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Information Forgery as One of the Information Crimes in the Light of the Iraqi Law

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REVIEW

Moshtaq Talib Wahaib dissertation: *Information Forgery as One of the Information Crimes in the Light of the Iraqi Law* submitted to University of Szczecin – Faculty of Law and Administration is an important and meaningful scientific work of a very high profile. It concerns with one of the most interesting topic of our times in relation to politics, law and economy, namely information forgery. One has to observe that it was written within the context of modern Iraq. The significance of this country in the very topic is impossible to be overestimated as it is one of the global and regional focal points in politics, international safety and stability, black market and its future challenges.

1. *General and formal requirements.* The dissertation meets the basic and the wider requirements of internationally recognized academic demands. On the very high level are: the choice of the research topic and the formulation of the research questions and hypothesizes; the importance of the research and its results within the field of research; originality demonstrated in the planning (well presented in *Introduction* as such and introductory remarks in each chapter) and its implementation; the adequacy of the author's own independent contribution; the publishing profile of the publications; the scope of the research and the adequacy of the material; the quality and thoroughness of the work, the versatility of the methods used; the deduction of results from the material studied – on the outstanding level; the presentation, consistency, style and language; the command

of the field of research; the preparing the ground for the application of presented ideas to new legal regulations in Iraq and to new researches in Iraq and abroad.

2. *The content: analysis and synthesis.* The information forgery is one the most important legal topic of our times. The issue is that it could destroy economic and social life on a tragic scale and its potentiality is enormous – on the private as well as public grounds. The author makes an excellent scientific decision with the delimitations of the topic. He decides to take into consideration the whole scope of the document forms-which is important for the present time and more over for the nearest and further future. The study is restricted to discuss the phenomenon of the forgery from the substantive and conceptual aspects. The analysis of the information forgery is provided by the extended analysis of the information crime in relation to software and hardware environment. The main and even partial definitions are explained and elaborated in detail which leads author to his own propositions. The study involves looking for the substantive formula suitable to include most of behaviors within the scale of the Iraqi law. Iraq legal regulations with Iraqi Penal Code are transformed into recent language of the newest national, international, regional and global legal norms and propositions. The author critique of the Iraqi legal solutions is full of substantial arguments. Author presents four important issues. Firstly, the distinction of an information criminal, who is a person committing an information offence, from the rest of the criminals: having in most cases specific technical skill and knowledge about the technologies used in the information systems. Secondly, a lack of agreement about a particular term, which is used for referring to the concept of this criminal phenomenon. There are many terms of common use at the level of legislation or jurisprudence, but each of them corresponds only to a particular view of the subject. Thirdly, the understanding of this phenomenon is different. This means that a set of different definitions has been presented by the doctrine and many specialized institutions. The meaning of these definitions has been expanded or narrowed depending on the norm adopted in the definition of this crime and on the role that could be played by the computer technology in perpetrating an information crime. Fourthly, no one can deny that the attempts to provide a clear and specific classification of information crimes led to so far failure. This is because of the difficult nature of the crime, which has been so far prevailing on the displayed efforts. Indeed, information crime is a phenomenon, which has an ability to regenerate, following

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the continuous development of the technological variables. Finally author provides a precise new text in relation to information forgery for Iraqi Penal Code-which should be considered very seriously. On the other hand, on many pages and in *Conclusions*, author refers to the need of international cooperation within this field. It is the point which should be underlined on the wider basis as to the recent discourse on the open society concept and its challenges in the modern world. For instance, author on page 37 underlines: *This feature also indicated a need to find appropriate international legal instruments promoting anti-ICs efforts, to encourage the international cooperation and working and to harmonize the concerned legislations. The cooperation on fighting IC should include: the extradition of criminals, ensuring that the evidences collected in the State are accepted in the courts of another State; exchanging the information among countries in this field.* Author concentrates also on the role of computer and information technology as necessary instruments in the implementation of the criminal acts constituting the IC. Referring D. Shinder author emphasizes the complexity of the modern information technology and complexity of the technical skills of the offenders and the crimes like DoS: Denial of Service attacks.

3. *The main achievements.* The above mentioned legal propositions *de lege ferenda* are of great importance: not only for Iraqi legal and social systems but for the whole global legal community. Author arguments lead to an opinion that wider agreements are much better than regional. There are other author contributions like precise remarks on electronic signature and the new possibilities relevant to it. However, I would like to put stress on author's conclusions in general. They are really outstanding with great intellectual mindfulness and force. Let me present and underline one of them (in each part: *Findings, Recommendations, Future Studies,* there are remarkable points): *Criminals of electronic crimes are dangerous because it is difficult to arrest them due to the qualities they have. The fact that they will keep away performing information crimes in repeated activities is mostly certain. Therefore, the competent authorities should adopt rehabilitation programs to help those criminals giving up crime and be good citizens. The authorities should exclude traditional penalties or punishment and try to benefit from the expertise of those people in the promotion and creation of security systems of institutions, banking sector, financial and private activities which depend on modern technologies. These measures will give them morals and build*

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self-confidence, which makes them feel that they are an effective element in building of the society , page 314 (small language changes are mine: see – below). The other conclusions, for instance: *[...] a social instability from the point of view of the activity of the perpetrators makes even more difficult to operate in this environment to fight this crime.*, page 301; *They are technical means in their nature, purpose and function like firewall or encryption, which somehow are able to fight forgery.*, page 306. Author wisely considers the great need for further research and communications development in the subject, like the problem of special kind of wrongful intent in information forgery.

4. *The weaker points*. There are few of minor mistakes like the number of the page of *Publications* in the *Table of Contents* (262 and should be 362), terms like *Publications* and should be: *Institutional Publications*; *Development of the Presumed Element (Object) Concept of Forgery* (the title of the chapter 3) and should be: *Development of the Presumed Element (Object) of the Concept of Forgery*. There are few language mistakes like important term often used in the very text: "unsocial" and should be "antisocial" or on page 132: *the purpose of the certificate is to essentially confirm* and should be: *the purpose of the certificate is essentially to confirm*. The most important problem is the construction of the dissertation, namely the placement of the chapter 2: *Forgery Crime According to the Iraqi Penal Code*: it is placed after *Chapter One: Nature of the Information Crime and Relationship of Computer in Commiting It* and accordingly before the essential definitions of information forgery. Another problem is that in the dissertation one can observe a lack of wider information on counterfeiting law that could be treated separately or as a different subject nevertheless it is the point which can be observed more seriously in the text.

5. *Conclusion*. Moshtaq Talib Wahaib presents himself as a serious researcher with comparative and analytical skills with an ability for constructive thinking. Beyond a reasonable doubt, *Information Forgery as One of the Information Crimes in the Light of the Iraqi Law* is a dissertation of great value and importance. Overall, comments outlined above do not call for major changes, and I recommend that the permission for a public defense of the dissertation is granted.