



Legal Regulation of Technical Expertise Procedures in proving written Forgery in Palestinian Legislation

Saleh Samih Al Samna

Doctor of Law, Lawyer

Email: Salh_pls@hotmail.com

Abdul Fattah bin Wan Ismail

Professor at the University of Humanities Malaysia

Email: Wanfattah@usim.edu.my

ABSTRACT

Technical expertise is considered one of the important issues that should be highlighted due to its importance in criminal matters in general, and cases of proving forgery in particular. This study aims primarily to shed light on the extent to which the Palestinian legislator organizes the procedures of technical expertise in proving forgery. Linear, as the importance of the study highlights the analysis of the Palestinian legislative reality in how to combat the crime of forgery of official documents and ways to confront it by stating the procedures of the technical expert to reveal the areas of forgery in written documents. This study discusses the main problem represented in the extent to which the texts of Palestinian legislation organize the rules governing technical expertise and its procedures in proving a forgery claim. To achieve the purpose of the study, the researchers followed the analytical approach, where they analyzed the legal texts regulating the provisions of technical expertise and its procedures in proving a written forgery claim, by examining the law Evidence and the Criminal Procedures Law, and analyzing the content and substance of those legal texts that directly or indirectly addressed provisions and issues related to written expertise, sorting them out and discussing them scientifically, in addition to analyzing the statements and opinions presented by scholars and researchers specializing in their study of aspects of this topic.

Keywords: technical expertise, forgery, technical expert.

I. introduction:

Technical expertise plays a major and extremely important role in criminal matters in general, and proving forgery in particular. As its role is evident in revealing the technical aspect of the crime of forgery of written documents, represented by the methods used by forgers, there are many delicate and technical issues that can only be revealed and understood by people who specialize in revealing them. Experience is of great importance and plays a major role in the corridors of the courts, as the need for it has increased in the contemporary era, especially in light of the scientific, artistic and technical development witnessed by the modern world, in which science has become limitless as it extends to all areas of life. (Shwaidih, 2013) The expert's task, while performing his work, is to investigate the incident in the case, where the role of technical expertise in proving forgery in written documents is highlighted by its reliance on the processes of comparison and writing, as handwriting experts rely on revealing and proving forgery by stating and studying the handwriting characteristics of people, and the extent to which this difference affects the writing and handwriting of each person, in addition to the components of written documents, such as pens, paper, and writing, and their danger in the forgery process, as forgers often rely on making a great effort and harnessing mental and material capabilities to achieve their goal. In fact, Palestinian legislation did not address technical procedures, but rather spoke about them in general, so there is a deficiency in technical expertise procedures. Therefore, the researcher spoke about that On some laws, especially on the subject of technical expertise procedures, and an example of this was the Egyptian and Jordanian law, especially since forgery is an integral part of the components of the legal structure of the crime of forgery of documents and other crimes that involve it, since forgery wastes public confidence in documents, undermines the guarantee and certainty thereof, and destabilizes transactions and all aspects of legal life in society. (Shaheen, 2022) and Accordingly, the researchers divided the study into three sections, which are: Factors that help detect forgery, the process of writing handwriting, and the process of comparing hand writings And the extent to which the document is valid for being the subject of a forgery crime.

II. Factors that help detect forgery and the process of handwriting

It is Factors that help detect forgery and the process of handwriting in Palestine are vital to ensure justice and the implementation of the law. These factors can be summarized as follows:

Technical experts: They play a prominent role in analyzing documents and detecting any signs of forgery. Handwriting experts analyze the individual characteristics of handwriting and identify discrepancies between different handwritings.

Technology: Technology provides tools and software that help detect counterfeiting and achieve justice. These tools include digital imaging systems and handwriting comparison software.

Legislation and laws: There must be strong legislation that criminalizes forgery and sets appropriate penalties. This legislation contributes to deterring forgers and promoting justice.



Cooperation between competent authorities: Cooperation between judicial authorities, police and investigation offices plays a major role in uncovering forgery. This cooperation can exchange information and improve the efficiency of investigations.

Training and qualification: Security and law enforcement personnel should be trained on how to recognize signs of forgery and analyze documents.

Original Certificates and Documents: Original documents are used as a reference to verify the authenticity of suspected copies and strengthen them as evidence.

All of these factors contribute to enhancing the ability to detect fraud and achieve justice in Palestine.

The first requirement: factors that help detect forgery

When examining documents, you need extensive experience with the types of fonts, paper making, and writing tools, and a great deal of knowledge about the methods of forgers, especially since the culture of the examiner and the length of time he has lived with the document gives him special experience if he is accurate, patient, intelligent, and thinks deeply. Therefore, the expert must have a high ability to detect forgery. To clarify the content of this requirement, we will discuss it in detail in two branches: the nominal tools of writing, and the actual tools of writing.

Firstly: Legal Instruments in Writing

When examining handwritten documents, a great deal of experience is required, especially in knowing the types of fonts, the manufacture and polishing of paper, and the methods of forgers, especially since the expert's long period of living with the documents gives him special experience if he is patient, accurate, intelligent, careful, and thinks deeply. Therefore, the expert must know the type of ink and the appearance of the paper on it to ensure that it has not been forged. The researcher has called it that In the name of the notional tools, they are considered tools when examining the document, while the basic material tools are the paper and the line.

1. Ink

The expert looks at the ink used in the documents from beginning to end. Is it the same type or is there a difference in the type of ink used in writing the conclusion or introduction of the documents? He knows the type of font in the writing and the material from which it was made to determine its age. (The Sign of God, 2003) It also depends a lot on the chemical examination and comparison of the ink, and accordingly the chemical elements from which the ink is made and the physical properties of the ink, such as its solubility in water or other solvents, can determine the type of ink and its age, and the effect of light on the ink can help estimate the age of the ink. (Saudi, 2018) In addition to the important role of the expert in detecting forgery in the event of the use of volatile, fading inks and the disappearance of data on checks, agencies, documents, signatures and documents, as the volatile material becomes colorless and cannot be seen with the naked eye, the laboratory can, through certain rays, show the text written in the volatile ink and the change that has occurred to it. (Union of Arab Banks, 2020).



2. Check the content of the document

A careful examination of the content of the document will help to identify any loopholes it contains, which will become a key to uncovering forgery, as some of these loopholes occur either out of ignorance and others out of negligence. Ignorance of history and lack of knowledge of historical facts and events is an important reason for uncovering forgery. (Al-Hashemi, 2015), The importance of examining the content of the document to detect forgery appears from the researcher's point of view. that When the forger uses a style that is different from the style of the original person, or uses some terms or phrases within the document that were not known at the time the document was written, or mentions information within the document that lacks a date, such as mentioning an issue that occurred after the death of the document's writer, or mentions information within the document about a country that its writer had not entered before, all of these things show that what was added to the content of the document was forged by its owner.

3. Check the back of the document

The expert can examine the back of the document that has been tampered with, and make a comparison between the appearance of the two sides of the document. Examining the back of the forged document may be the deciding factor in cases where some writing has been added, due to the discrepancy between certain elements between the original writing and the added writing. These technical elements include:

1. Surface of the paper: When examining a document and there is suspicion that new writing has been added or that writing has been replaced by another writing that has been removed or erased by one means or another, and whether this addition is clearly visible on the face or was made with precision and skill, the expert can therefore support his suspicions and decide on them by transferring his examination to the back of the document, as the difference in the degree of pressure of the writing instrument and its effect on the back of the document from one writing to another, and this is considered conclusive evidence of the difference in circumstances, and that the writing was done while the paper was resting on two different surfaces, one of which is softer than the other.(Aita, 2015)
2. Ink penetration: There is a difference in the penetration of the ink in the document between old writing and newer writing. The pen used in the original writing, being old, makes the ink penetrate more than in new writing. In addition, the degree of ink penetration differs between old and new writing due to the time factor. (The Sign of God, 2003).
3. By means of a pressure-measuring device, the originality of documents can be identified, meaning that the direct line has a pen depth on the surface of the document and an effect on the hairs on its surface, while there is no pen depth in the case of documents photographed from the original.

Secondly: Actual Writing Tools

In the view of a document expert, a document is considered a complete body composed of main members, each of which has a function to perform and is linked to the rest of the members by a close and strong bond. The document cannot exist and



has no authority without the presence of these members in full, and it has no authority without the presence of these members together.

