

## **Distance Indecent Assault Crime in Jordanian Law Perspective**

Hamzeh Abu Issa<sup>1</sup> & Mohammad Khater<sup>2</sup>

### **Abstract**

This article examines the extent to which the traditional texts related to indecent assault crime apply on the act committed remotely in the Jordanian Penal Code, that is, without physical contact with the victim. The texts show that the legislator did not define indecent assault, leaving that to jurisprudence and judiciary. And if it is established that this crime requires three elements for its occurrence: the material element, the moral element, and the victim's disapproval (non-consent); However, the dispute was about the behavior constituting the material element, so one opinion went to requiring actual contact with the victim's body, while another direction/opinion went to no contact requirement, contenting with merely touching the victim's honor. The majority of the Jordanian Court of Cassation rulings tended to follow the second direction, which does not require actual contact. After conducting the required investigation, the article concluded that the legislator should intervene by setting provisions in connection with distance indecent assault crime. As equality between the severity of contact and its absence is not fair.

**Key Words:** Penal code, Jordanian judiciary, indecent assault, cybercrime law, sexual crimes.

### **1. Introduction:**

When criminalizing sexual acts, the Jordanian legislator adopts the principle of sexual freedom, according to which the commitment of any sexual act, whatever it is, between two consenting adults, is not considered a crime as long as it does not affect the public interest or the private interest (Abu Issa and Al-Taraira, 2021). Therefore, the Jordanian legislator criminalizes rape, indecent assault, immoral act, and adultery.

The texts that criminalize indecent assault are contained in Articles 296 to 299 of the Jordanian Penal Code No. 16 of 1960. Article 296 punishes anyone who (violently or under-threat assaulted a person's honor).

As for Article 297, it punishes whoever (indecently assaults a person who cannot resist because of physical incapacity or psychological deficiency, or because of the use of deception manners against him or forced him to commit it), while Article

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<sup>1</sup> The author is Associate Professor of Criminal Law, and the Dean of Faculty of Law at the Applied Science Private University, Jordan. He can be reached at [hamza\\_abuissa@msn.com](mailto:hamza_abuissa@msn.com)

<sup>2</sup> The author is a Lecturer in criminal law - Faculty of Law at the Applied Science Private University, Jordan, and a member of the MEU Research Unit, Middle East University, Jordan. He can be reached at [mo\\_khater@asu.edu.jo](mailto:mo_khater@asu.edu.jo)

298 punishes everyone who (without violence or threat assaults of a child honor – male or female)<sup>3</sup>. Finally, Article 299 punishes (anyone who, with or without force or threat, assaults a child, male or female, who has not completed twelve years of age, or makes him commit an act of indecent assault).

Referring to the texts mentioned above, we find that the Jordanian legislator has provided for three forms of indecent assault crime. In the first form, he stated of indecent assault with violence or threats, and in the second form, he stated of indecent assault that occurs to a person who cannot resist due to physical incapacity or psychological deficiency, or because the use of deception manners that was used with him. As for the third form, it is the indecent assault that takes place without violence or threats (Namour, 2022).

It is crystal clear that providing definitions of terms is not the task of the legislator (Miqdad, Abu Issa, and Alwerikat, 2022). So the law did not give us a definition of indecent assault despite the existence of these texts since it did not clarify its meaning, which invited jurisprudence and the judiciary to define it, and this caused a disagreement in the definition as diligence inherits conflict.

It is noted on the Jordanian legislator's plan in the field of criminalizing of indecent assault that he did not give a special provision if the crime was committed remotely. However, Article 15 of the Cybercrime Law No. 27 of 2015 states that: (Anyone who commits any crime punishable under any legislation in force using network or any information system or website or subscribes to, interferes with, or incites to commit, shall be punished with the penalty stipulated in that legislation).

Therefore, when some cases were presented to the Jordanian judiciary, it relied on this text and considered that the crime of indecent assault exists according to traditional texts, even if it was committed remotely. Therefore, we will try, through this article, to discuss this using the descriptive and analytical approach in order to reach to the accurate legal opinion.

