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Criminalization of rumors in the Jordanian criminal law

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Abstract

This study focused on the criminalization of the common in Jordanian criminal law, as this is one of the crimes that has become lethal to society, particularly in light of the current era of globalization and progress. Because this crime is one of the crimes that has become fatal to societies, particularly in light of the era of globalization and the development that we are currently experiencing, the topic of this study was the criminalization of the common in Jordanian criminal law. This was done because this crime is one of the crimes that has become one of the most dangerous crimes in the world. After going through all of this scientific work, the researcher arrived at a number of conclusions and suggestions, including the following: The rumor is a syndrome that has been with societies since ancient times when scientific, political, and social circles paid attention to it and focused the majority of their attention on the impact it had on the stability of society, particularly as it is characterized by ambiguity and rapid cross-border transmission and as it influences the opinion of the public as well as their intellectual and political orientations. The rumor is a syndrome that has accompanied societies since ancient times. The researcher hopes that the Jordanian legislator will introduce a legal text in the cybercrime law that will punish those who spread rumors through electronic means and websites.

Keywords

Rumor; Criminalization; law; Jordanian

1. Introduction

The rumor is a syndrome that has been associated with societies ever since

ancient times. Ever since then, people in scientific, political, and social circles have paid attention to it and focused most of their attention on its impact on the stability of society. This is especially the case given that the rumor is characterized by ambiguity, rapid cross-border transmission, influence on public opinion, and the intellectual and political orientations of the public.

In the realm of psychological conflicts, it is commonly considered that one of the most common strategies utilized is the spreading of rumors. The means by which the rumor is spread, such as flags and publications through social networking sites, have placed a great burden on the legislation in confronting it by codifying the legal texts capable of confronting it and limiting its effects. This is especially true when considering the difficulty in determining the perpetrator and the difficulty in defining the goal and the end to which the perpetrator aspires. Flags and publications through social networking sites are two examples of the means of spreading the rumor ⁽¹⁾.

And the crime of rumor is a weapon crime that has evolved with the development of society and the progress of technology, so this study, which was marked with the title of criminalizing the rumor in the Jordanian criminal law, came about in order to clarify the position of the Jordanian legislator on this crime and the penalties approved by the legislation against those who commit this crime. This study was marked with the title criminalizing the rumor in the Jordanian criminal law ⁽²⁾.

2. Significance of studying

The importance of this study appears through the statement of the penal confrontation that the Jordanian legislator has codified regarding the common crime at the present time, especially that this crime has become a disease that destroys the morale and attitudes of the people through the falsehoods it spreads aimed at moving public opinion on the right path and also seeks to impede progress and progress Nation.

3. Study problem

In view of what the rumor is doing of compromising the pillars of society and its stability, especially in light of the ease of committing this crime in the era of globalization and technical development, which has become an integral part of our world at the present time, the problem of this study floats through two main questions that the study will strive to answer, namely:

- 1- What is the legal meaning of the crime of spreading rumors and what are its pillars?
- 2- What is the position of the Jordanian legislator on this crime and what are his motives for criminalization?

4. Study plan

To achieve the desired goal of this study, the researcher will divide this

study into two main chapters:

The first chapter: the meaning and elements of the crime of spreading rumors

The second chapter: the position of the Jordanian legislator on the crime of spreading rumors

5. Study Methodology

In this study, the researcher will follow the legal descriptive approach by studying the legal texts related to the subject of the study and clarifying the judicial jurisprudence that was received on these texts, analyzing them, and indicating their compatibility with the legal text mentioned by the Jordanian legislator to confront the crime of spreading rumors in order to reach the legislative position stated in the Jordanian law And an indication of the extent of his ability to confront this crime, as well as the methods of committing it, whether by traditional or electronic means.

6. The first chapter

6.1. The meaning and elements of the crime of spreading rumors

The rumor poses a great danger to the security and stability of societies due to its widespread in light of the technological development and the information revolution we live in now. In connection with it, many legal concepts addressed the development of a clear concept for it. Still, these concepts agreed to characterize the rumor as a media weapon aiming to impact the human being psychological.

