983, pp. 303-304).

Article 260 penalized the intentional alteration of the truth in the facts, which is meant to be proved by a document or certificate, causing physical, mental, or social harm. Physical harm indicates causing damage to properties resulting in a decrease in its positive elements or an increase in its negative elements.

As for mental harm, it is the harm that befalls a person's honor or reputation or to his non-financial rights, such as a person fabricating a document and attributing it to another person and including his confession to committing a crime or an immoral act.

Social harm stands for the crime's legal consequences. It is an assault on a right that is protected by the law. It is harm that spreads to society as a whole rather than just one particular individual. Physical and social harm can occur when someone forges a document to obtain state funding or to avoid paying a tax or penalties. Since the fabrication of bonds used in state administrations would interfere with the correct operation of public institutions and so affect society as a whole, the social injury might be moral or immoral.

Furthermore, every alteration of the truth in an official document results in social harm represented by the loss of public trust that this type of bond (Al-Saeed, 1997, pp 90-93) should have, which the Jordanian Court of Cassation confirmed in its decision no. 61/2005. It is also noted that the lawmaker has equated the occurrence of harm or the possibility of its occurrence with punishment for committing forgery. The perpetrator of the crime shall be punished if the damage is actually achieved, i.e., the document is used for what it was forged for.

On the other hand, the Jordanian lawmaker considered the mere possibility of harm, whatever its type, sufficient a complete crime. Hence, the criminalization of forgery is independent of the criminalization of the use of forgery, through which harm is attained. Therefore, forgery is considered a crime of endangerment, not harm. Once the truth is altered, the protected interest (the public trust in bonds) is violated, even if the physical harm is not achieved, as the legislator was satisfied with merely exposing the protected interest to danger. That is the possibility of damage occurrence (Al-Gharib, 2001. P358).

Forgery is classified as an intentional crime because, according to the law, the offender must have intended to conduct the offense with knowledge of its components. The definition of criminal intent in forgery is the deliberate alteration of a document's truth in a way that would be harmful, along with using the altered document for the intended purpose. The offender has to know that he is changing the truth in documents in one of the methods specified by law and that doing so would result in immediate or social harm. He must also be aware of the availability of all the components of forgery. But he escaped liability if he didn't know that the information he provided in the document was fraudulent (Hosni, 1992, pp. 271-272.).

Regarding intent to forge, the Jordanian Penal Code does not require specific intent—that is, the intent to cause harm to others or to use the forged document for the intended purpose. It should be noted that specific intent in Article 67 means the motive of committing the crime. It is described as the reason the perpetrator commits the act or the ultimate result the perpetrator desires to achieve.

However, in some of its rulings, the Jordanian Court of Cassation held that there had to be more than just the forgery—general criminal intent was required in addition to the particular intent that is to damage the complaint, betray the public, and use the falsified document for the intended purpose.

The researcher argues that Jordanian law has no basis for treating harm—intentional or just aware of the possibility of harm—as a component of specific intent. Since merely altering official documents' content results in damage, damage is also presumed in these documents. Consequently, knowing that harm may occur is one of the elements of general intent; the requirement for specific intent adds to this requirement and does not add anything new to the elements of the crime of forgery; all conditions must be met to consider it a crime.

## **2: Criminal Protection of Electronic Bond and The Information System**

This section examines the characteristics of the electronic bond and its probative value and demonstrates the forms of criminal protection under the Jordanian Penal Code.

### **2:1: The electronic bonds Features and their probative value**

**2:1:1:** The electronic bond offers a number of features. As we previously discussed, an electronic bond is a written record containing ideas to share with others. Electronic technology is used for all connected processes, including storage, retrieval, transfer, and copying. As long as it is contained within an electronic medium, it is moral in character. This bond's contents enjoy legal value in transactions involving people, organizations, and governments; as such, they should be protected by law. Violators, alterators, and distorters of its contents face criminal penalties. Another feature of this document is that it can be transmitted across networks and computers by translating information into symbols and pulses, which are subsequently translated into comprehensible speech using protocols for interacting with electronic devices from one device to another and any location (Al-Saqqa, 2008, p.17).

