

جامعة عمان العربية للدراسات العليا

كلية الدراسات القانونية العليا

Fraud Crime through the Internet
(Comparative study between
the Jordanian and the Egyptian Law)

إشراف

الأستاذ الدكتور عماد محمد ربيع

قدمت هذه الأطروحة استكمالاً لمتطلبات الحصول على درجة دكتوراه فلسفة

في القانون العام

٢٠٠٩م

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

﴿اللَّهُ نُورُ السَّمَوَاتِ وَالْأَرْضِ مِثْلُ نُورِهِ كَمِشْكُوتٍ فِيهَا مِصْبَاحٌ

الْمِصْبَاحُ فِي زُجَاجَةٍ الزُّجَاجَةُ كَأَنَّهَا كَوْكَبٌ دُرِّيٌّ يُوقَدُ مِنْ شَجَرَةٍ

مُبْرَكَةٍ زَيْتُونَةٍ لَا شَرْقِيَّةٍ وَلَا غَرْبِيَّةٍ يَكَادُ زَيْتُهَا يُضِيءُ وَلَوْ لَمْ

تَمَسَّهُ نَارٌ نُّورٌ عَلَى نُورٍ يَهْدِي اللَّهُ لِنُورِهِ مَنْ يَشَاءُ وَيَضْرِبُ اللَّهُ

الْأَمْثَلِ لِلنَّاسِ وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ﴾ صدق الله العظيم

التفويض

أنا إبراهيم بشارة عواد السويلميين أفوض جامعة عمان العربية للدراسات
العليا بتزويد نسخ من أطروحتي للمكتبات أو المؤسسات أو الهيئات أو الأشخاص
عند طلبها.

الاسم : إبراهيم بشارة عواد السويلميين

التوقيع: 

التاريخ: 28-2-2010

قرار لجنة المناقشة

نوقشت هذه الرسالة "جريمة الاحتيال عبر شبكة المعلومات الدولية دراسة مقارنة بين القانون الأردني والقانون المصري" وأجيزت بتاريخ: ٢٣/١/٢٠١٠م.

أعضاء لجنة المناقشة

١- الأستاذ الدكتور سلطان الشاوي / رئيساً

٢- الأستاذ الدكتور عماد ربيع / مشرفاً وعضواً

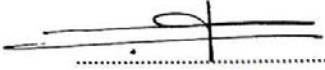
٣- الدكتورة سميرة ديات / عضواً

٤- الدكتور محمد العفيف / عضواً

التواقيع


.....


.....


.....


.....

o

-

-

.

.

.

...

...

Abstract

The Internet Fraud: A Study of The Jordanian and Egyptian Laws

Prepared by

Ibrahim Bshara Awwad AL Swailmeen

Supervisor

Dr. Prof. Emad Rabe'

This thesis studies the internet fraud: it is a study of the Jordanian and Egyptian laws .The first chapter deals with the theoretical frame of the study which includes the introduction ,the study problem that faced the researcher, the study problem elements, importance and contents of the study, and determinants of the study methodology used in this thesis.

The second chapter of this study consisted of two basic hubs. They are as follows: The first hub defined fraud in its traditional image, the material and immaterial basics of this crime, including the material basic for fraud, the money subject of fraud and immaterial basic for fraud, and the penalty for such a crime. The second hub of this chapter specialized in discussing internet fraud and the extent of its application on temporary and continual crimes and successive crime. It discussed material and immaterial basics of internet fraud, its location and attempt commencement. It also discussed differentiation between internet fraud and traditional fraud.

The third chapter dealt with means of internet fraud committed in terms of invasion of data and electronic programs fraud through credit cards and money electronic transfer, fraud through false commercial advertisements.

The researcher dealt, in the fourth chapter, with the penal protection of internet fraud, explanation of efforts taken to eliminate fraud and the extent of the traditional legislative texts ability to face these crimes by the following four basic hubs:

Penal legislation in internet fraud, challenges that face internet fraud control, the different situations of legislations arising from internet fraud and finally the possibility of traditional texts application on internet fraud.

The fifth chapter of this thesis dealt with three basic hubs: the first hub dealt with the conclusion, the second hub dealt with the results while the third hub dealt with the recommendations of this thesis.

:

.()

.

)

.(-

"

.()"

)

.(

.()

:

:

:

-

-

-

:

.

.

:

:

-

.

:

-

.

:

-

.

:

-

.

:

-

.

:

-

.

:

-

.

:

.

()

.

:

:

:

-

.

:

-

:

.

:

.

.

"

.(

)"

"

)"

.(



()

()

":

."

(*)()

()

":

:

:

-

()

()

()

(*)

.

-

.