Based on the foregoing, the researcher will divide this topic into two demands, where the first requirement will be titled the legal significance of the rumor, and the second requirement will be titled Elements of the crime of broadcasting the rumor⁽³⁾.

6.1.1. The legal meaning of the rumor

In view of the danger posed by the rumor, the tolerant Islamic Sharia warned against it and mentioned many Qur'anic verses and prophetic hadiths that warn of the danger of paying attention to them, and the places mentioned are many. Knowing that the hearing, the sight, and the heart are all responsible for it.

As for the Sunnah of the Prophet, it was narrated on the authority of the Messenger of God, may God's prayers and peace be upon him, that he said (It is enough for a person to narrate everything he hears) ⁽⁴⁾.

6.1.1.1. The meaning of the common from the linguistic side

The rumor was known from the linguistic side that it was common and meant by spread, and it is said that the news was spread, that is, it spread among

the people, and all of them knew about it ⁽⁵⁾ and also meant the ugliness of the news, i.e., many and strong ⁽⁶⁾.

The mediator lexicon also defined a rumor as the news spread by someone who is not sure of its authenticity. He also meant by a rumor the news that spreads and is not proven by ⁽⁷⁾, so the rumor with its linguistic meaning is known as the spread of the news. It spreads, it appears and spreads, and people learn about it, and the rumor is known as the spread news. This is a common plural ⁽⁸⁾.

6.1.1.2. The meaning of the common from the idiomatic aspect

The rumor is technically defined as spreading fabricated news that is not fixed for evidence of its authenticity ⁽⁹⁾, and it is also intended as an assumption based on linking existing events in order to put them in a position of credibility to become an area for promotion without any proof of their validity ⁽¹⁰⁾.

Some also defined it as information that has no basis in reality that is based on exaggeration and exaggeration on a realistic aspect of the truth in order to psychologically influence the opinion of society in order to achieve an economic, political or military goal in the same community ⁽¹¹⁾.

He also mentioned to it the concept that it is untrue news that circulates among people regarding a specific topic or a specific incident during a specific time period ⁽¹²⁾.

The question raised by the researcher in this regard is what is the legal significance of the rumor in Jordanian law?

After extrapolating the texts of the Jordanian Penal Code and related laws, the researcher did not find any clear and specific definition of the definition of rumor, as the laws only referred to it and warned against committing it ⁽¹³⁾ whoever realizes it, especially that the rumor negatively affects the state and individuals alike and has many dangerous consequences.

The researcher defines the rumor as the deliberate dissemination of false news that is acceptable to the community at a specific time and time, using electronic or traditional means, with the aim of achieving political, economic, or personal interests of the broadcaster.

6.1.2. Elements of the crime of spreading rumors

The penal laws specialize in defining the crime, and at the same time, the laws set the appropriate punishment for each criminal act. Punished with a felony, misdemeanor or contravention" ⁽¹⁴⁾ and that the description of the criminal act may change according to the circumstances and circumstances in which the crime is committed according to the circumstances in which the act is committed, and this is what the jurisprudence of the esteemed Jordanian Court of Excellence has settled upon ⁽¹⁵⁾.

Since the criminal act consists of the actions defined by the law, it may come in the form of a tangible physical act, which is called positive behavior, and it may

come in the form of abstinence through refraining from doing an act that should have been done at a specific time and time according to the law and these actions are inferred of the circumstances and the circumstances of the act ⁽¹⁶⁾.

Therefore, the study needed to address the main pillars that make up the pillars of the crime of spreading rumors to reach the correct legal adaptation according to the plan of the Jordanian legislator. The material and the moral element.