The features of the electronic bond that have been stated make it evident that they are comparable to the paper bond in that they both contain a collection of data and symbols that together represent an interrelated set of concepts and meanings.

The conventional bond's content is recorded on paper, giving it a tangible, material aspect that sets it apart from the other bonds. The electronic bond has a moral nature as long as it is created, sent, received, or stored via any electronic means, such as email, SMS, or any other electronic exchange of

information through techniques using electrical, magnetic, optical, or electromagnetic means, or any similar means.

**2:1:2:** Electronic writing is a prerequisite for the legal value and admissibility of electronic bonds as evidence. Writing accurately describes the incident that needs to be demonstrated, making it the most crucial method of demonstrating legal behavior. It is also distinguished by continuity and permanence. As a result, according to Article 2 of the Jordanian Electronic Transactions Law, electronic bonds must contain information created, sent, received, or stored by any electronic means, including email, text messages, or any other electronic information exchange. This includes data, texts, images, drawings, forms, sounds, symbols, databases, etc.

Nevertheless, writing in a document, regardless of its type, is not considered complete legal evidence that enjoys a probative value unless attributed to a person and carries his protected signature. The lawmaker in the Electronic Transactions Law linked the document's creation with signing it to grant it the probative value of a written signed bond. The electronic signature is deemed authenticated as stipulated in Article 15 if it meets the following criteria: it is unique in its connection to the signatory and distinguishes it from others if it identifies its owner if the private key is under the control of the signatory when he signs, and if it is connected to the electronic record in a way that does not allow modification on such record after signing it and without making any changes on that signature.

Article 2 of the Electronic Transactions Law states that the electronic signature is authenticated if all the abovementioned conditions are met. It is linked to an electronic authentication certificate issued per the provisions of the law and the regulations and instructions issued pursuant thereto at the time of creating the electronic signature by any of the entities specified by the law in Article 16.

Furthermore, as stated in Article 17, the electronic record that carries a protected electronic signature shall have the same evidential weight designated to the ordinary bond, and the parties of the electronic transaction may use it in an argument for proofing evidence. Besides, the electronic record with an authenticated electronic signature shall have the same evidential weight designated to the ordinary bond. Parties of the electronic transaction and others may use it in an argument to prove evidence.

The electronic record that carries an electronic signature (unprotected or notarized) shall have the same evidential weight designated for an ordinary bond against parties of the electronic transaction. In case of denial, the evidential weight shall be on the party using the electronic record to prove evidence. However, if the electronic record is not linked to an electronic signature, it shall have evidential weight designated for unsigned documents.

From the preceding, it is evident that electronic bonds need to include legible content—words, symbols, signs, numbers, etc.—and the owner's signature. They also need to be used with appropriate devices and operating systems.

It must also be characterized by stability and continuity, and keeping the document in the form of an electronic record will produce its legal effects as long as it is retained in the form it had been generated, sent, or received and in a way that does not allow making any modification or change on its content. It is retained in an accessible form to enable easy access to the information contained therein, the use of such information, and the reference to it at any time and if it allows for recognizing the initiator, addressee, and the date and time when the record was initiated, sent, or received as stated by Articles 7 and 8 of the same law.

**2:1:3:** Essential Data as a Forgery Criterion The French lawyer Garraud's essential data criterion has been adopted by the judiciary as a standard for identifying forgeries and evaluating whether or not they should be punished. In accordance with this standard, something provided by the issuer for proof must actually change for forgery to be legally penalized. This implies that forgery must occur in a document containing data appropriate for use as a foundation for obtaining a status, attribute, or proper or for transferring it from one individual to another or establishing its existence.

The document's level of probative value serves as the benchmark and criterion for damage. Modifying the document's reality does not constitute punishable forgery if its content is unsuitable for establishing a point that might have legal ramifications. This is because the harm in question does not satisfy the legal requirements for the commission of forgery.