-

"

"

)

"

(

/

)"

.(

":

.(

)"

":

.(

)"

":

.(

)"

:

()

()

:

.()

()

"

:

()

:

-

:

-

)

.(

//

/

:

-

-

-

-

:

.

:

.

:

.

:

.

.

.()

.()

.

"

"

.()

":

)"

.(

"

// /)"

.(

" ()

.()"

(نمور، محمد، ۲۰۰۶، ص ۲۳۷).

.(-)

.()

()

()

:

•

•

•

•

"

.()"

.()"
:
()
)
.(
.
"
()"

"

)"

.(

.

.()

":

/)"

.(

()

.()

":

.

/)" "

.(

"

"

.()

.()

":

.()" "

"

()" "

.()

"

.()" "

"

.()"

"

)"

.

.(

"

)"

.(

":

:

/ .() -
)() -
 .(

() ()
 :

)
 .(

"

.(-)"

":

(/)

.(/)"

" "

" "

.

"

)"

"

.(

(/ /)

.

)"

.(

//

/

"

.

)"

.(

":

)"

.(

":

()

()

/)" "

()

.(//

"

.()" "

" () :

)"

.(

"

.(

)"

"

.(

)"

"

.(

)"

"

.(

)"

.()

•

. () / ()

"

."

.

)

.(

.()

:

.

.()

"

"

.()

()

.

.

)"

.(

"

)"

.(

:

.

".

)"

:

(

:

.()

:

.

.(-)

:

/

-"

:

"

.(-)

:

.()

.()

•

.()

":

()

"

.(

/

)

"

.(

)"

":

/

)"

.(

()

()

"

."

"

)"

.(-

.

:(

)

.

(/)

()

":

."

"

.(

)"

"

.(

/

)"

.()

)

.(

:

.

"

"

.()

":

/)" "

.(

"

.()"

:

" •

)"

.(

" •

.()"

" •

"

.()

" :

)"

.(

.

() -

) ()

) (

(

.()

":

" ."

."

.

" ."

.()"

.(-)

:

"

//)" "

.(

.()()

.()

)

.(

)(

)

.(

)(

)

.(

)(

"

.(

)"

- - -

() " :

- " :

) "

(// /

:

.

" : ()

" "

) "

.(

"

)"

.(- - () /

"

)"

.(

)

.(

:

.

.(-)

"

"

(-)

"

//)"

.(

"

...

/)"

.(

)

(

.(

)

()

"

()

"

.

.(

)

.()

.

"

"

"

()

.()

":

.()" "

"

:)"

.(-

"

.(:)" "

"

:

.

.

.

.

.

.

.

.

-

() "

.()"

:

.

:

•

"

)"

.(

"

)"

.(

.

"

"

.(

)

-

()

-

:

" :

."

":

()

."

"

"

.(

)

.()

"
)"

.(

-

" "

)

.(-

()

()":

()

()

:

."

()

"

"

-

.

.

.(

)

.

":

.()"

"

"

.()

(/)

.

" .

.()

-

" : ()

()

."

" :

."

"

)

."

(/)

(

)

.(

"

)"

.(

.

"

()"

.

•

.

.

" .

.()"

"

)"

.(

.

.(

)

"

.(

)"

"

.

: (cass.crime, 25 Janvier 1967, P 229) "

.()

.

•

"

"

.()

.

"

.() "

•

"

"

"

.

.(

Sieber, 1992, P 11) "

.(-

)

.

.(-)

"

)"

.(

"

.()"

"

.()"

"

)"

.(

() () :

()

)

.(

":

.(

)

"

.

.

()

":

()

."

"

-

"

-

.(

)

-

"

"

.()

"

.()

()

.()

()

(/)

" ()

."

" . . . :

() ()

."

.()

-

.

(-)

:

:

.

.

.()

.()"

: .

"

.(-)"

"

)"

.(

. ()

-

:

.

"

(-) "

Andrzej Ada, 2003, P 220)

.(

"

)"

.(-

.

.

" .

)"

.(-

.

"

)"

.(-

.

"

)"

.(

"

)"

.(

:

.

.()

)

.(

·
:
· :
:
· :
:
· :
:
· :



-

.

.

:

.

.

.

.

:

.

)

.(

)

.(

()

()

":

."

":

."

- -

.

.

:

.

•

:

" (Catala)

.

()

.) (Pierre Catala, 1983, p 264)

.(

.()

"

)"

.(

"

.(:)"

•

.
:
:
.
.)
.(
:
.

(Catala)

(Vivant, Catala)

.(1994

:

" :

.

:

)"

.(

"

"

()

"

()

" " "

()

.()

.