6.1.2.1. The material element of the crime of spreading rumors

One of the principles that I can argue with is that penal legislation has no power over what goes on in the innermost thoughts or beliefs of individuals as long as they are not translated into apparent actions. This is why he found the material element of the crime, which represents a cycle in justifying the external translation of the consciences of individuals, formulating them and showing the extent of their aggression against the rights and interests of individuals ⁽¹⁷⁾.

Based on the foregoing, the material pillar is defined as the positive action and the negative volumes through which the crime appears and its components are completed, so it is impossible to imagine a crime's existence without a material pillar ⁽¹⁸⁾.

Therefore, the material pillar of the crime of spreading rumors consists of three main elements, which are the action, the result, and the causal relationship, which will be addressed in the study successively, as follows:

First: the act (behavior)

To reach the criminal act on which the penal legislation was based to criminalize the criminal act in the common crime, we must clarify the legal concept of behavior as an element of the material pillar. Recognizing a specific goal that he seeks to achieve, behavior from the point of view of the legislation does not advance unless he demonstrates full awareness and will ⁽¹⁹⁾.

Based on the foregoing, it became clear to us that the act can be positive or negative, and for this reason, the following question arises in this part of the study: what is the criminal act in the crime of spreading rumors?

The study has previously shown that the crime of spreading rumors arises through radio and dissemination of false news, even if part of it is a small aspect of credibility about its nature.

Therefore, it can be said that the act and movement that the offender performs in the crime of spreading rumors is an internal translation of the criminal's positive behavior, which allows him to bring about change buried in his own goal, which is to harm the rights observed and protected by law ⁽²⁰⁾.

In line with what has been mentioned, the researcher's view is that the act constituting the material component of the crime of spreading rumors is the positive behavior that the offender presents in spreading the rumor, whether it is

done by electronic or traditional means. Etienne is a certain positive verb.

Second: The result of the crime is to spread the rumor

The criminal consequence is defined as an element of the material element as the effect resulting from the occurrence of the criminal behavior, which is the infringement of rights and interests protected by law ⁽²¹⁾.

The jurisprudence of penal law has traditionally divided the criminal outcome into a material meaning represented in the changes that occur in the outside world as a result of criminal behavior and a legal connotation represented in the criminal behavior that infringes the interests protected by law, whether this assault leads to harm to interests or threatens them with danger ⁽²²⁾.

Therefore, the crime of spreading rumors, its criminal consequence is the danger and damage that results from it, as its broadcast leads to destabilizing security through riots and demonstrations, creating a kind of distrust and deviating society from the right path ⁽²³⁾.

Based on the foregoing, the researcher sees the weighting of the material meaning of a common crime over its legal meaning, because the crime of crimes whose result directly affects the outside world, especially since crimes in their material meaning do not require the occurrence of a specific criminal result, but rather are achieved as soon as the criminal act occurs ⁽²⁴⁾.

Third, the causal relationship

The causal relationship is of great importance in the completion of the material element of the crime of spreading rumors, as without it, the material element of the crime of spreading rumors cannot be completed ⁽²⁵⁾.

For this reason, the penal law commentators defined the crime of spreading ⁽²⁶⁾ rumors as the link between two phenomena that are necessarily related at a point in time, stating that one is a cause for the other ⁽²⁷⁾.

Determining the causal relationship in the crime of spreading rumors does not constitute any difficulty because the activity of the offender in it is the only factor that leads to the realization of its results, since in the crime of spreading rumors, there is direct physical contact between the activity of the offender and its result, it is not conceivable that the activity of the offender can be achieved without the occurrence of its criminal result ⁽²⁸⁾.

And the criterion based on the Jordanian legislation for the causal relationship was unclear, as the Jordanian legislator did not specify a clear criterion for that, and the burden was placed on jurisprudence and the judiciary. Factors that contribute to the outcome ⁽²⁹⁾.

6.1.2.2. The moral element of the crime of spreading rumors

The crime in its entirety does not consist of a physical entity only, but there is besides that psychological entity, which is termed the moral pillar, and it

constitutes the internal psychological motives for the criminal act and its control⁽³⁰⁾. The tendency to achieve its material pillar and complete satisfaction with its results.