1. Paper

A successful expert can determine the period of time in which the forged document was written by knowing the paper of the document. Knowing the components of the paper, whether it is made of linen, cotton, straw, or two or more materials, and whether its manufacture is well-crafted or primitive, are indicators that help the expert determine the age and location of the document. (The Sign of God, 2003) In modern times, documents are examined in forensic laboratories to determine the chemical compounds of the paper, the degree of color, and the age of the paper by atomic examination of the carbon compounds in the paper. The thickness of the paper, its degree of color, and the watermarks on it all help in comparing the types of paper and determining the age of the document. (Dhanibat, 2003).

2. The line

It is well known that people's handwritings differ from one another due to many factors. Age, type of pen and ink, subject of writing, psychological and physical state, and other considerations have clear effects on everything a person writes in his handwriting. You will not find two people in the whole world whose letters are completely identical, although there are thousands whose letters are similar in their handwriting by agreement. However, it is almost impossible for two people on Earth to have the same letters, as a person's handwriting is considered a complete record of his personality and a mirror that reflects his character, abilities, thoughts, conscious and unconscious tendencies, and talents.

Among the signs that help in the process of detecting forgery are the type of fonts and the date of their appearance, even if from the researcher's point of view that. It is considered one of the most important signs, which is handwriting, as comparing handwriting is considered one of the basics of forensic laboratory work. (Al-Mashoukhi, 2001) Where the type of handwriting is observed in terms of the beginnings and ends of the letters and the abnormalities in it are diagnosed. (Al-Hashemi, 2015).

The researcher sees that. The expert must have good knowledge and comprehensive awareness of the science of the development of fonts, and know the methods of forgers by paying attention to the knowledge of fonts, their types and the factors affecting them, in addition to being aware of all methods of forgery first hand, especially with the modern scientific and technological development, and the innovation of new methods that are hidden from experts, and in order for the process of examining documents to be completed correctly, this process must be completed in three successive stages, which are: (The Sign of God, 2003)

The first stage: Studying the correct document, which is the basic sample, with a complete technical study. The study will be in the details and points that were included in the decision to initiate the task from the party authorized to do so; to determine the beginnings, ends, and individual written characteristics of the document owner.



The second stage: A comprehensive study of the challenged document submitted for examination, and an investigation into whether there are any effects of theoretical transfer, direct transfer, or indirect transfer.

The third stage: comparing what is contained in the correct document with what is contained in the document submitted for examination, and the comparison is between the area at the beginnings and ends and the individual linear features.

The second requirement: the process of writing the lines

The process of handwriting is at the forefront of other comparison and matching models, because if it is carried out on sound technical foundations, it completes the elements of validity for the matching process in its legal and technical aspects. Therefore, the writing process is one of the most important steps necessary to achieve the detection of the crime of forgery. It is a process that aims to obtain handwriting samples from the handwriting of the challengers, those who deny it, or those suspected of it to compare them with unknown writings. To clarify the content of this requirement, the researcher will explain it.that in two branches: defining the process of writing, and the principles of the process of writing.

Firstly: Definition of the writing process

Some jurisprudence has different definitions regarding the process of writing manuscripts, and these definitions include the following:

Some scholars of jurisprudence defined the process of handwriting as: “samples that are written under the supervision of a specialized expert. These are the most commonly used in cases of examination and comparison if they are chosen well and the correct scientific principles are followed in taking them.”(The Sign of God, 2003)Anyone who contemplates this definition will find that it limits the possibility of conducting writing samples to what is placed before the specialized expert, while it can be placed before the judiciary or the public prosecution, and thus it is correct.

Some have defined it as: “Written samples taken from the person writing based on the request of another person, such as a judge or technical expert. It is not an automatic sample, but rather comes based on the direction of another person who specifies for him what to write. Also, the person writing knows that what he writes will be the basis for a comparison process that may lead to his conviction for the crime of forgery or other.”(Al-Dhanibat, 2003)Based on this text, it becomes clear to us that if the writing process is done in front of a technical expert, it is a preliminary process that precedes the handwriting comparison process. This is not always the case, as it is possible to detect by comparison without performing the writing process, and writing can be done to directly perform the comparison process. While some jurisprudence defined the handwriting writing process as: “Obtaining a repeated written sample from the person suspected or challenging the forgery in front of the court, the prosecution member, or the document examination expert.”(Onion, 2001)The researcher sees that This definition is one of the most accurate definitions, as it clarifies all the parties before whom a written contract can be made.

Based on the above, the researcher believes that The process of writing: "is a present process that aims to obtain a multiple written sample from the person suspected or challenging forgery before the court, the public prosecution, or the specialized



technical expert. This process is carried out primarily for a comparison process that may lead to a conviction for the crime of forgery or not." It is understood from this that the writing process is carried out before the judge, the public prosecution, or the specialized technical expert in the event that there is an allegation of forgery of a document. Writing samples take precedence over other comparison models, as they are conducted on sound technical and legal foundations before an official body. Therefore, the writing process can be one of the most important steps necessary to achieve the detection of the crime of forgery.

The importance of having the opponent who disputes the validity of the document written before the court appears in the event that the two parties do not agree on the Arabic comparison papers submitted, and there are no official papers suitable for comparison. The expert may also not be satisfied with the comparison papers that the court has approved, so he requests, for technical reasons, the judge to have this opponent written so that his writing is recent or in a specific ink.(Al-Azmi, 2009)In addition, it is done under the supervision and control of the judge, and the written text is an official document.(Al-Bakri, 2005).

Secondly: The Principles of the Writing Process

The principle is that the process of writing is done before the judge, the public prosecution, or the specialized technical expert, and under his supervision. If the writing is done or the fingerprint is taken before these parties, then the document is an official document for comparison without the need for the admission of the opponents. However, if the writing is done or the fingerprint is taken outside the presence of these parties, then that paper is merely a customary paper that cannot be compared to it unless the opponent acknowledges it.(Nassef, 2011)In order for this process to achieve the goal of resorting to it, it is necessary to identify the most important conditions that must be met, with a statement of the most important steps for practicing it.

First: Conditions that must be met in the writing process

The most important conditions that must be met for the success of the handwriting process and achieving its results are the following:

1. The typist writes what the expert dictates to him, and this approach is taken in the form of models to be compared with what is After (Al-Jumaili, B.N).
2. The documents subject to forgery are adequately studied in terms of the writing material, the tools used, and the circumstances under which these documents were written. The expert then prepares and furnishes tools, writing materials, and papers that are as similar as possible to those used in the documents subject to forgery. (Al-Minshawi, 2018).
3. The writing process can be repeated more than once at different times or days until the writing achieves its goals.(Saudi, 2018).
4. Ensure the speedy completion of the application forms and other technical elements that were not available in the forms submitted to it. (Al-Jumaili, B.N.)

Therefore, the process of writing isn't considered a random process, but rather it is carried out according to fixed and organized scientific, technical and legal principles and foundations. It is also not permissible to write on a customary paper whose



authenticity is denied by the opponents, as the Egyptian Court of Cassation ruled that: “From abroad, including and remained including its loss abroad that was written before the judge through it, it is not permissible to compare it to a customary paper whose authenticity is denied by the opponent”. (Appeal No. 341 of 34Q, 1968).

Second: Steps of the writing process

To take a sample of the writing, the following must be taken into account:(The Sign of God, 2003):

1. The condition of the person being scribed: In order for the scribe process to achieve its objectives, the process of taking the sample from the person being scribed must be taken into consideration in a calm atmosphere that is appropriate to his psychological state.

The researcher sees that It is necessary to take this criterion into account in order to obtain a copywriting model that is closer to the truth. However, if the copyist’s condition is poor, this will be reflected in the copywriting model, which will be far from the truth, and thus the expert may make a mistake when conducting the comparison and matching process.

2. The method by which a writing assignment is obtained: The writing assignment process is only done by dictation, as the person being written is not permitted to view the document being examined, and is not permitted to correct spelling or grammatical errors, and his attention is not drawn to punctuation marks.

3. Matching the writing conditions to the comparison model: The writing sample is taken in the same position in which the document submitted for examination was written. If the writing in the comparison model was done while the person writing was standing, moving, or standing, etc., the writing purposes and materials must be of the same type used in writing the document submitted for examination.

As for the steps through which the writing samples are taken, there are a set of steps that must be followed, the most important of which are:

1. Studying the document challenged for forgery in terms of the type and paper of the document, the material of writing, its performance, and the circumstances under which the document was written.(Saudi, 2018).