The criterion mentioned above states that the goal of documenting the document is not to produce evidence assessing the integrity of the statement whose actuality has been changed. Even in cases where the evidence is merely circumstantial, it is sufficient that the document is legitimate (Abu Amer, 1983, pp 318-320).

For forgery to be punishable by the law, Article 260 of the Penal Code associated it with alteration of the truth in the facts, which is meant to be proved by a document or certificate, indicating that it is an application of Garraud's theory, wherein the harm shall be closely linked to the strength of the probative value of the bond or the document. The text also includes both types of forgery, physical and moral, whether official or ordinary documents or data from an official information system.

The Jordanian Electronic Transaction Law defines an Electronic Information System in Article 2 as a set of programs and tools established to generate, send, deliver, process, store, manage, or present information electronically. According to Article 17/e, an official bond can be issued or authenticated electronically if its electronic record carries an authenticated electronic signature. The lawmaker considered that simply altering or distorting the truth in these data is a forgery that is punishable because it violates the public confidence that is supposed to exist in this type of data, as the harm achieved in this case is social and is the legal consequence of this crime.

Jordanian legislation was among the first to grant legal authenticity to modern means of communication. This is evident in the text of Article 13, which grants faxes, telexes, e-mail, and similar means of communication the usual strength of support in terms of proof if the testimony of the sender accompanies them to support the issuance of the document or the testimony of the recipient to support the receipt of the document. It also grants e-mail messages the power of regular bonds to prove without being associated with the certificate if the conditions required by the applicable electronic transaction law are met. It also permits considering the data transferred or archived using modern technologies through a secret number agreed upon between the two parties and an argument for each to prove the transactions carried out according to those data. Furthermore, computer outputs that are certified or signed typically receive the same strength of support in the proof unless the person claiming credit for them can demonstrate that he did not extract the results, did not accept them, signed them, or did not designate another person to do so.

Based on the above, the invoked bonds, whether electronic or traditional, are suitable to be the subject of the crime of forgery. The Jordanian Court of Cassation confirmed this in many of its rulings.

## **2:2:Forms of criminal protection stipulated in Jordanian penal legislation**

This section presents the forms of criminal protection prescribed for the information system and official documents in the Penal Code and the Cybercrime Law.

**2:2:1:** Physical forgery is punishable under the Penal Code. Article 262 defines the grounds for penalizing any public official who commits physical forgery while executing his official duties, including criminal intent, harm, and altering the truth in the document or the information system. The Article defines the criminal acts of forgery as the misuse of a signature, stamp, or fingerprint through signing a forged signature, through making a document or certificate, or with what he adds or omits in the content of a document or a certificate or an official information system.

Undoubtedly, it is possible to input false information into the computer, conceal or erase specific crucial files or data, or intentionally forget to enter them to alter or distort them.

Actually, the offender might use Photoshop to manipulate a picture of a fingerprint or signature from another document, which he might then attach to the electronic document that the victim is supposed to be identified. Information systems can be compromised and altered through forgery, which results in the issuance of forged bonds based on false information.

Another way to add counterfeit seals to electronic bonds is to use a computer scanner to scan a picture of an official seal and then print the seals on other papers to make them appear official. Entering the original electronic bond into the computer and manipulating, adding, deleting, and changing it can result in a fake. Even though the substance has changed, the document's text is released in the same format (Al-Saqqa, 2008, p.64).

It should be noted that electronic signature forgeries differ from their traditional counterparts in that they are considered replicas of the original signature. If the criminal breaches the victim's electronic system and obtains his electronic signature, the forged signature will appear to have been issued by the original owner. Nonetheless, obtaining a signature against the owner's will is unlawful. According to Article 262, the perpetrator of this crime shall be punished with temporary labor for a period of not less than five years, and the penalty shall not be less than seven years if such a forged document is of the type to be used until there is a claim that it is a forged one. The aggravated penalty stipulated in this article is due to the employee's betrayal of the public confidence he was entrusted with (Hosni, 1982, pp. 288-289).