Based on the foregoing, it is clear that the moral element of the crime of spreading rumors consists of two closely related elements, namely knowledge and will.

The first element: knowledge

The element of science is the crime of spreading rumors through the perpetrator's knowledge of the actions that make up its elements, and also that he is aware of the nature of his act and its danger, and that he expects the harmful results that he seeks to achieve by anticipating the causal relationship from the expectation of the criminal outcome as an effect of his behavior⁽³¹⁾. To be aware of the words and events that he broadcasts and to be absolutely certain that these statements he publishes would cause a kind of breach of security and undermine stability and confidence in society⁽³²⁾.

The second element

The will in the crime of spreading rumors is a psychological activity that leads the offender to achieve his criminal purpose by using a certain means. Which leads him to spread and broadcast rumor phrases using electronic and traditional means of broadcasting, and this motive must be the product of a free, conscious, and informed will⁽³³⁾.

The researcher believes that since the crime of broadcasting the rumor is through the publication and broadcast of false news and incorrect in its content, the will of the offender to commit it must be realized publicly and according to the public means specified by the Jordanian legislator in the Penal Code⁽³⁴⁾.

7. The second chapter

7.1. The position of the Jordanian legislator on the crime of spreading rumors

The goal that the penal legislation seeks is to identify the criminal acts and to set the penalty commensurate with the nature of the harm, based on the gravity of the act and the nature of the circumstances in which the crime was committed.

For this reason, the Jordanian legislator emphasized in the Penal Code the following: "There is no crime without a text, and no penalty or measure is imposed unless the law stipulates them at the time the crime was committed. The content is one of the basic principles on which the Penal Code is based, and it is one of the principles that surround many of the jurisprudence of the Court of Excellence⁽³⁵⁾.

Researching the position of the Jordanian legislator on the crime of spreading rumors requires the researcher to study the motives that gave the

Jordanian legislator a criminalization of the rumor, as well as a statement of the penalties imposed by the Jordanian legislator on those who commit this crime.

7.1.1. The Jordanian legislator's motives for criminalizing the rumor

The principle of legality, which was previously explained, requires that there is no crime and no punishment without a text. This principle that is contained in the penal legislation is considered the behavior that leads the legislator to adopt any act or omission as a crime. Criminal acts do not color the act without there being a motive that forced the legislator to criminalize. A crime The rumor, like other crimes, was criminalized in the legislation due to the presence of motives that generated in the legislator's thought the basis of criminalization, and this is what we will deal with successively, as follows:

7.1.1.1. The negative impact on public opinion

Public opinion considers the opinions prevalent in society towards a specific fact or topic. The opinion falls within the framework of a single community residing in a specific area ⁽³⁷⁾. The opinion is a compass that moves individuals and their convictions toward a particular topic in issues that are of great importance in the life and stability of society ⁽³⁸⁾.

That is why not every opinion is described as general, so the opinion is labeled as general in the event that the majority of society tends towards this opinion and its role in influencing the behavior of community members and government policies ⁽³⁹⁾.

Therefore, in view of the influence rumors have on public opinion by opening doors that are based on wrong predictions on issues that are important in society and rotating the compass of correct opinions towards the negative path and disrupting the work of public utilities through strikes and abstaining from what should be done because of construction. Opinions are based on deliberately and erroneously transmitted information ⁽⁴⁰⁾. The legislation was keen to confront it. Therefore, the negative impact on public opinions was a sufficient motive to confront the rumor and criminalize it.

7.1.1.2. The rumor goes beyond the limits of exercising the right established by law.

Constitutions have been keen to give every individual in society a sufficient amount of freedom, provided that he agrees with the public interest. Therefore, the principle of permissible actions and criminalization is only an exception to this right ⁽⁴¹⁾. The individual has the right to express his opinion as long as this expression is correct and consistent with reality, but if the crossing is exceeded by Expressing his opinion on the freedom to publish and broadcast his news through misleading and deliberate false publication ⁽⁴²⁾

, the falls within the scope of prohibited because his act is an attack on the

public order protected by the provisions of the law, which does not need to be violated ⁽⁴³⁾.