2. The typist is given the freedom to write, and is not required to write in a specific style, on a specific topic, or to follow a specific writing rule.(Al-Shawarby, 1996).

3. The writing process is then done by dictation, without showing the documents that are the subject of the forgery to the person writing. The writing process can begin with the person writing dictating random phrases, such as: personal name or profession, then the person writing dictates the same phrases and words that are in the body of the document that is the subject of the forgery. (The Sign of God, 2003)

4. The writing is done with the hand that the person writing is accustomed to writing with, then he writes as a reserve on one sheet of paper with the hand that he is not accustomed to writing with.(Saudi, 2018)If a person claims that he has a disease in his hand, he is referred to a forensic doctor to confirm it, and the writing is postponed until he recovers.(Al-Azmi, B.N.)

5. Care must also be taken to ensure that the writing is only on the face of the paper, and not on the back, in order to determine the degree of pressure on the surface of the

paper. Five samples are taken in the case of the body of the document and ten handwritten samples in the case of signatures, and care must be taken to ensure that each sample is on a separate sheet of paper.(Runner-up, 2023).

6. The scribe finally signs it in his own handwriting in front of the judge and the expert.(Al-Azmi, B.N.)

7. If the opponent who denies his signature, seal or fingerprint on the document fails to appear in person for the writing without an acceptable excuse, he shall be sentenced to a fine not exceeding one hundred Jordanian dinars or its equivalent in the legally circulated currency. However, if he fails to appear repeatedly, it may be ruled that the attribution of the document to him is valid. If there are multiple persons to be written and some of them appear before the judge assigned to investigate and not others, then the ruling issued shall apply to all of them. (Al-Bakri, B.N.)

And The researchers believe that Good deed The legislator The Palestinian, when he stipulated the penalty for the failure of the person who denies his signature, seal, or fingerprint on the document to appear on the day appointed for writing, in order to control matters and not to use forgery as a pretext to challenge forgery without justification, to obstruct the trial procedures and waste rights.

It is worth noting that there is no legal text that obliges the judge, while conducting the process of assigning the opponent's handwriting, to seek the assistance of an expert. In this regard, the Egyptian Court of Cassation ruled that: "There is nothing in the texts of Articles 264-266 of the Code of Civil Procedure that requires the handwriting to take place in the presence of the expert appointed to conduct the comparison, otherwise the handwriting would be invalid. Rather, the text of Article 269/3 of the Code of Civil Procedure is explicit in stating that the handwriting, signature or fingerprint written in front of the judge is acceptable for comparison in the event of disagreement between the opponents, and this article does not require the presence of the expert to conduct this handwriting."(Cassation No. 149 of 201739, 1968).

III: The Process of Matching Fonts

The principle is that if a document is denied, the burden of proof falls on the opponent, who in this case has the right to resort to taking handwriting comparison procedures. The subject of handwriting comparison may take the form of the original lawsuit, i.e. without there being a lawsuit filed on the subject of the right established by the document. Handwriting comparison may be resorted to in a lawsuit between the opponents, and one of them relies on a document he submitted to prove his right. In order to squander its evidence, the other opponent has the right to claim forgery in the form of a subsidiary lawsuit.

The court may order a comparison of handwriting based on documents, witness testimony or an expert, and the file must be notified to the Public Prosecution to submit its written requests and documents that can be compared.(Ben Tabbal, 2014)To clarify the content of the handwriting matching process, we will discuss it in detail in three sections: the concept of the handwriting matching process and its origins, the results of the matching and its evidentiary force, and the regulation of the handwriting matching process by Palestinian law.

The first requirement: The concept of the font matching process and its origins
The principle is that the process of comparing handwritings is a process based on scientific foundations. It is not considered a random, diligent process that aims to know who wrote the handwritten documents. The matching process is based on a basic rule, which is that the handwriting features and characteristics found in one person's handwriting cannot be found together with all their general and specific characteristics in another person, regardless of the relationship that links them. Each person has his own individual writing, and the forger is often keen to show the similarity between the copy and the original.(Al-Shawarby, 1996) Sometimes, he is forced to present the correct original model from which he copied it, so that it may be evidence of the validity of his defense. To explain this requirement, we will explain it in two branches: the concept of the process of comparing handwritings, and the principles and means of conducting the comparison.

Firstly: The Concept of Font Matching Process

The process of font matching has a linguistic and technical definition, which are:

First: Definition of emulation in language

Comparison is defined as comparison, similarity, and likening one thing to another.(Saudi, 2018) Comparison also means knowing the extent of similarity and difference through accurate comparison.(Ibn Manzur, 1986).

In language, comparison means comparison.(Nassef, 2011) It is also known in the language as: derived from the verb (to compare), it is said: he compared him: he resembled him and did something like his action.(The Mediator, 1972).

Second: Definition of emulation technically

Jurisprudence differed in giving a definition for the process of matching handwritings, including:

Some jurists have defined comparison technically as: "A set of procedures established by law to prove the validity of a customary document created by the person attributed to it, and the investigation of comparison is carried out by experts in handwriting."(Salty, 2015). The observer of this definition finds that it links the comparison of handwriting to the customary document rather than the official document, and this contradicts the principle that it is permissible to challenge forgery with customary documents and official documents. Some have defined it as: "Comparing the handwriting, signature or thumbprint of the person to whom the document that he denied is attributed with similar documents or papers specified by law to determine whether they are similar or identical to what is written on the claimed document or not."(Saudi, 2018) It is noted that this definition limits comparison to customary documents in the event of their denial, and a set of conditions must be met in the comparison models, in addition to the fact that the results of comparison are different and are not limited to similarity and conformity only.

Others defined the process of comparison as: "A set of procedures established by law through which the person holding onto a customary document can prove its validity if the person to whom it is attributed or his successor denies it."(Wawy, 2019) It is noted from this definition that it restricts the process of comparing handwriting to customary

papers and nothing else. Denial of handwriting, seal, signature or fingerprint applies to customary documents, while the claim of forgery applies to all official documents and others. The definition of matching has also been addressed by some jurists as: “Examining the handwriting, signature, signature or fingerprint that has been denied and comparing it with the correct handwriting, signature, signature or fingerprint of the denier based on other valid documents or documents recognized by the two parties.”(Ben Tabbal, 2014)Although this definition is considered one of the closest definitions to the truth from the researcher’s point of view that ,However, adding the phrase “other valid documents” is not clear, whether they are official documents or not.

From the previous definitions, the researcher sees that The process of comparing handwriting is: “the process of comparing the handwriting, signature, fingerprint or seal attributed to the person who witnesses the document that meets a set of conditions for a handwriting, signature, fingerprint or seal fixed to him.” The process of comparing handwriting is based on the comparison elements found in the fixed documents in the case file, which were obtained either from the concerned parties or others. The judge can order the opponents to appear in person and hear the witnesses or hear the writer of the document.(Abbasa, 2021).

The court must exert its utmost efforts to carry out the process of comparison and writing, as the court’s keenness to reach the truth is legally an essential part of its duty, as the Court of Cassation ruled that: “Whereas it is the court’s duty to exert its utmost efforts to verify the matters that it deems necessary to clarify matters before it in order to adjudicate the case in a fair and sound legal manner, and the court’s decision to conduct the writing and comparison aims at this and falls within the framework of this concept, as the court’s keenness to reach the truth is legally an essential part of its duty.”(Jordanian Court of Cassation Decision 2003/743).

Based on the above, a set of conditions must be met to carry out the matching process, the most important of which are:

1. Challenging the forgery, or denying the handwriting, signature, seal or fingerprint of the person against whom the document was objected to, or his successor or representative.
2. The document must be productive in the lawsuit.
3. The facts and documents of the case are not sufficient to prove the authenticity of the handwriting, signature, seal or fingerprint, or its inauthenticity. In this case, the court orders the appointment of an expert to carry out the handwriting comparison process.

The matching process is based on a scientific fact that states that the characteristics and handwriting features found in one person’s handwriting cannot be found together with all their general qualities and special elements in another person, regardless of the relationship that links these two people, and that each person has his own individual writing that distinguishes him from other people.(Al-Shanouji, 2009).