**2:2:2:** Mental forgery in information systems and electronic bonds is dealt with in Article 263 of the Penal Code through these axes:

- A public official commits forgery by drafting a document under his power and causing confusion regarding such document's subject matter or circumstances.

Indeed, this is done by misusing a signature with which he is entrusted. That is when a person signs an electronic application and sends it to an entrusted official (the forger) to enter the data. Still, the public official may intentionally enter data that conflicts with what he was supposed to enter in the application form. For this reason, the forgery is deemed moral because it leaves no physical evidence behind. Anybody who peruses the application assumes the victim has filled it out with the details and signed it.

- Recording of writings or words other than those which were said or drafted by the contracting parties

That is when the public official records contracts or words that contradict entirely what the contracting parties drafted. As a result, the document's content is wholly altered. Furthermore, Article 263/ 2 states that whenever a public official entrusted by law seizes and supervises a registrar and knowingly allows the entry of false substantive data to such registrar shall be punished with the prescribed penalty. For instance, when a person electronically communicates with a public official who is in charge of granting official authorizations, and the requester receives the authorization using powers that the agent has been given to go against the victim's will deliberately. The victim electronically signs and returns the authorization, recorded against their will.

- Proving false facts and recording them as true ones or unrecognized facts as recognized ones or through falsifying and altering any other facts.

This occurs when the public official proves false facts in the electronic document and records them as facts or falsifies confessions or declarations in the electronic document. For instance, in the case when a sales contract is drawn up before the competent official, and it is stated that the price was paid partially and part of it is deferred, the employee draws up the contract electronically and includes a statement saying that the buyer has received the total price, or that he misrepresented any other fact by omitting something or stating it incorrectly. It is signed in a state that is contrary to the truth.

As for mental forgery, it occurs when a public official entrusted by law to seize and supervise a registrar knowingly allows the entry of false substantive data to such registrar; however, whoever commits this act shall be punished by the same penalties prescribed in Article 263/ 2 of the same law.

**2:2:3:** Nonetheless, regarding the information forged committed by ordinary people, Article 265 stipulates that 'All persons who commit forgery in relation to official documents through one of the



ways mentioned in the previous article, they shall be punished by temporary imprisonment with hard labor or by detention when the law does not provide otherwise.'

We examine the text above and argue that lawmakers have imposed criminal penalties on ordinary people or unauthorized employees for drafting electronic documents or logging into government information systems to record data. If the legal model of the crime mentioned in Article 263 requires the occurrence of criminal forgery in official documents by an authorized employee on the basis that he is the one who brings into existence the elements that constitute the crime as the original perpetrator of the crime. According to the general rule in the Penal Code, the legal model in Article 265 considers ordinary persons to be the original perpetrators of the crime as they directly contributed to its implementation. This is aligned with Article 75 of the Penal Code, stating, 'The perpetrator of a crime is the person who brought to existence the elements which constitute the crime and directly participated in committing them.'

It is worth noting that other electronic bonds have the same validity as regular bonds, and they are subject to criminalization under Article 271 related to forging a private paper or document using the methods mentioned in Articles (262 and 263). Furthermore, it punishes the preparator with imprisonment from one to three years.

#### **2:2:4: Forgery in the Jordanian cybercrime law**

The Jordanian Cybercrime Law No. 27 of 2015 included some texts addressing criminal attacks committed against the information network, information system, or website, using terms that convey the meaning of forgery and ways to execute it. For instance, Article 3 speaks about intentional access to a website, information network, information system, or information technology by any means without authorization or in violation or excess of authorization. The second paragraph criminalized acts performed by accessing information networks, including altering and changing data or information. Undoubtedly, the words altering and changing convey the exact meaning of the intentional alteration of the truth mentioned in Article 260 of the Penal Code. Additionally, expressions such as destroying and canceling a document involve changing the truth of facts and data and are carried out by the crime of forgery.