## **2. Definition of Indecent Assault Crime**

On the contrary to the crime of rape, which is considered one of the crimes with a specific concept, and does not raise any real problems, whether in the interpretation of its elements or in its application, as its material element is limited to a specific form, which is the insertion of a man penis into the vagina of a female - who is not his wife - without her consent, then indecent assault is the real field in which all problems related to sexual crimes in general, and that is for two reasons:

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<sup>3</sup>A child, according to the texts regulating the indecent assault crime, is every person under eighteen years of age.

first, because its material element is less specific, as it is one of the crimes with an indefinite or variable concept with a change in place, time and occasion, and second because it involves complexity in its legal formulation (Abu Amer, 1985).

As we mentioned, Jordanian law did not define indecent assault crime, leaving that to the judiciary and jurisprudence.

So, the Jordanian Court of Cassation went to the search of the linguistic and idiomatic meaning of indecent assault, as it mentioned that the word “indecent” in the language means exposing or revealing private parts, and the honor refers to what a person preserves of himself as it is attributed to the private parts of the body, and indecent assault in relation to that. It means every act in which any part of the victim’s body is touched or contacted, which is customarily included in the rule of bad deeds and offends casual modesty (Criminal Cassation 18/1952 dated 24/4/1952).

In other decisions, indecent assault was defined as: (every indecent act committed by a person against another, male or female, in its direct form, causing him a disgrace that harms his chastity and dignity) (Criminal Cassation 7/1953 dated 19/1/1953).

It is also defined as: (any lustful act committed by one person on another without his consent, if it is obscene and the outrage of casual modesty, there is no difference in that between touching the naked bodies or on bodies veiled by clothes, as it is not specified act in a specific place of the body) (Criminal Cassation 20/1967).

As for jurisprudence, there were many definitions formulated by jurists related to indecent assault, as it was defined as: “an immoral transgression that occurs directly on the body of another person” (Mustafa, 1984). Or it is “a serious intentional breach of the victim’s modesty by an act that is committed on his body, and often affects his private parts” (Hosni, 2019).

In another definition, it is: “Every act that violates modesty that is more than the victim’s body and his loins and offends his feelings of modesty in this respect” (Al-Marsafawi, 1978). Or it is: “The grossly indecent act that occurs on the victim’s body and is often represented by contacting one of his private parts, which no one spares any effort to protect from every act that may affect it” (Jad, 2005).

It was also said that it is: “particle violation of the victim’s modesty by committing an act on his body that affects his private parts” (Al-Shazly, 1996), and there are those who defined it as: “particle violation of modesty that occurs directly on the body of others” (Al-Shahat, 2011).

Through these definitions, it is clear that two things are required for the act of indecent assault: that there is a contact of the victim's body, and that it seriously violates his casual modesty.

### **3. Elements of the Crime**

The crime of indecent assault requires three elements: the first is the material element (*Actus reus*), which is represented by the activity that leads to prejudice to the casual modesty of the victim, and the second is lack of consent element, which is represented by the victim's disapproval to the material actions that occur against him, and the moral element (*Mens rea*) represented by the general criminal intent.

#### **3.1- Actus reus**

The law did not specify a specific behavior for the crime occurrence, so any behavior that affects the chastity of the victim is carried out by this element, and given the many acts that this crime performs, and the possibility of its overlap with other crimes such as the crime of immodest foreplay, it was necessary to find a criterion to determine the acts that are considered as indecent assault.

The Jordanian judiciary adopted two criteria in this regard:

The first: the criterion of nakedness, which means that any infringement (touch) of the victim's body parts that are considered shameful constitutes indecent assault, so it was decided that: "The legislator intended by punishing the crime of indecent assault to protect that moral immunity by which the male or female preserves his honor, from any contact that is indecent or accidental, as long as this touching extends to a part of the victim's body, it is considered to be loins" (Criminal Cassation 188/1977).

This criterion is flawed (defective) because loins is not a fixed concept, as it differs from one place to another and from time to time, just as it varies according to religious belief from one person to another. Likewise, there are acts that may not affect the private parts, but they are serious that affect chastity and offend modesty, which necessitates that they be considered as indecent assault.