The court may, even on its own initiative, conduct the comparison itself, if it becomes clear to it from its condition or from the circumstances of the case that it is forged, as the Egyptian Court of Cassation ruled that: “The judge of the subject matter may base

his ruling on the validity of the document on the result of the comparison that he conducts himself without seeking the assistance of an expert, because the judge is the highest expert with regard to the facts presented to him, and it is of no use in this regard for there to be a previous decision to appoint an expert to conduct the expertise, because the expert's opinion is advisory in all cases, and the court is not obligated to seek the assistance of experts, but it may seek to clarify the truth itself, whether the path is easy or difficult.”(Egyptian Cassation No. 149, issued on 5/12/1966).

Accordingly, if the court conducts the comparison itself, then in this case it is not obligated to observe the provisions stipulated in the Evidence Law regarding expertise, and therefore the court is not obligated to write a report on what it has seen or to call the parties before conducting the comparison.(Al-Bakri, B.N.)In this context, the Egyptian Court of Cassation ruled that: “There is no blame on the court of subject matter if it conducted the comparison in the forgery case itself without seeking the assistance of an expert, as the judge may base his ruling on what he himself observes in the papers challenged for forgery, because he is the highest expert with regard to the facts of the case before him. This is not limited by the fact that there was a previous decision to appoint an expert to conduct the comparison, as the expert is considered a consultant in all cases, and the court is not obligated to seek the assistance of experts, but it may seek to clarify the truth itself, whether the path is easy or difficult.”(Cassation No. 168 of 19 in the session of 1/14/1951 AD).

In the event of disagreement between the opponents, only the following shall be accepted for comparison:

1. The handwriting, signature, seal, or fingerprint placed on official documents.
2. The part of the document that the opponent acknowledges as valid is subject to verification.
3. A person's handwriting or signature that he writes before the court or the fingerprint that he makes before it.

Therefore, the documents that are acceptable for comparison and stipulated in the article are included in an exhaustive manner, not as an example, and therefore it is not permissible to expand on them or draw analogies from them. It is not permissible to compare a customary paper whose validity is denied by the opponent. The Egyptian Court of Cassation ruled in a ruling that: “The rule established by Article 269 of the Code of Civil Procedure regarding the statement of the papers that are acceptable for comparison is a fundamental rule that must be observed in the event of conducting an investigation by comparison with the knowledge of experts, and it is not permissible to expand on it or draw analogies from it. Therefore, nothing is acceptable for comparison except official or customary papers that are recognized or those that were written before the judge. Therefore, it is not permissible to compare a customary paper whose validity is denied by the opponent.”(Cassation No. 1341 of 34 Q, Session 1/11/1968 AD).

The judge must compare the handwriting based on the comparison elements in his possession. He may, if necessary, order the parties to submit documents that allow for comparison. The clerk shall prepare a detailed report on the apparent condition of that

document, and the judge himself shall sign it to prevent it from being altered. It shall be kept in the investigation department or the court registry.

The researcher sees that The judge must indicate the documents approved for comparison, to clarify the expert's task and to prevent his replacement as well. They are kept with the disputed document or he orders them to be deposited with the clerk of the court to be withdrawn by the appointed expert in exchange for his signature of receipt. The researcher can suggest that A legal text in this regard states: "The judge shall sign the documents approved for comparison, where he shall keep them with the disputed document or order them to be deposited in the registry office to be withdrawn by the appointed expert when he commences his mission against his signature of receipt."

Section Two: Principles and means of conducting comparison

The process of matching and comparing handwritings by experts is based on a scientific principle that says that the handwriting features found in other people's handwritings cannot in any way be found together in another person's handwriting, regardless of the relationship between these people.

First: Conditions that must be met to implement the matching process

To complete the font matching process, the expert must examine the documents to verify that legal and technical conditions are met in these documents. The most important of these conditions are:

1. The matching documents must be official or customary, and the parties to the dispute must acknowledge their validity and agree on their suitability for the matching process.(Saudi, 2018).
2. The matching papers must also contain the linear formations present on the papers of unknown authorship, such that the linear formations referred to must be present in a repetition that allows the examining expert to trace the movements of the letters.(Mishmesh, 2011).
3. The expert must also check the writing style, which includes studying the margins of the lines of writing, studying the space occupied by each repeated word, studying the position of the syllables, and the path of the pen in writing the letters that make up the syllables and words, such as the method of forming the dot and its shape.(Shnior, 2005).
4. In order for the handwriting matching process to achieve its results, the expert must verify that the writing conditions are relatively similar, i.e. that the matching papers are written with a tool, material and writing conditions similar to those used in the documents whose authenticity is being challenged.(Sins, 2003).
5. According to the previous condition, it is known that people's handwriting changes from one time period to another according to the time influences that its owner goes through, from experiences and influences that affect him, especially what he witnesses of change in his physical, mental, scientific and health abilities, and all of these contribute to changing his writing patterns. Just as a person's personality changes from childhood through manhood and then old age, each of these stages has its own different writing personality.(Mishmesh, 2011).



The researcher sees that The best samples for comparison are those described as spontaneous, contemporary, and multiple of the documents to be examined. The more multiple the comparison papers are, the better the result he will reach in his work. Contemporary samples are also more stable to the artistic characteristics of people's handwriting.

Second: Steps to perform the font matching process

Before starting the matching process, the technical expert must take into account a number of matters, the most important of which are: (Aita, 2003)

1. Language: Every language in the world has characteristics and features that distinguish it from other languages, and the Arabic language also has characteristics and features that distinguish it from other languages in the world. One of the most important features of its Arabic writing is the large number of syllables. Therefore, it is preferable for the expert who conducts the comparison process in documents written in the Arabic language to be an Arab because he is more capable of studying Arabic letters, syllables, and is familiar with their characteristics and features than the foreign expert.
2. Profession: A person's profession affects his/her linear characteristics and features. There are linear characteristics shared by those who share the same profession, as a result of the similarity of the intellectual and cultural level, and even the terms used are almost the same.
3. People: Every people has characteristics and linear features that differ from other peoples.
4. The idea: A person's familiarity with the idea he wants to write about and the sequence and organization of his thoughts greatly affects the form of the writing. If a person is confused and unfamiliar with the subject of his writing, a lack of coherence between the written phrases will appear.

The researcher sees that It is necessary to take into account the age or what is known as the age stage of the person before starting the matching process, especially since the handwriting is greatly and clearly affected by the age stage, especially if the documents lose the element of temporal contemporaneity, and this problem appears if a document of an elderly person suffering from neurological problems in the limbs after his death is compared with a document showing his handwriting before this period by a period of time exceeding twenty years. The writing conditions surrounding the writing process can also affect it, as some people are usually accustomed to certain conditions, so any change in the writing conditions can affect the form of the writing, and the health condition of the person also affects the matching process, as a healthy person is different from a sick person, as the handwriting of the former is characterized by naturalness and fluidity, while the latter is characterized by disorder, vibration, and lack of harmony between the shape of the letters and the spaces separating the words.

After the expert has fulfilled all legal and technical requirements, he conducts the comparison process according to the following steps:

1. The expert carefully studies the documents submitted for examination to extract their written characteristics and features, photograph them, and store them away from the hands.(The Sign of God, 2003).

In this regard, it must be noted that the judge is not obligated to accept for comparison every document that is suitable for comparison, as he may exclude it if there are other documents that are sufficient for comparison. However, if he refuses to compare one of the official or customary documents that are agreed upon or recognized, the reasons on which he based his ruling in exercising his right to refuse must be valid and logical.(Al-Bakri, B.N.)

2. The same study is conducted on the phrases recorded in the matching models.(Saudi, 2018)This study is conducted from three aspects:

- Spelling study: This study is done by looking at the extent to which words are free of spelling errors and the extent of their repetition, if any.(Onion, 2001)
- Studying the linguistic and aesthetic aspects: This is done by including the study of the extent to which words, sentences and expressions are free of linguistic errors and the extent to which these errors are repeated as well.(Onion, 2001).

3. Compare features and characteristics with lines to show the relationship between them.(Saudi, 2018).

It is good that the Code of Criminal Procedure stipulates that a document claimed to be forged must be handed over to a third party. The law obliges anyone who has a document claimed to be forged to hand it over to the competent authority if a decision is issued to that effect by the court or the public prosecutor, otherwise he will be subject to the penalties stipulated by the law. This alleviates the suffering of litigants who face great difficulties related to their inability to force others to present the documents in their possession except with the existence of such a text.