The lawmaker criminalizes in Article 4 whoever intentionally enters, publishes, or uses a program via the information network or using an information system to cancel, delete, add, destroy, modify, or change data or information of an information system or access it, or change, cancel, destroy, or modify a website contents without permission from its owner or in a way that exceeds or contradicts his authorization and the penalty is doubled as stated in Article 8 of the same law against anyone who commits any of the crimes above in performing his job or exploiting it. The legislator also increased the penalty in Article 8 if the acts occurred on an information system, website, or information network are related to transferring funds, providing payment, clearing, or settlement services, or any banking services offered by banks and financial companies, where the perpetrator is punished with a criminal penalty. Another criminal offense mentioned in this law is entering intentionally, without authorization, or in violation of or exceeding authorization, into an information network, an information system, or a website to delete, damage deliberately, destroy, amend, or change data or information that is not available to the public and that affects the national security, foreign relations of the Kingdom, public safety or the national economy. Article 12 of the Cybercrime Law imposes a criminal penalty for these offenses.

It should be noticed that the Jordanian lawmaker used phrases that imply forgery instead of "electronic forgery" directly when discussing the aforementioned criminal activities. It would have been better if his legislative strategy had been unambiguous and devoid of interpretation. Additionally, we suggest that these criminal forms be subject to the Penal Code's punitive measures following the penal policy and its unification.

#### **CONCLUSION**

The study comes out with several results and recommendations manifested in the following:

## RESULTS

As information technology has advanced, a new type of writing has emerged: electronic documents or electronic bonds. These documents have replaced traditional physical supports, such as paper documents, with electronic forms that can be created, sent, received, or stored via any electronic method, such as email or messages. Brief communications or any electronic information exchange via electrical, magnetic, optical, electromagnetic, or comparable means.

Electronic documents have been the target of electronic forgeries due to the rise of cybercrime, which involves the direct or indirect use of digital technology to carry out specific illegal conduct. These bonds needed legal protection because of their legal significance in transactions involving people, organizations, and governments. Even though the Jordanian Cybercrime Law has criminalized some acts through the use of some terms that suggest forgery, the criminalization of forgeries in electronic documents and data in the official information system was explicitly stated in the amendments made to the texts related to forgeries in the Penal Code in 2022 under the title "Crimes against the public confidence."

Forgery, characterized by the manipulation of truth, must involve the deliberate alteration of a condition or aspect pivotal to the bond's authenticity in affirming said condition or matter. For this reason, data or electronic documents stored in the official information system must be legally and authoritative when used as proof. The legislator has linked the document's creation and signature to guarantee that the document has the same legal value as a manually signed one. Insofar as it is maintained in the format in which it was made, sent, or received—that is, without alterations or modifications to its content—retaining the document as an electronic record has legal effects. This should enable the information within to be accessed, used, and referenced whenever needed. It should also include the sender's and recipient's identities and the creation, sending, and receiving dates and times.

The legislature in Jordan has implemented distinct sanctions for criminal forgery that occurs within the information of official electronic bonds or official information systems. This applies to physical and moral forgeries, and it does not matter if the individual committing the forgery is a public employee or an ordinary person. Criminal penalties apply to such forgeries. Conversely, misdemeanor penalties apply to misdemeanor forgery in other electronic bonds that have the same legal status as traditional bonds.

### Recommendations:

Developing criminal law in criminalization and punishment is one of the most significant objectives of criminal policy. To accomplish this goal, the legislator must ensure that the legislative text is clear and devoid of any ambiguity. To avoid ambiguity and interpretation, we hope that our legislator will adopt a more apparent criminal policy when crafting those criminal texts in the Cybercrime Law that contain terms that carry the meaning of forgery without specifically and explicitly mentioning electronic forgery.

We expect that our legislator would subject the criminal forms equivalent to forgery included in the Electronic Crimes Law to the punitive provisions connected to the crime of forging stipulated in the Penal Code per the penal policy and its unification. Altering the Cybercrime Law to include a specific section that clearly defines all actions that qualify as forgeries in electronic bonds, information systems data, or electronic websites while making it easier for judges to apply the law.