The second: the criterion of immensity, so it took from the immensity of the act as a criterion, to determine whether the act is a violation of honor or not, and the essence of this criterion is that the violation of honor is not only the act that beyond the private parts of the victim, but rather it implies any act that has reached a degree of obscenity that offends the emotion of honor modesty in him, even if he did not touch the private parts, and for example, the perpetrator puts his penis in the mouth or the hand of the victim, so with this act the perpetrator did not look into the private parts of the victim, as the mouth and hand are not

considered private parts, except that he scratched the victim's casual modesty, which is the criterion which was settled by the Court of Cassation.

It ruled that: "Indecent assault, in the legal context, does not only consist of every immodest act that beyond part of the victim's body, which is expressed as loins. Rather, it also consists of every act that beyond another part that is not considered as loins, but it offends the emotion of honor modesty in him (Criminal Cassation8/1971).

The matter of assessing the seriousness of the act is up to the trial judge to describe the act as indecent assault or to change its criminal description to another less serious crime, such as immodest foreplay, and this is what the courts decided on, given that the second criterion is closer to justice than the previous one.

Indecent assault may be done by force or surprise, and there is no difference in that whether the touching occurred while the bodies are naked or covered by clothes. (Criminal Cassation209/2013 dated 25/4/2013), and it is not required that the crime leave a mark on the victim's body, the crime is carried out even if it leaves no trace on him.

In all cases, and in order for the crime of indecent assault to be established, the act of obscenity must occur on the body of others and offend their sense of modesty, and accordingly, the actions that the perpetrator commits on his own body in front of others, no matter how obscene, fall out of the scope of the indecent crime. As text of Article (296/1) of the Jordanian Penal Code was explicit and clear, as it states that (whoever violates a person honor using violence or threats...), and the meaning of the statement does not refer to the behavior of the perpetrator himself, but rather to of another person honor, whether male or female (Namour, 2022).

### **3.2- Absence of Consent**

The absence of victim's consent under this crime is divided into two types: First Type: Absence of actual consent, which is stated in the text of Article (296) of the Penal Code. What is meant by the phrase "violence or threat" is: the lack of consent of the victim in violating his honor modesty.

By the consent of the victim, it means the availability of his will that is liable to the victim's body being affected in a manner that supports, accepts, or does not object to its occurrence, either explicitly or implicitly, or by taking a position that the circumstances of the situation leave no doubt about his consent, and consent in this manner if it takes place meeting the conditions of its validity. For those who have reached the age of eighteen full years, he was prevented from committing the crime of indecent assault (Abu Amer, 1985).

Second Type: the lack of judgmental consent, as the law does not consider the consent of someone under the legal age, which the legislator has set at eighteen years, so the crime is committed even if the act was committed with his consent because his consent is not taken into consideration.

Accordingly, the law did not require investigating the existence or absence of consent if the age of the victim is less than eighteen years, as it made young age a basis for responsibility and punishment and considers it conclusive evidence of a lack of consent (Mustafa, 1984). It ruled that: "It is established that the act performed by the accused was with the consent of the victim, and that the age of the victim was (17) years at the time of the crime commitment, and since the act committed against her by the accused was without violence or threat, then the act of the accused and this case applies to the crime of indecent assault" (Criminal Cassation 3175/2022 dated 13/10/2022).

It is worth noting that this crime does not occur against the perpetrator's husband, as marriage in such a situation, is considered a reason for permissibility and makes the act as the use of rights (Namour, 2022).

### **3.3- Mens rea**

The crime of indecent assault is an intentional crime, so this element is achieved with the availability of the general criminal intent represented by knowledge and will, meaning that the perpetrator is aware that he is committing an obscene and illegal act that would offend the honor modesty of the victim, and is aware of the absence of the victim's consent with what is practiced against him. In spite of that, the offender's will be directed towards achieving the criminal result, which is the violation of his honor modesty.

If a pedestrian accidentally collided with another in a crowded road, and as a result the perpetrator touched the other's private parts without intending this contact, then he is not considered to have committed the crime of indecent assault due to the lack of criminal intent (Namour, 2022).

It does not matter what the motive of the perpetrator in the crime of indecent assault is, whether the actions are for the purpose of satisfying his sexual desire or for other purposes, such as revenge on the victim, and that is equal to the mere fact that he has the knowledge and the will (Abu Issa and Al Shibli, 2022; Al-Billeh, 2022).