Third: Judicial applications

In the context of the technical and legal origins of the font matching process:

1. The Court of Appeal held in Ramallah ruled that: (rule)MThe Court of Appeal held in Ramallah No. 722 of 1999, Decree dated 14/1/2001, Criminal Appeal (99/722): “As for the oral evidence presented by the prosecution, in addition to these documents, it is represented by the testimony of the complainant and his two brothers and the testimony of the handwriting expert. As for the expert’s statements contained on pages 80-86 of the trial record, as well as in the report prepared by him, Exhibit S/2, upon reviewing what was stated in those statements and what was stated in the aforementioned report, we find that what the expert stated regarding the signature attributed to the appellant on Exhibit S/1 cannot be considered a conclusive statement that constitutes certain evidence that can be relied upon, since by referring to the testimony of the expert A.A., it became clear from his testimony that he is ninety-five years old, and you find him saying, “The summons submitted to the court contains a clear signature and above it a suspended signature, and there is no suspended signature in Exhibit S/1.” The word Nasser in the writing does not exactly apply to the word Nasser in Exhibit S/1, as well as in the paper “Comparison”: “Exhibit S/1 on which the writing was conducted is an exact copy and not the original, and there is no difference between the copy and the original in conducting the expertise and



comparison. The gap in the letter ‘ayn’ in the word Masoud is completely clear to me. Then he returned and said after using the magnifying glass that the gap is not clear and the letter ‘ayn’ in the word Masoud is clear, with the exception of the word Masoud in No. (2), which is blind, and that each of the letters examined has importance, including the letter ‘ayn’, as we find him saying through his testimony on p. 83, “The letter ‘sheen’ in the word in exhibit S/1 is redundant, and in the writing in No. (7), there is also redundant.” The professor can write in more than two or three forms, and there is a small cavity in the letter (d) in the word in exhibit S/1, and in the writing, “The word in the writing is deep, but in the summons submitted to the esteemed court it is not deep.” These are some of the statements made in the testimony of expert A.A., which show that the signature attributed to the appellant on exhibit S1 does not completely match what the aforementioned expert did in the writing and comparison processes in this case. Also, by referring to his report presented 1/2 dated 15/3/90, we find that it includes the following: 1- The angles of the denied signature in exhibit S/1 in the word Nasser are obtuse, and in the writing and summons, they are sharp, which I think was intentional on his part. 2- As for the word Masoud and Shennar, every letter and dot that connected the letters to each other matched, especially number (4), and even the dot of the letter Nun in Shennar was vertical, and the side of the letter D in the word Masoud was in agreement, and the dot of the letter Mim in Masoud and the dot of the letter Ain matched their counterparts in exhibit S/1.

As for the ruling, which we see in light of what was stated in the expert’s testimony and report, it is tainted with clear doubt and therefore is not sufficient to prove the fact that the appellant signed Exhibit S/1 and is not conclusive in proving the fact of forgery attributed to him, in addition to the absence of any evidence of the availability of the elements of the other charge, which is the charge of fraud also attributed to the appellant, which is why we find that the conciliation judge made a mistake in weighing the evidence presented in the case and he should have decided to acquit the appellant of the two charges attributed to him because they were not proven with conclusive evidence.

As for the dissenting opinion of the judges, although I agree with the respected majority regarding what was stated in its decision regarding the charge of fraud attributed to the appellant, and another, I disagree with it regarding the second charge, which is forgery, and I see that what was stated in the complainants’ testimony that the land is still registered in their name with the Finance Department does not help the appellant who was proven to have committed the crime of forgery in Exhibits No. 3 and S/1. By reviewing what was stated in the testimony of the expert A.A., who was appointed by the court to carry out the task of writing and comparison after the two parties to the lawsuit disagreed on naming him a handwriting expert to carry out the task of writing, and as is clear from the seventy-first deal of the record and what was stated in his testimony on the eightieth page of the trial record, where he said, “I say with full conviction and confidence that the denied signature on Exhibit S/1 is in the handwriting of the professor,” and this is what was also stated in the expert report that Exhibit S2 submitted to the court, after he compared this signature with another



proven signature of the appellant, and I find that these statements are not flawed by being issued by a person who has reached the age of ninety-five if we take into consideration what was stated in the statements of the witness A.M. J, who was a student of the expert, stated in his testimony on page one hundred and seventy-four of the record and beyond, and he is a defense witness for the appellant and will work in the field of handwriting expertise, the following: The expert A.A. was doing his work until he reached the age of ninety-five and he maintained his mental faculties, and the expert must submit his report after he has become convinced.

Accordingly, and since the technical report issued by the expert A.A. was conclusive that the appellant had forged the documents attributed to him, I therefore decide to uphold the appealed decision, which includes convicting the appellant of the charge of forgery attributed to him and invalidating the two powers of attorney.

2. The Algerian Supreme Court ruled in its decision, saying: “It is legally established that forgery in the present case is a technical matter that requires special skill to examine.”

3. The Court of Cassation also ruled that: “Whereas the court, based on the request of the appellant’s attorney, conducted a technical expertise on the data and signature on the cheque by writing and comparing, and the result of the expertise showed that the signature with its suspended part affixed in the drawer’s column belongs to the appellant, Imad, and thus the cheque is evidence of what it contains against the appellants in accordance with the provisions of Article 11 of the Evidence Law, and since there was no evidence to prove that the defendants paid the value of the cheque, their liability towards the plaintiff is occupied with the value of the cheque, which is the claimed amount.”(Jordanian Court of Cassation Decision issued by the Regular Panel No. (2017/282) decided on 3/21/2017).

4. The Court of Cassation also ruled that: “In light of this, the Court of First Instance decided to conduct the expertise requested by the attorney of the defendant against whom the appeal was filed, and his attorney requested an extension in order to bring him (i.e. the plaintiff)

The defendant appealed against him in order to conduct the required expertise, and the expert submitted his report, which stated that the denied signature, with its two parts, the open name in the defendant’s handwriting, and the plaintiff’s representative had requested that the technical expertise be conducted by comparison and writing on what the defendant had denied, and the court decided to respond to his request and conducted an expertise with the knowledge of three experts, and their report stated that the signature in the open part, which reads (Ibrahim Arheel Awad), is a valid signature written in the handwriting of the defendant Ibrahim Arheel Awad and belongs to him.(read Court of Cassation issued by the regular body No. (2016/167 Chapter 2016).

Secondly: The results of comparison and its evidential strength

The relationship between the judiciary and the expert is one of cooperation and mutual support, the aim of which is to achieve a fair trial by facilitating the implementation of his mission, removing the obstacles that hinder him and removing the obstacles that hinder him during the completion of the task assigned to him. The



selection of the expert is of course based on his scientific or technical capabilities, and his mission is limited to expressing his opinion on the technical issues specified to him by the judge and that have nothing to do with the law. He enjoys independence in completing his mission and is subject only to his professional conscience and technical information. To clarify this requirement, we will discuss it in research and detail in two branches: the results of the handwriting matching process, and the evidentiary force of handwriting matching.

Section One: Results of the Font Matching Process

Upon completion of the font matching process, a set of results will result, the most important of which are:

1. The complete agreement between the writing being compared and the writing contained in the comparison models in all steps, and in all general and special features, meaning that they belong to one person, the owner of the handwritten model (Hanna, 2011).
2. The difference between the writing that is being compared and the writing in the comparison models, even in one feature, meaning that the handwriting of each one is different from the other (The Sign of God, 2003).
3. The correspondence between the writing that is being compared with the writing included in the comparison models, which is the complete agreement in the general and specific features, i.e. the agreement in the beginnings and endings and the pen movements and their dimensions, despite the multiplicity of letters and their dots and syllables, and the correspondence in this image is largely inconsistent with the individuality of handwriting, and in this form it does not occur between two writings in the natural way, but this correspondence, if it exists, indicates that the will intervened in writing at least one of the two writings, either by transfer or by rinsing..
4. The similarity between the two writings is often in the general characteristics of the writing and does not extend to the specific individual characteristics, such as the similarity between people of the same profession. Confusion between the general characteristics and the specific individual characteristics may lead the expert to make a mistake and attribute a writing to someone other than its writer simply because there is a similarity. (Al-Shanouji, 2009).

Section Two: The evidential force of handwriting comparison

The application of the comparison and the implementation of its procedures by the technical expert entails the preparation of a report in this regard. Since the expert's report is considered an official document, it has the force of official documents in proof. Therefore, it is not permissible to prove the opposite of what the report contains of facts that the expert has established or learned within the limits of his jurisdiction except by way of challenging forgery. This conclusiveness does not extend to the statements made by the opponents and the conclusions and opinions drawn by the expert. Rather, they may be refuted by all means of proof. (Heikal, 2007).