)"

.(

:

•

%

.(www.alynseer.gov.sa/foram/topic.atcive)

"

"

.()

.()

:

.()

((Equity Funding) Corporation)

()

(,)

)

.(

"

)"

.(

,

.()

.()

()

Suez-into

.()

•

()

.()

.

.()

-

)

.(-

:

.

.

.

.

.

:

•

()

()

()

.

()

(/)

()

"

" :

.

":

.()"

:

()

)

(

)

.(

:

.

:

:

"

:)

.(

:

"

) ()"

.(-

()

"

"

(/)

.

•

:

:

"

-

)"

.(

:

"

.(:)" "

" :

.()"

" :

.()"

.

.

:

•

:

.()

-

"

)"()

(

()

.(:)

-

"

.()"

(ZZWICK)

.(:)

)

.(

)

.(

•

"

.(

)"

"

(

)"

:

"

)"

.(

()

.(grabosky peter; Electronic crime, 2007, P 27)

.(: John Knitel, 2000, P 60)

"

)"

.(

"

)"

.(

()

"

(/)

- :

"

" ()

()

."

.

.

.

)

(

:

.

.

.

.

-

"

.()"

"

.()"

:

.

(V)

.()

.

:

.

•

"

.(

)"

"

)"

.(

% ,

:

:

)

(

)

.(

•

"

)"

"

(

.(

)"

":

.(

)"

"

)"

.(

"

.(

)"

•

"

.(

:

)"

.()

"

)"

.(- :

"

)"

(

.

•

.(-)

.()

•

"

(-)"

.()"

.()

.

•

()

()

"

"

.(

)

•

"

.(

)"

.

•

)

.(

.

:

:

"

"

.(-)

.

.

.()

)

.(

:

)

.(

:

)

.(-

()

()

()

() ()

.

.

:

"

) (

) "

.(

-

.

(Mail Phone Order)

)

.(

"

)"

(-

:

.

"

"

(-

)

:

()

•

"

)"

.(

"

"

.()

:

:

"

) "

.(

(Lyon)

Lyon. Gjuillet 1981, GP, 1981. 2.)

.() : P704

:

"

-) "

.(

.

•

)

.(

:

:

"

.() "

"

) "

.(

"

:

.()

"

.(-)"

"

.()"

CA de paris, 17 October 1991, Juris – data, N

.(: 024814)

"

"

.(-)

•

"

"

" ()

.()"

"

"

.(-)

":

(Tc Paris 16 October. 1974. J.C.P 1976. abs. Cabrillac et. "

.(: Rives langes)

"

) "

.(

.

•

"

.()"

.()

() ()

.

- -)

.(
()

()

()

()

.()

()

()

"

()"

:



)

.(-

:

.()

()

()

" ()

.()"

(Brod eaux, 25 mars, 1987. P. 424

.(: not pradel

.(-) "

Crim 16-6-1986 Disep 1987,)

.(P,9 not Le Cleck

"

) "

.(

"

.(

) "

.

.()

(/)

.

(/)

•

"

.()"

() ()

()

"

"

" :

.()"

"

"

()

"

.()"

•

.

(.)

:

" -

)"

(

"

:

-

"

.()

)

.(

:

:

"

)"

.(

(/ /)

.()

"

:

)"

.(-

:

.()

" (Rennes)

(Renne 26 Janvier 1981. IR - "

.(: 500 Obs Rvasseur)

.

.

"

.()"

.(-)

"

.()"

:

.() ()

"

)"

.(

"

.(

)"

)

.(

.

John Knittel, 2000, P. cit 17)

:

.(

.

()

()

":

."

(Uncitral)

":

)"

.(

":

-

:

)"

.(

" :

)"

.(

.

.

"

.(

)"

"

)"

.(

:

:

-

Bureau Juske, 1982, p 410)

(

.()

()

(/)

"

"

(/)

- -

.(:)

.

.() .

)

.(

:

.

-

-

-

""

"

)"

.(

":

.(

)"

:

()

•

"

)"

.(-

•

.(<http://www.abrace.com>)

":

."

.(DEPREZ, 2001, P. 12)

•

."

.()"

()

•

(Meta Tags)

.(www.philp.com)

(Meta Tags)

(Courd'appel d' Anvers, 9 October. 2000, prat, P, 445)

.(:

.

•

.(www.foruminternet.org)

.(www.en-droit.com)

-

" :

) "

.(

:

-

.(

)

-

.()

-

.()

.(Richard Hillman, 1999, P.8)

-

"

)"

.(-

"

)"

.(

-

-

-

.(

)

:

.

-

.



"

"

:

.() () ()

()

"

"

" :

"

"

"

" :

" :

"

"

"

"

" :

/

)"

.(

"

.

.(/)"

.