However, the Jordanian Court of Cassation tended, in one of its decisions, to consider the purpose aspired by the perpetrator, and ruled that the crime of indecent assault does not exist if the accused sent photos of the victim while she was naked –that is taken with her consent - to her brother, demanding sums of money in exchange for not publishing the photos, without her knowledge or

desire, as his intention is extortion and not publishing the photos, and it was not intended to indecently assault the victim's honor, but rather it was for extortion purposes (Criminal Cassation 1983/2019 dated 15/9/2019).

This attitude is subject to consideration, as the motive is not an element of the crime except by a text according to what is stipulated in Article (67/2) of the Penal Code, and that the provisions of the crime of indecent assault did not require the availability of the motive, so the availability of the general criminal intent is sufficient for the commission of the crime.

This is what the Jordanian Court of Cassation settled upon, as stated in its General Assembly Decision No. (236/2002 dated 16/4/2002): "The jurisprudence and judiciary are unanimous that the moral element in crimes of indecent assault is the general intent. The argument is that he did not do it to satisfy sexual lust, but rather with the intention of taking revenge on the victim, or curiosity, or other reasons or motives that are not limited, and accordingly, the crime of indecent assault is realized regardless of the motive that prompted the perpetrator to commit it, as long as the perpetrator's act extended to The victim's body or his nakedness and severely aggravated his feelings of modesty, so this crime is realized by the offender's will to act and its result.

#### **4. Indecent Assault Crime Penalty**

The Jordanian legislator did not decide a single punishment related to indecent assault crime, as it came with varying penalties according to the availability of violence or threats. Article (296) punishes whoever infringes a person by means of violence or threats by labor for a period not less than four years, and the minimum penalty is five years if the victim is has completed fifteen years of age but not completed eighteen years of age, and the minimum penalty is seven years if the victim has completed twelve years of age but not completed fifteen years of age.

Article (298) penalizes indecent assault without violence or threat if it occurs to a child - male or female - who has completed fifteen years of age and has not completed eighteen years of age, or causes him to commit an act of indecent assault by temporary labor for a period not exceeding ten years, and the minimum penalty punishment shall be a minimum of five years if the victim has completed twelve years of age but not completed fifteen years of age.

Also, Article (297) did not stipulate the existence of violence or threats or not, in order to make the punishment harsher or lesser, so he shall be punished with temporary labor if the act takes place on a person who cannot resist because of a physical, psychological, or mental disability or handicap, or because of the deception or he practiced it against him to commit it, the basis for criminalization was the weakness of the victim. Article (299) punished whoever indecently

assaults a child - male or female - who has not completed twelve years of age, or causes him to commit an act of indecent assault, shall be punished with temporary labor for a period of no less than eight years.

##### **5. The Jordanian Court of Cassation Attitude towards Distance Indecent Assault**

It is well established in the judiciary of the Jordanian Court of Cassation that the crime of indecent assault is carried out by any act that constitutes an assault of the victim's honor. Since ancient times, it has ruled that the basic legal idea on which indecent assault is based is the protection of the moral immunity by which a person preserves his honor from any material act that violates honor modesty. (Criminal Cassation 3/1952 dated 27/1/1952).

On this basis, the Court of Cassation did not stipulate physical touch for the crime commitment, or there is a contact of the victim's body, and it expressed that, this crime is an attack on the victim's honor without mentioning the physical touch. In one of its decisions, it was stated that infringement in the legal sense does not consist only of immoral acts, that extends to a part of the victim's body, and even every act that offends the emotion of his honor modesty (Criminal Cassation 3/1980).

It is sufficient for the availability of the material element of indecent assault crime, for the perpetrator to reveal the private parts of the victim, even if this act was not accompanied by any indecent contact, as revealing part of the victim's body is one of the private areas that every person is keen to preserve and conceal from people's view against his will. It is in itself a crime of indecent assault. (Criminal Cassation 325/2019 dated 3/5/2019).