The expert report is considered evidence of proof, as it is presented to the opponents for discussion, objection, response and comment, and therefore it is subject to the discretionary authority of the judge. The expert's opinion does not bind the court, but it is guided by it, as well as the information contained in his report. The court may



accept it, and it may rule otherwise. The court of subject matter, within the limits of its discretionary authority, may accept the expert's report in its entirety or some of what it contains and reject some of it.(Harjah, 2012).

The Egyptian Court of Cassation ruled that: "The court of subject matter is not bound by the opinion of the expert it appointed to prove the case in the case of the alleged forgery, which is likely to take a long time, while it may take it at a later time, as it expected it to lead to the result it reached." The Qatari Court of Cassation also ruled in this regard that: "The court of subject matter has full authority to collect and understand the reality of the case and evaluate the evidence presented in it, including the expert's report, which is an element of proof in it, subject to the authority of the court of subject matter to evaluate it and accept it when it is convinced of the sufficiency of the research conducted by the expert and the soundness of the foundations on which his report was based."(Qatari Appeal No. (57) of 2007, in the session of 1/1/2008).

Thirdly: Regulating the Palestinian legislation for the process of matching fonts

There is no doubt that the phenomenon of forgery in official documents is a crime that threatens the stability of official transactions, which in turn is reflected in the legal stability in all societies, including Palestinian society. Therefore, it has become necessary to confront this phenomenon and reduce it as much as possible by finding serious and effective methods that contribute to preventing and combating forgery in official books, especially since the crime of forgery has become predominantly international in nature due to its being committed by individuals or by international gangs under the name of organized crime. For all of the above, Palestinian law has been interested in regulating the issue of forgery, expertise, and the process of comparing handwritings. This necessitated that we clarify the legal organization and shortcomings in the provisions of the law. To clarify the content of this requirement, we will address it through research and analysis in two branches: regulating the work of the technical expert in Palestinian legislation while carrying out the process of comparing handwritings, and the shortcomings contained in Palestinian legislation.

Section One: Organizing the work of the technical expert in Palestinian legislation during his direct implementation of the handwriting matching process

First: Legal rules

The Palestinian Evidence Law No. (4) of 2001 organized the general provisions in organizing the work of experts, as it addressed the cases of ruling to appoint an expert, select him, and assign him to provide technical advice, whether oral or written, and the effect of failure to deposit the trust by the opponent assigned to deposit it, and his right to review the case file and its grounds, and the expert's swearing of the legal oath if the expert's name is not registered in the roster of experts, in addition to the case of the expert's request for exemption from performing the expertise, and the effect of his failure to perform his task, and the case of requesting expertise from a legal person, in addition to mentioning the cases of rejecting the expert, and his recusal from performing the task assigned to him on his own, and the date of submitting the rejection request, and the case if it is submitted after the expiry of the



deadline, and the prohibition of requesting the rejection of the expert appointed by the requester of the rejection, and the cases of considering the rejection requests and the decision issued therein, and the date of starting the expert's work and inviting the opponents to start the expertise procedures, and the Evidence Law also addressed the procedures for the expert to implement his task even in the absence of the opponents, which are general procedures suitable for all types of expertise, and the expert's authority to review the papers of the bodies Ministries, companies, cooperative societies and individual establishments. It also discussed in detail the data that must be mentioned in the expert's minutes of work and his report and the date set for that, and the case in which the expert is late in submitting the report and discussing it by the expert. The law also discussed the judge's discretionary power to use the expert's report and the extent to which the court is bound by the expert's opinion. It also clarified how the expert's fees and expenses are estimated, and how to appeal the estimation order.

The same law also addressed the issue of proving the authenticity of documents, as denying the handwriting, seal, signature or fingerprint applies to customary documents, while claiming forgery applies to all official and customary documents. It also addressed the conditions that must be met to carry out the handwriting comparison process, the most important data that must be included in the case report regarding the document required to be compared, and the contents of the decision to appoint one or more experts, in addition to the fact that the law specified the models of comparison exclusively and not as an exception. It also addressed the issue of obtaining official documents as models for comparison, the validity of documents challenged for forgery, and explained the penalty for the defendant with the forged document failing to appear in court at the specified date.

The regulation of this process was not limited to the Evidence Law, as the Criminal Procedures Law No. (3) of 2001 addressed its regulation, as it stipulated the procedures for organizing a report on the apparent condition of the document claimed to be forged, and it also regulated the issue of whether the document is in the possession of a third party, in addition to giving the court discretionary power to refer the document suspected of being forged to conduct a comparison process on it, and it also determined the validity of the official document that proves its forgery..

From the above, it becomes clear to the researcher that the comparison procedures in Palestinian law begin with the appointment of one or more experts by a court decision. The day and hour in which the investigation will take place are determined, and the document to be compared is deposited in the court after the judge signs it, with all its descriptions sufficiently stated in the case record. The expert must take an oath before carrying out the procedure and practicing their work honestly and faithfully if he is not listed in the list of experts approved by the Ministry of Justice. The law has specified the documents that are acceptable for comparison, which are as follows:

1. The handwriting, signature, seal or fingerprint placed on official documents.
2. The part of the document that the opponent acknowledges as valid is subject to verification.

3. His handwriting or signature that he writes before the court or the fingerprint that he prints before it.

The court shall compel the opponents to appear before the court to write on the specified day. If the opponents do not appear on the date without an excuse, they shall be sentenced to a fine not exceeding one hundred Jordanian dinars. If they fail to appear again, the court shall rule that what is attributed to them is true.

If the opponents or the expert are unable to bring the official documents required for comparison, the court may order them to be brought, and the court president, the clerk of the session, and the employee who delivered the original shall sign them until they are returned. The court may move with the expert to the location of the official documents to review them, and the comparison shall be conducted in the location where the documents are located. Based on the comparison procedures, a technical report shall be prepared in which all the procedures taken by the expert shall be mentioned, where he shall decide whether the handwriting, signature, or fingerprint is attributed to him or not, stating the reasons for which he reached the result of his report, then he shall sign it and submit it with the disputed document to the court.

After the report is submitted to the court, the opponents are notified of a copy of it, and it is then read out publicly in the session. The court may, on its own initiative or upon the request of the opponents, summon experts to discuss the report it has prepared. The court may decide to return the report to complete the deficiency or return the task to other experts who are elected. The person who presents the document in which the handwriting or signature is denied must pay in advance an amount sufficient to cover the costs of the investigation and comparison.

Second: Technical rules

There are technical rules that are added to the legal rules.(Taieh, 2022), which is characterized by the technical expertise required by the judiciary and the investigating authorities to reach the truth that is unique to the provisions of technical expertise. The task of detecting forgery in Palestine is carried out by a highly experienced and skilled human cadre, which carries out its work according to a studied and specific mechanism subject to the strategy and directions of the Criminal Evidence Department at the Ministry of Interior, according to a unified procedures manual that organizes the work and its completion accurately and according to a studied methodology, as the process of detecting forgery requires a period of time of approximately two weeks and perhaps more of great work and effort, for experts to seek the assistance of other parties for proof, such as verifying the authenticity of a signature of a deceased person, which forces the expert to extract old papers bearing his signature to compare them.

Since the majority of forgers are from the educated classes, handwriting and matching experts may be keen to hide the methods of the artistic work they perform; for fear of the formation of a criminal culture in the forger, and thus the difficulty of detecting forgery in cases that were easy to identify due to the invention of new methods and means that are hidden from experts, through which errors and signs are avoided through which forgery can be detected by normal methods.



Through the researcher's procedure that Several meetings with technical experts in this field indicated that the beginning of the matter is through an assignment by a judicial decision, whether military, civil or criminal, or through a decision by the Public Prosecution to take measures to uncover the forgery contained in certain documents. In this case, the expert is bound by what is stated in the judicial or prosecution decision without going beyond it, as the judge indicates the disputed document, as well as the documents that he deems useful for conducting the comparison by the appointed expert, then he takes over the technical matter until the expert report is prepared. At the beginning, the document is reviewed initially, as forgery can be uncovered by uncovering the forgery defects, the most important of which is proving the following:

1. Document lines are not aligned horizontally and vertically.
2. The deviation of some letters from their usual position, to the right or left, by measuring the degree of inclination of letters and words.
3. Disturbance in the distance and lack of parallelism of the added words.
4. Note the punctuation, shape and size of the letters.
5. Check the margin space on each page to see if it is equal or not.
6. Check whether the space between words is equal on all pages or not.
7. Check the placement of commas and excessive extension in words.
8. Check the type of paper. Is it of the same type?
9. Examine the nature of the tool used, whatever it may be, whether it is a pencil, ink, ink, or colored pencil.
10. Check for changes in page numbers.