## REFERENCES

- Abdel Moneim, S. (2002). *Special Section of the Penal Code, Crimes Harmful to the Public Interest*, Mansha'at Al-Ma'arif, Alexandria.
- Abdel Tawab, M. (1988). *Al-Waseet explains the crimes of forgery, counterfeiting, and imitation of seals*. Mansha'at Al-Ma'arif, Alexandria.
- Abu Amer, M. (1983). *Penal Code, Special Section, Part One, Crimes Harmful to the Public Interest*, University House for Printing, Publishing and Distribution, Alexandria.

- Asaad, N. (2000). *Evidence in Civil and Commercial Matters in the Light of Jurisprudence and Judiciary*, Mansha'at Al-Ma'arif, Alexandria.
- Decisions of the Jordanian Criminal Court of Cassation, Adalah Center publications.
- Al-Gharib, M. *Public Confidence, 2000-2001*. Publishing house: The Egyptian Renaissance
- Halil, F. (2006). *Crimes of Forgery, Counterfeiting, and Appealing Forgery and its Procedures*, University Press House, Alexandria.
- Hegazy, A. (2007). *Electronic Government*, 2<sup>nd</sup> ed, Dar Al-Kutub Al-Qanuni.
- Hosni, M. (1982). *Explanation of the Penal Code, General Section, The General Theory of Crime, and the General Theory of Punishment and Precautionary Measure*. 5th edition, Dar Al-Nahda Al-Arabiya, Cairo.
- Hosni, M. (1992). *Explanation of the Penal Code, Special Section*, Cairo, Dar Al-Nahda Al-Arabiya.
- Jordanian Cybercrime Law No. 27 of 2015.
- Jordanian Electronic Transactions Law No. 15 of 2015 and its amendments of 2023.
- Jordanian Law of Evidence No. 30 of 1952, published in the Official Gazette No. 1108, page 200, dated 5/17/1952, and its amendments until 2023.
- Musa, M. (2003). *Criminal Methods of Digital Technology, Their Nature, and Combating Them*. Dar Al-Nahda Al-Arabiya, Cairo.
- Al- Nawafleh, Y. (2007). *The Probative value of electronic documents is evidenced in Jordanian law*. Wael Publishing House, Amman.
- Obaid, R. (1984). *Crimes of Counterfeiting and Forgery*. 4th edition, Dar Al-Fikr Al-Arabi, Cairo.
- Al-Qahwaji, A. (2000). *Criminal Protection of Electronically Processed Data*. Research presented at the Conference on Law, Computers and the Internet, College of Sharia and Law, United Arab Emirates.
- Ramadan, M. (2001). *Criminal Protection for Electronic Commerce*, Dar Al Nahda Al Arabiya.
- Al-Saeed, K. (1997). *Explanation of the Jordanian Penal Code, Crimes Harmful to the Public Interest*. 1st edition, Dar Al-Thaqafa for Publishing and Distribution, Amman.
- Salama, M. (1982). *Penal Code, Special Section, Crimes Harmful to the Public Interest*, Dar Al-Fikr Al-Arabi, Cairo.
- Al- Saqqa, I. (2008). *The Crime of Forgery in Electronic Documents*, New University Press.
- Al- Shazly, F. Kamel, A. (2003). *Computer Crimes, Copyright, Artistic Works, and the Role of the Police and the Law, A Comparative Study*, Al-Halabi Legal Publications, Beirut, Lebanon.
- Tammam, A. (2000). *Crimes resulting from using computers: A comparative study*, 1st edition, Dar Al-Nahda Al-Arabiya, Cairo.
- The Penal Code of 1960 with its amendments until 2023.
- Zwain, H. (2004). *The Role of the Lawyer in Forgery Crimes and the Use of Forged Documents*, Dar Al-Wessam, Cairo.