•

"

.()"

•

"

.()"

•

"

.()"

.

"

"

:

()

()

"

.

)"

.

.(

()

"

.(:)" "
" () "
) "
. (

.

.()

.

.

.(-)

.

.

" :

"

.

"

.()"

(/)

.

" :

"

:

"

.

.

.

:

•

.

•

.(-)

" : ()

:

-

-

"

.()"

.

"

.()"

"

.()"

" : ()

:

()

()

."

()

" : ()

."

.

.

.

.

:

.()

":

.(:)" "

:

:

"

•

•

."

()

.

.

.

"

()"

() ()

" :

"

.

.()

"

"

.(-)

.

.()

:

.

.

.

.

.

.(-)

()

:

:

.

)

.(

:

.

.(

)

:

.

.(

)

:

.

.(

)

:

.

.()

)

.(-

- -

.()

.

.

"

.()"

)

.(-

:

.

.

.()

"

:

)"

.(

()

)

.(

.(

)

.

.(

)

"

.() "

" .

()

(www.arablaw.org) "

"

:

:

) "

.(

()

-

.

-

.

:

.

.

.

.

.

.

.

.

.

•

.()

.()

(/)

()

"

"

•

()

()

)

.(-

:

-

-

-

-

-

.()"

.

: -

)

.(-

: -

():

.()

":

.(M. Briat, 1984, p. 291) "

()

"

) "

.(

: -

:

"

) "

(*)

.(

: -

"

.()"

"

(/)

."

: -

()

(/)

":

."

"

(/)

."

(/)

(-)

(/)

.(- :)

: -

"

.()"

.

-

:

•

()

()

":

"

.

-

-

.

.

" : ()

()

.

.

•

)

(

.

"

()

)"

.(

.

()

"

."

)

.(

•

"

()

()

(*)

()

."

()

() ()

()

(*)

./ /

" ()

." () ()

": ()

()

()

" ()

."

.

•

.

()

.

)

()

.(

•

" "

" "

)

.(

(<http://www.ics.gov>)

()

•

. (www.news.moffed.com)

•

//

:

" -

-

-

-

"

-

•

:

" : .

.(:)"

" :

.(:)"

: " إِنَّ

اللَّهُ هُوَ الرَّزَّاقُ ذُو الْقُوَّةِ الْمَتِينُ" (:)
 " وَفِي السَّمَاءِ رِزْقُكُمْ وَمَا تُوعَدُونَ"
 (:) .

: " وَإِنَّكَ لَعَلَى خُلُقٍ عَظِيمٍ" (:)

" -)

- (/) .

: -

. : :

() .

() .

":

": .(:)"

.(:)"

.

":

.(:)"

)

.(-

:

•

.

•

.

•

.()

.

.

.

:

:

.

.

...)

()

()

(...

)

- :

(...

.

:

:

"

)"

.(

.()

:

"

"

)"

.(

)

.(-

:

)

.(

.

:

.

(Regina.V.Kirkoob)

-

-

:)

.(

.

()

.

)

.(

)

(On line)

()

.(

:

:

.(-)

:

"

.(:)" "

"

)"

.(-

..."

.(:)

.

.

.

:

:

"

.() "

:

"

"

.()

"

: Cass. Crime, 1987, p: 30)

.(

()

()

()

()

"

"

:

:

:

:

•

" :

"

.

()

•

•

•

•

•

•

"

:

:

:

•

"

.

•

•

()

•

.

•

.

•

.

•

.

•

.

•

.

.

.

.

.

.

.

.

.

.

.

.

.

.

.

.

⋮

”

”

”

”

:

()

- Andrzej Ada “Nicholas Copernicus university, Torun, Poland”, *Related to the computer, Net work threats and opportunities: A Criminological perspective, London, 2003.*
- Deprez – Lois, *Contracts et usages du multimedia , Ceprez Dian Guignlt 2001*
- Grabosky peter, “*Electronic crime: masters series in criminology*”, *Person education new jersey, 2007.*
- John Knitel and Michael soto, *the danger of computer hacking, The Rosen Publishing Group, ink, 2000.*
- M. Briat, *La Fraude in Formatique L'observation de L'ocde mars 1984*
- Richard Hillman: *Securities Fraud, The Internet Poses Challenges to Regulators and Investors, United States General Accounting Office, 1999.*

:

- www.news.moffed.com
- www.uaegroup.net
- <http://www.ice.gor>
- www.arabic.mjjustice.dz
- www.arab.law.org
- <http://www.droit.technologie.oro>
- <http://www.jursi.com.net>
- www.philp.com
- www.foruminternet.org
- www.en-droit.com
- www.middle-east-online.com
- <http://www.abrace.com>