The examination may be done using physical or chemical means, and determining whether the tool used was one or more than one tool used in writing the documents, and the extent of the technical and material evaluation of that with respect to the content of the document. If the expert cannot perceive the difference in the tool used between the original writing and the forged writing with the naked eye, he must use scientific and magnifying devices such as ultraviolet rays and magnifying lenses.

The expert also examines whether all the phrases, numbers or signatures of the document were written at the same time or at different times. He also verifies the consistency between the lines and phrases of the document and the spaces between words, phrases and lines, and whether they are consistent or inconsistent, and whether the margins are regular or not. If there is consistency and regularity in the dimensions, straightness and alignment, then there is no suspicion of forgery, while if there is inconsistency, then this may be a sign of forgery.

Section Two: Deficiencies in Palestinian Legislation

First: The law allows for the appointment of more than one expert to give a technical opinion to the court, without specifying the extent of the judge's authority to compare between the experts' reports. (Jassim Al Thani, 2011) In the absence of a text governing this, the researcher returns that The general principle is that the judge of the subject matter has discretionary power in this area. In this context, the Qatari Court of Cassation ruled that: "The subject matter court has full authority to obtain an understanding of the reality of the case, assess the evidence presented therein, balance

it, and take what it is satisfied with from it, including expert reports. It may take what the expert concluded in his report if it finds in it what convinces it and is consistent with what it sees as the right aspect of the case, as long as it is based on what has a basis in the papers and leads to the result it reached.”(Court of Cassation ruling in Appeal No. 115 of 2008, session 12/2/2008).

Second: The law was devoid of any legal text that addresses the issue of the judge’s authority regarding the management of documents kept in the registry office. The researcher suggests that: that There is a legal text in this regard, which states that: “The judge orders the necessary measures to be taken to preserve the documents and review, copy, return or re-insert them.”

Third: The law did not include any text giving the judge the authority to decide on any incidental problem related to handwriting comparison, especially problems related to determining the documents approved in the comparison process. Therefore, the researcher suggests: that A legal text was issued in this regard, stating that: “The judge shall be presented with the problems of implementing handwriting comparison, especially those related to determining the documents approved in the comparison process, and he shall decide on that once the file is marked, and the ruling shall include it later.”

Fourth: Despite the independence of the expert, he remains subordinate to the judicial authority that has delegated him to assist it, which requires him to adhere to the points specified for him by virtue of the decision appointed by it, without giving an opinion or statement on a matter not included in this mission. Therefore, the responsibility that the expert assumes while performing his duties is a grave responsibility that requires him to display a great deal of objectivity and to carry out all necessary investigations before arranging the results from the data available to him.¹And the one who

¹This is what leads the researcher. That To ask the question, can a forgery and counterfeiting examination expert make a mistake in examining a signature for reasons or technical errors or lack of experience (good faith)? The basic principle is that the expert may make a mistake in examining a signature and give an incorrect result, due to the following reasons: Writing the signature by hand does not take a single fixed pattern that is identical in all the person’s signatures, and writing is affected by the person’s psychological state, writing speed, type of writing tool, and the person’s situation, which are called writing conditions, as previously explained by the researcher.thatThis change in signature style is not very significant, but in any case, all fonts and signatures share the same characteristics and features that distinguish one person’s signature and font from another.

Except that there are some linear formations of words with many letters and are difficult to form, and it is rare for two of them to be similar in writing, such as: compound words and words with a long chain of many letters, and these words are difficult to imitate, so examining and comparing them is easy for the expert and experts rarely disagree on them.

There are some words whose written compositions are simple and easy to form, and their writing may be similar to that of more than one person, such as words. In addition, there are some other influences that may affect the expert’s opinion when examining a person’s handwriting. He may not have sufficient matching papers contemporary to the signature being examined, and many people tamper with and change their handwriting when writing. Some of them do not provide papers for matching or provide artificial matching papers. Here, the

contemplates the text of the law finds that there is no text that imposes responsibility on the expert when he makes a mistake in bad faith. Therefore, the researcher suggests that The law includes a legal text stating: “The liability of the expert is proven in bad faith.”

IIIIV: The extent to which an information document is valid for being the subject of a forgery crime

In this research, we will examine the validity of information documents as evidence for the crime of forgery, and this will be the starting point to delve deeper into understanding the concept of the editor in the context of the traditional crime of forgery. We will discuss the conditions and criteria that must be met by the editor in order for his document to be subject to accusation of the crime of forgery. In addition, we will evaluate the extent to which the traditional editor’s concept matches information documents. This research is divided into two parts; the first focuses on clarifying the concept of the editor in the context of the traditional crime of forgery, while the second part deals with evaluating this concept in relation to information documents”¹.

Firstly: the nature of the document in the traditional crime of forgery

It is generally accepted that any tampering or alteration of fact is not considered forgery unless it occurs in an official document, instrument or any similar document. Here, the term “editor” refers to the person who creates or edits such documents. In other words, the editor is the person who causes the tampering or alteration to be introduced into the document, and this is the essential aspect that must be present for the document to be considered the subject of the crime of forgery.(Abu Amer, 1988).

First / Definition of the editor

Several definitions of the concept of the editor have been presented, including that it can be depicted as any written or document that carries expressive signs that form a set of meanings and ideas, and it is also defined as a person or a specific group who creates this written and adds signs to it that give it a clear and coherent meaning. Regardless of the definition of the editor that is adopted, it appears that this concept is not subject to the crime of forgery unless it has two basic elements: the formal element and the substantive element(Tamam, 2000)

Second: Editor's elements

The previous definitions require that the editor must include two elements:

The formal element of the editor requires that there be clear and recognizable writing in the document. This writing can be in any language, and also includes symbols and signs that carry a clear and coherent meaning. Writing can include all forms of documents, whether they are composed of letters, symbols, or even data stored on computers. The most important thing is that this writing appears clear and understandable.

expert is deceived by such influences, and all of this may lead the expert to make a mistake in good faith.



As for the source of the editor, its source must be apparent in the document. An unknown or anonymous editor is not recognized, as the reader must be able to determine who composed or modified the document. The original editor is considered the person who dictated it himself, while the substitute editor is another person who represents him. In the event that the source of the editor cannot be identified in the document, such as complaints or grievances that do not show their specific identity, such documents are usually not considered subject to the crime of forgery.

Third: The objective element

The editorial element is manifested in the presence of clear content in the document. This means that the editor must contain a narration of a certain fact or an expression of will or desire, so that there is a set of interconnected meanings and ideas. In other words, the editor must carry relevant content and be an integral part of the document. In addition, the image related to the editor must be a necessary and essential part of the document. This means that the image must be integrated with the editor and naturally linked to it, and not just an attachment included separately. This image can be part of the editor itself and be stamped or clearly linked to it. The image must be an integral and complementary part of the document and be organically linked to it. Regarding the legal nature of the image related to the editor, this image can be of different people or things, such as people, machines, animals or property. The law does not specifically define the type of image, depending on the context and the applicable legislation. Some laws restrict the criminalization of forgery to images of people only, while some laws can include images of other things as well. In general, these conditions play a decisive role in determining whether a document can be considered the subject of the crime of forgery or not.

Secondly: the extent to which the editor's description applies to the information document

Based on the analysis of the opinions of jurists regarding the quality of the editor and the validity of the information document as a subject of the crime of forgery, the issue can be summarized in two basic arrangements. There is a trend of jurists who deny the quality of the editor of the information document and therefore do not see its validity as a subject of the crime of forgery. While there is another trend that emphasizes the possibility of the quality of the editor of the information document and therefore its acceptance as a subject of the crime. These conflicting points represent multiple challenges revolving around the classification of information documents and the extent to which technical details and formulas can be bypassed to consider the document as an editor. These are complex issues that require careful study and legal treatment to ensure that the laws are applied fairly and effectively.