Since the rumor is a sinful body with improper intentions, its perpetrator is not considered a perpetrator of a crime unless his act includes three basic conditions, namely:

First: the rumor has exceeded his rights established by law

All rights and freedoms are protected by law, which is restricted on the condition that this right is not infringed or abused. The perpetrator of the rumor crime lies in his interest by directing and crystallizing the ideas of the society to the goal he seeks, which is to create chaos and attack the stability of society, and for this and the fact that the public interest takes precedence over all private rights, including the interest It is common to count false broadcasts by the common sects of criminal acts because of their sinful transgression against interest, and for this, the act of criminalization deserved by the law ⁽⁴⁴⁾.

Second: Committing the act by using the right

In order for the act to acquire the status of legality, it must be committed within the limits of the lawful act according to the law. Exceeding the right established for him constituted a sufficient motive to criminalize his act ⁽⁴⁵⁾.

Third: Committing the act within limits established for its right.

The limits of the right are similar to the borders between countries that may not be illegally crossed, so whoever commits an act, regardless of his side, is bound by the limits that have been established for him. Therefore, the right of the common person to express is translated into action that aims to harm, so this is tantamount to infringing the limit. Balancing the rumor What is between the right of the common to express his opinion and the harm that results from his right to express represents a big difference in the interest that has a small outcome that returns to the commoner and the great harm that results in the community, and this was one of the motives that approved the legislator to criminalize the common to achieve the ultimate goal of the law, which is the protection of society and the lack of damage ⁽⁴⁶⁾.

7.1.2. A common punishment in Jordanian legislation

Because of the seriousness of the rumor and in view of the harm it causes to individuals by distorting their reputation, the Jordanian legislator took a decisive stance against those who spread the rumor, and tried to put all legal guarantees and immunities that protect society from its harm. Therefore, the Jordanian legislator criminalized the rumor in more than one law and determined the punishment for those who committed it according to the means. And the method

and place to promote it, and this is what we will deal with successively, as follows:

7.1.2.1. The common promoter's punishment in the Jordanian Penal Code

In the Jordanian Penal Code, the Jordanian legislator did not refer to the phrase "rumor" and did not include a legal text explaining the concept of "rumor" from the legal side. However, the Jordanian legislator, in the section on state security crimes, referred to the punishment of anyone who submits propaganda or false news that would obtain From the place and prestige of the state, and for this, we find that the Jordanian legislator stipulates in Article 130 of the Penal Code the following: "Whoever in the Kingdom during wartime or when it is expected to erupt with propaganda aimed at weakening national sentiment or awakening racist and sectarian strife shall be punished with temporary hard labor."

That the previous legal article was restricted only to those who spread rumors in times of war or when they are expected to arise, and the researcher believes that this legislative formulation desired by the Jordanian legislator did not go right as required due to the penal restrictions of its perpetrator and its limitation to times of war for this, and from our side, we are counting on the Jordanian legislator To work on amending the legal text in a way that provides more criminal protection.

The Jordanian legislator also stipulated in the Penal Code the following: "Any Jordanian who broadcasts abroad while he is aware of the matter is false or exaggerated news that undermines the prestige or prestige of the state, shall be punished by imprisonment for a period not less than six months and a fine not exceeding fifty dinars." (48).

It is noted in the previous article that it specified the place of committing the crime outside the Jordanian region, and it also stipulated that the person who committed the crime should enjoy Jordanian nationality inside or outside Jordan.

7.1.2.2. The penalty for the common promoter in the Press and Publications Law.

The press has become at the present time, playing an important and prominent role in the dissemination and dissemination of news. Rather, it has developed itself with the development of societies, and this is what has earned it the absolute confidence of the majority of people as the fastest and most credible source of information (49).