As for the extent to which this crime was committed by electronic means, a distinction must be made between two assumptions:

The first assumption: the availability of the victim's naked photos, and the perpetrator obtained these photos without the real or judgmental consent of the victim. In this assumption, the Court of Cassation rulings was contradicting about the legal qualification of these acts. In its decision No. (1510/2018) dated (22/10/2018), it decided that the accused took photos of the complainant, who was over eighteen years old when she was with him in the apartment, some of these photos were taken while she was naked, and although these photos were taken for the complainant with her consent and approval, this was with the intention of keeping them in light of the romantic relationship that was between them, and she did not allow him to take those pictures to publish them or to show them to anyone, but the accused and when the complainant's family did not agree his marriage to her, so he sent these photos to the complainant's ex-husband, and



among these photos are photos of the complainant wearing only knickers and a breast bra, and her private parts were exposed, which the Court of Cassation found that these acts by the accused constitute all the elements of indecent assault crime. And then, in its decision No. (330/2020) dated(17/3/2020), it decided that the 15-year-old victim sent pictures and a video clip of her to the accused while she was in her underwear only, under the threat of the accused, such acts by the accused do not constitute a crime of indecent assault, as these acts by the accused - in the opinion of the Court of Cassation - did not lead to any physical touch of any of the victim's private parts and the places of chastity, or led to a serious breach of her casual affection. In another decision, it separated the electronic content in which the victim appeared, who had not completed eighteen years of age, and considered that sending pictures of her breasts to the accused who has an affair with her does not constitute a crime of indecent assault against the accused, because what was sent are still images, not video. (Criminal Cassation3125/2020 dated 24/12/2020), and it is understood from this jurisprudence that if the transmitted content included a video and not still images, the act would be considered indecent assault.

As for its Decision No. (986/2022) dated(14/6/2022), it decided that the 14-year-old victim, at the request of the accused, and as a result of his threat to her, sent a video clip of her naked body and her playing with her vagina with her fingers at his request, such acts on his part constitute under the legal application, all the pillars and elements of indecent assault crime, because his acts extended to the victim's private parts and violated her honor modesty.

The second assumption: the victim appears naked through live and direct electronic contact with the perpetrator, with no real or judgmental consent. The Jordanian Court of Cassation has decided the legal adaptation of this assumption, as it considered that the crime of indecent assault elements is available in this case, since the issuance of Public Authority Decision No. (1008/2020) dated (28/7/2020), which stated the following:

"We find that with the development of technology, means of communication, information, and the Internet, cybercrime falls under two descriptions:

The first of them: It is the crimes that occur on the Internet itself, and it is one of the new crimes that appeared only with the advent of computer technologies and the Internet itself, and it can only take place with the combination of the computer and the Internet, such as unauthorized access to automated data processing systems, virus crimes, and information theft crimes. Computer services, crimes of giving false or forged data, and other crimes that occur on the network.

The second is: the crimes committed via the Internet, which the Penal Code criminalizes and defines their nature and material and moral elements.

What is new in this context, is the means of committing them, where the criminal uses the network as a means to achieve the criminal result he envisaged, such as theft, fraud, drug trafficking, defamation, slander, contempt, and moral crimes, since these crimes may occur through physical action or may occur via the Internet.

Referring to the Cybercrime Law and Article (15) therein in particular, we find it stating that: "Anyone who commits any crime punishable under any legislation in force by using the information network or any information system or website or participating in, interfering with, or inciting to commit it shall be punished with the stated penalty under that legislation."

This text leads us to the fact that the legislator equated the traditional crimes with the crimes that occur through network in the legal ruling, so that the crime committed through information network or a website is seen as having been committed in the physical factor form.

Based on the foregoing, the victim was sixteen years old at the time of the crime, where the romantic relationship with the accused developed into communication with each other via Messenger application through video calls, where the accused was asking her to remove her clothes, and she responded to his request and was appearing naked from top in the video calls, showing her breasts to the accused, and placing one hand on her breasts and the other on her vagina, while the accused was playing with his penis until he masturbated.

By reviewing the provisions of Article (298/1) of the Penal Code, our court finds that it states: "Whoever, without violence or threat, assaults the honor of a child, male or female, who has completed fifteen years of age and has not completed eighteen years of age, or makes him commit an act of indecent assault shall be punished with temporary hard labor." period not exceeding ten years.

This text clearly indicates that the penal legislator, in order to provide the highest levels of protection for those under eighteen years of age, wanted to expand the scope of penal protection by expanding the framework of the material element. He who has not reached a degree of maturity and experience to realize the seriousness of these actions.