Section One: The extent to which the writing condition is fulfilled in the information document

In the traditional legal context, it is considered that every document, instrument or document has no legal value as a means of proof if it is not documented in writing. Based on this traditional concept, it is considered that the loss of writing makes the documents unfit to be the subject of the crime of forgery. However, in light of the tremendous development in the field of technology and the reliance of many entities



and individuals on electronic documents and information stored by digital means, it becomes necessary to consider updating this concept.(Al-Sagheer, 1999).

Writing is no longer limited to traditional paper, but also includes data and information stored electronically. Therefore, we must re-evaluate the concept of writing in a way that allows interaction with modern technologies. On the legal side, existing legislation that requires writing in a certain way must be reviewed, so that it is possible to deal with modern technologies and technological developments. Specific criteria can be defined that make electronic documents recognized and valid for proof, without the need for traditional writing. This reflects contemporary reality and ensures that laws are compatible with modern technology.

Based on the tremendous scientific development and the adoption of electronic documents, the civil evidence laws in some countries represent a broad concept of writing. This concept includes electronic documents that can be used as a means of proof, regardless of the presence of traditional writing. In this context, attention has been paid to electronic documents that have been extracted using scientific progress means such as computers. Conditions have been set to achieve the status of the editor and the legal value of these documents. These conditions include:

Regular Obtaining: The electronic document must be obtained in a regular manner.

Issuing Device: The device that issued the electronic document must be working properly.

Regular Extraction: The data extraction process should be done in a regular way.

These electronic documents represent a modern use of the concept of writing, which is no longer limited to traditional writing on paper. With this approach, the laws are in line with modern technology and developments in the field of electronic documents.

Electronic signature includes a broad concept of signature to include various electronic means that can be used to verify the identity of the signatory. This concept goes beyond the traditional handwritten signature and includes electronic signature using different electronic symbols or means, such as digital signatures. The legal value of the electronic signature represents the same legal value as the traditional signature. The electronic signature plays a similar role to the traditional signature in legal transactions, and has the same function and importance. The only difference is the means of signature, as it is done using electronic devices and modern technologies. Laws in many Arab countries have recognized the electronic signature and confirmed its legal value. This modern concept of signature provides flexibility and effectiveness in many areas, which contributes to the development of laws and regulations to keep pace with modern technology and developments in the field of electronic documents.

The second branch: Authenticity Legality of the information document

After overcoming the first obstacle related to the editor's row in the information document considering the electronic signature and extensive writing, another obstacle appears before us related to the legal force of the information document. Here the difference between criminal law, the laws of trial procedure and special laws becomes clear. The information document is not limited to criminal laws, but falls under the

scope of civil and commercial laws. The evidential force of the information document is divided into two: evidence derived from the existence of the document, and actual evidential force. The first relates to the rules of criminal trial procedure, while the second relates to the laws of private law. Regarding the issue of forgery of the information document, it is subject to the rules of criminal trial procedure. As for the evidential force of the document within the scope of private law, it depends on the laws of civil and commercial law. Therefore, we deal with the validity of the information document as evidence in two different contexts: criminal law and private law.

First: The validity of the information document as evidence within the scope of criminal law

In the context of criminal law, proof is permitted using all legally recognized evidence, but the evidence must be certain and within the scope of the law. For an information document, this document must be reliable and can be relied upon by the judge to prove the information case. Usually, the information document must be certain so that it can be used to convict a person in a criminal case. The judge relies on the evidence and outputs provided by the information document to assess its evidentiary strength. These outputs may be printed on paper, recorded on magnetic tapes, or in other electronic form. The judge relies on his examination of these outputs, their analysis, and his conclusions to assess the evidentiary strength they provide. In some cases, this information document may need to be discussed in court and involve all parties involved. This protects the rights of individuals and allows for fair discussion and justice in court proceedings. It is worth noting that there are laws The evidentiary force of information documents is regulated by some local laws.

Second: The validity of the information document as evidence within the scope of private law

An information document, if it meets the conditions of proof in writing, can be accepted as evidence in civil evidence. Information documents can be likened in this context to private documents. This view requires us to go beyond the traditional rules of means and evidence of proof, given the emergence of modern evidence such as the information document, which can be recognized as having full evidential force as long as it serves the same purposes as paper documents and provides a similar level of security. French legislation is an example of this development, where laws have been amended to give information documents and electronic bonds the same validity and legal force as traditional documents. Certain conditions have been established for the acceptance of these documents and bonds as full evidence, including the need to verify the identity of the person who issued them and the need for them to be consistent with the original documents.

This approach reflects the major technological changes that have occurred in the concept of information documents and electronic bonds. Therefore, legislators must evolve in regulating the evidential force of these documents and take into account techniques and advances in technology. With reference to the new French law of 2000, the concepts of age have been regulated Electronic data and information documents are treated similarly to traditional documents.



V. Conclusion:

There is no doubt that technical expertise plays an important and distinctive role in detecting forgery. It is one of the most successful means of proof necessary to detect forgery, and the methods and secrets used by forgers through the knowledge and expertise that experts have in this field. There are many factors that help detect forgery, especially in light of technological development and the development of criminal methods used in forgery, which require specialized experts who are used by the judge to help him form his conviction regarding issues that require scientific knowledge that he does not have. This is what prompts experts to go towards conducting the matching process and the writing process when necessary. This reflects the interest of Palestinian legislation in regulating the issue of expertise and experts and their role in detecting forgery of documents in general, and official documents in particular. The researchers reached a number of results and recommendations:

Results:

- 1) Documents and papers cover all aspects of life, whether at the individual, collective or international level, and they are clearly and greatly varied. They include personal documents such as certificates and IDs, financial documents and contracts, medical and educational documents, and even international agreements and treaties..
- 2) The provision of technical and scientific reports by experts plays a crucial role in enabling the court to make accurate and informed legal rulings. Where The technical and scientific reports prepared by experts provide important insight into the court's understanding of the technical and scientific aspects of the cases before it. These reports help in interpreting scientific evidence in a way that is understandable and clear to the court.
- 3) The Palestinian legislator was clear in adopting the imposition of considering technical expertise as a means and method of proof specified by law. Technical expertise also enjoys great importance in all different scientific and technical facts, whether in matters Civil, Or criminal, administrative, legal, and other matters. Once the expert is assigned to perform his duties, a set of legal effects will result, which are represented in the arrangement of duties and rights regarding the expert and the person dealing with him..
- 4) One of the most important duties of the expert is to carry out the expert mission and submit his report regarding the mission assigned to him on the specified date. As for the rights due to the expert, they are represented by the court and the opponents not interfering in the expert work, and his receiving wages and expenses. Necessary When the law explicitly states that what the expert states in his report is binding on the judge as a result of his work, provided that the expertise is correct and sound, and therefore the judge cannot rule contrary to what he stated, unless he explains the reasons that justify that.



5) That The Palestinian legislator was clear in adopting the imposition of considering technical expertise as a means and method of proof specified by law. Technical expertise also enjoys great importance in all different scientific and technical facts, whether in matters Civil, or Criminal, or Administrative, Or legitimacy and other issues.

Recommendations:

- 1) Creating training and continuous development programs for experts is a vital step to raise their technical and legal skills and qualifications. These training programs usually include a variety of courses and practical workshops that aim to develop the experts' skills, such as data collection and analysis techniques, and technical and legal auditing.
- 2) Holding ongoing awareness workshops and seminars on combating counterfeiting is an effective way to spread awareness and exchange knowledge in this regard. These seminars can include the participation of experts in the fields of law, technology and security, which adds multifaceted value and diversity to the knowledge provided. These events can also encourage the exchange of expertise between specialists and those interested in this topic, and enhance cooperation to eliminate this phenomenon.
- 3) Encouraging research and development in the field of forgery detection technologies is an essential part of combating this phenomenon. Continuous development and research in this field contributes to the development of more advanced and effective tools for identifying forgeries, which reduces the chances of success of related crimes and improves the ability to identify genuine documents and papers.
- 4) Enhancing cooperation and communication between experts and Palestinian judicial bodies is vital to achieving justice and ensuring the accuracy of legal decisions. This can be achieved by establishing effective and efficient coordination mechanisms that contribute to the exchange of knowledge and information between experts and judicial bodies.
- 5) Strengthening Palestinian legislation and laws related to combating forgery enhances the ability of the legal system to confront this crime and ensure the punishment of individuals and entities that forge documents. This measure contributes to enhancing integrity and trust in justice and preserves the integrity of systems and institutions.



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