Because of the interest that the press sacrifices and the wide spread of it, as this is a fertile environment for the weak of souls in order to spread their false poison and their naked news about health through the press, the Jordanian legislator was keen to confront those who exploit this and tried in every way to thwart everyone who begged for it. Therefore, we find that the Jordanian legislator stipulated the following "... Refrain from publishing everything that would incite

violence or call to stir up discord among citizens in any way" ⁽⁵⁰⁾.

Therefore, the rules for publishing were determined by Jordanian jurisprudence, and we find that the Amman Court of Appeal stated in one of its rulings the following: "... the judicial press plays its role of forming and influencing public opinion and the social role played by the press in informing the public of matters of interest to it." Whether it is internal or external, negative or positive, the press has the right to obtain information, transmit and exchange it, publish ideas and opinions and exchange them, and inform citizens of the correct news that is of interest to public opinion.

In addition to the above, the jurisprudence also specified the conditions for publication. We find that the Amman Court of Appeal ruled in its ruling on the following: "the conditions of publication, which are that the published news must be true and not be one of the news whose publication is prohibited by law and that the news is relevant. Social importance and publication should be in good faith.

7.1.2.3. The penalty for the common promoter, according to the Telecommunications Law

Likewise, given the technological development, the Jordanian legislator was keen to provide the highest levels of protection, so the researcher finds that the Jordanian legislator has criminalized anyone who publishes or spreads any telephone contact that he has been exposed to by virtue of his position. Public or private, or if he registered it without a legal basis, he shall be punished by imprisonment for a period of not less than one month and not exceeding one year and a fine of not less than (1000) dinars and not more than (300) or both of these penalties." ⁽⁵¹⁾

In line with what has been mentioned, the researcher finds that the legislative confrontation with the rumor promoters through the Communications Law is a distinct legislative model, especially after the legislator has also criminalized anyone who transmits false news intending to create panic ⁽⁵²⁾.

On the other hand, by analyzing the legal texts of the Electronic Crimes Law, the researcher found that the Electronic Crimes Law was devoid of any legal text facing the danger of a common crime, especially after electronic means became the most used method for spreading and broadcasting false and misleading news. Correct it in any legislative amendment that may affect the cybercrime law.

8. The study recommendations

- 1- The researcher wishes the Jordanian legislation to amend the text of Article 132 of the Jordanian Penal Code to be in the following form: "Any Jordanian who broadcasts abroad or at home while he is aware of the matter is false or exaggerated news that undermines the prestige or status of the state, shall be punished by imprisonment." For a period not less than six months and a fine of not more than fifty dinars, whether this broadcasting is done

by cartoon or traditional means.

- 2- The researcher hopes that the Jordanian legislator will codify a legal text in the Penal Code that clarifies the common crime's legal significance.
- 3- The researcher hopes the Jordanian legislator will introduce a legal text in the cybercrime law that will punish those who spread rumors through electronic means and websites.

Conclusion

This study dealt with the criminalization of the common in the Jordanian criminal law, considering that this crime is one of the crimes that has become fatal to societies, especially in light of the era of globalization and the development that we are currently experiencing. At the end of this scientific journey, the researcher reached a set of results, namely:

A rumor is defined as the news that is characterized as untrue, has a major impact on opinion, and circulates among people regarding a particular topic or a certain fact during a specific time. The rumor is like any kind of crime, there must be an explicit legal text that criminalizes it, and it must be based on two main pillars, namely the material and the moral pillars. The Jordanian legislator cited several legal texts in the Penal Code, the Communications Law, and the Law of Publications and Publishing that criminalize the rumor.

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 - 50- Amman Court of Appeal Decision No. 33568/2009, dated June 21, 2009, Adalah Publications.
 - 51- See the text of Article 71 of the Jordanian Telecommunications Law.