We find that the material criterion for the crime of indecent assault is the degree of obscenity in the acts committed by the perpetrator by contacting the victim's private parts, which people are keen to preserve and defend. In the event that these acts reach the degree of obscenity and ugliness, such as he the infringement of those private parts by exposing them, even if the perpetrator did not contact the victim's private parts.

Whereas the legislator, in the apparent meaning of Article (298), did not consider the consent of the victim due to her young age and the fact that she was under the age of legal protection.

Whereas, the acts that are committed by the accused, as detailed in the decision of the distinguished judgment, have reached a great degree of obscenity, given that the victim has not reached eighteen years of age, and that the material element in the crime of indecent assault exists by the perpetrator revealing the victim's private parts, even if this was not accompanied by any immoral contact, and based on the foregoing, the decision of the distinguished ruling, as it ended up criminalizing the accused of indecent assault within the limits of Article (1/298) of the Penal Code and in the context of Article (15) of the Cybercrime Law, that is in accordance with the law".

Since the issuance of this decision, court rulings have repeatedly held that indecent assault crime exists if the material element is committed remotely (from distance), via the information network, provided that the contact is direct between the perpetrator and the victim.

It was ruled that the accused communicated with the victim when she was seventeen years old through Messenger application, and opened the camera and asked her to strip in front of him, and she did so and put her hand on her vagina and played with it, and that he stripped in front of her, and practiced masturbation in front of her, which are sexual acts that took place through video call, his actions constitute indecent assault. (Criminal Cassation 3470/2021 dated 20/12/2021).

In another decision, the Court of Cassation confirms that the crime of indecent assault was committed against the accused, because he communicated with the thirteen-year-old victim through the application of a social networking media (Messenger) and watched her private parts, where she appeared naked and her vagina and chest appeared and he was watching her directly, which are actions that amounted to a great degree of Obscenity, given that the victim has not completed fifteen years of age, even if this does not include immoral contact. (Criminal Cassation 2103/2021 dated 29/9/2021).

Accordingly, the Court of Cassation decided that merely sending nude photos from the complainant to the accused does not offend the emotion of honor modesty unless they are live photos, meaning that there are direct video calls between the complainant and the accused (Criminal Cassation 769/2022 dated 27/4/2022).

## **6. Jurisprudence View Related to the Behavior Component of Distance Indecent Assault**

Jurisprudence differed in the possibility of criminal behavior regarding distance crime of indecent assault, as one of the opinions went stated that it is not possible to do it from a distance, and according to this opinion, if the physical touch of the victim's body did not take place, then the criminal behavior would not take place, so one of the people watching or filming the private parts of others surreptitiously without his approval cannot be carried out by criminal behavior, because this crime requires a material act from the perpetrator towards the victim represented by contacting, revealing, or elongating the victim's body and his private parts, and in the previous cases - witnessing and filming - the perpetrator did not do an act that may be considered indecent (Abu Hajila, 2003).

As for the other opinion, which is the most endurable, it went to say that criminal behavior could occur in the distance crime of indecent assault, and it is sufficient for the availability of the material element that the perpetrator reveals the private parts of the victim even if this act is not accompanied by any indecent touch (Mustafa, 1988).

The act of criminalizing indecent assault is protecting the sexual freedom of the victim, as the crime takes place whenever the act includes a violation of this freedom or a departure from the limits set for it, and since absence of consent is one of the indecent assault crime elements, the case of seeing the victim's private parts or surreptitiously filming them is set to be a crime (Al-Dahabi, 1997).

Some jurisprudence has also tended that, in accordance with the legislative reason in criminalizing the acts of this crime, from keenness to preserve the moral immunity of a person by preserving his honor modesty from any assault, the crime is based on simply revealing the private parts of others or contacting them, or both, even if the perpetrator did not do any indecent contact (Al-Shahat, 2011).

In the meaning of indecent assault, if the offender forces the victim to undress in public, even if there is no infringement in the material sense, such a matter constitutes an infringement of the immunity of the victim's body (Al-Saeed, 1995). It is not required for the behaviour that constitutes a crime to contact the body with the body, but rather looking at itself may be what is considered a loin, such as indecent assault (Fouda, 2005).

### **Conclusion**

Through this article, it became clear that jurisprudence and the judiciary differed regarding the crime of indecent assault and in many aspects. The dispute was initially about the definition of the crime of indecent assault, as it is the

container that accommodates everything that comes out of the crime of rape of extreme gravity and the crime of foreplay that is less serious, as it is the broadest umbrella. For sexual offences.

So, at the beginning, the criterion of the loins assault, was adopted to consider the act as indecent assault or not, and later it became clear that the gravity criterion is more accurate in order to consider the act as indecent assault, and this difference left its impact on the jurists' definitions of the crime of indecent assault. It was also clear that there is a difference with regard to criminal behavior and the possibility of committing distance crime, and accordingly the opinion of jurisprudence was addressed, since they stipulated actual contact and the impossibility of criminal behavior from a distance. to the victim's nakedness or the casual outburst of his modesty, even if the actual contact did not take place.

As for the judiciary, it applied the traditional texts on distance committed crime, especially by using electronic means, as the Jordanian legislator did not single out special texts for this crime if it was committed from a distance, and the judicial decisions did not agree at the beginning to criminalize these acts according to the texts of indecent assault or others. Thus, the last thing that judiciary settled on after the issuance of Court of Cassation Decision No. (1008/2020), which considered the victim's compliance with the perpetrator's orders in live and direct contact as the behavior that constitutes the distance crime, but if the contact was not direct, then the crime does not take place.

In order to properly apply the principle of legality, we observe that it is necessary to single out certain texts that deal with this crime in a clear and unambiguous manner and specify the activities that constitute the crime of indecent assault from a distance. The general provisions of the Penal Code are violated when traditional texts are applied in ways that deviate from their original intent, and when Analogy are used as the foundation for criminalization.

## **References**

- Abu Amer, M. (1985). *Criminal Protection for Sex Indecent in Contemporary Legislation*, Al-Faneya for Printing and Publishing: Alexandria.
- Abu Hajila, A. (2003). *Criminal Protection for Sex Indecent*. Dar Wael: Amman.
- Abu Issa, H. and Al Shibli, M. (2022). The Avenge as a Motive of Homicide Crimes in Jordan for the Period (2017-2021). *Pakistan Journal of Criminology*, Vol.14, No.1, 112-127.
- Abu Issa, H. and Al-Taraira, M. (2021). Criminalization of Sexual Acts in Jordanian Law. *International Journal of Criminology and Sociology*, Vol.10, 1107-1111. DOI: <https://doi.org/10.6000/1929-4409.2021.10.128>

- Al-Billeh, T. (2022). Legal Controls of the Crime of Publishing a Program on the Internet in Jordanian Legislation. *Pakistan Journal of Criminology*, Vol.14, No.1, 1- 14.
- Al-Dahabi, E. (1997). *Sexual Crimes*. Second edition, Cairo.
- Al-Marsafawy, H. (1978). *Al-Marsafawy in the Special Penal Code*. Manshaat Al-Maarif: Alexandria.
- Al-Saeed, K. (1995). *Crimes against morals, public morals and the family*. House of Culture: Amman.
- Al-Shahat, H. (2011). *Penal Law - Special Part*. Dar Al-Nahda Al-Arabiya: Cairo.
- El-Shazly, F. (1996). *Explanation of Penal Code - Special part*. University Press: Alexandria.
- Fouda, A. (2005). *Crimes of Sex Indecent in the Penal Code*. University Press: Alexandria.
- Hosni, M. (2019). *Explanation of the Penal Code, Special Part*. 6<sup>th</sup> Edition, University Press: Alexandria.
- Jad, S. (2005). *Explanation of the Penal Code, Special Part*. Cairo.
- Martin, J. (2014). *Criminal Law*. Routledge: London.
- Miqdad, S., Abu Issa, H. and Alwerikat, N. (2022). Definition of the Term "The Wound" in the Jordanian Penal Law. *Theory and Practice in Language Studies*, Vol.12, No.8, 1630-1633. DOI: <https://doi.org/10.17507/tpls.1208.20>
- Mustafa, M. (1984). *Explanation of the Penal Code Special Part*. 8<sup>th</sup> edition, Cairo University Press: Cairo.
- Namour, M. (2022). *Explanation of the Penal Code, Special Part*. House of Culture: Amman.