

The Analysis of cybercrimes According to Afghanistan Criminal Law

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Abstract: *the information technology revolution have two important result: the first one is changing the real World and imagination of Siberia world, in real world Informatics, information technology involve in all affairs of our life, every person normally affect from information technology, computerizing of activities and the speed of changing information give the responsibility of the increasing population and humans needs, additionally, information technology count as media for development and peoples comfort, and a media for relation to other societies, thus information technology create an new world, virtual world of computer and internet, with the cybernetics space, this study goal is having a discussion about the cybercrimes, finding the problems of the Afghanistan criminal law about the cybercrimes. The result shows that the most of the issues are exist in Afghanistan criminal and it need some reforms in punishment and penalties, some penalties are too small than the crimes.*

Keywords: *Cybercrimes, Cyber, Criminal Law, spiritual rights, copyright.*

1. Introduction:

Electronic crimes are the activities which in those the computer or connecting nets, medias and the goal in the place of crime is a criminal activity, however, the cybercrime word is use for introduction of activities which the connecting medias are the main section of the crime but in traditional crimes that the reaching for them uses the computer and internet is also an electronic crime.

The sample of an electronic crime which in that the medial and the goal of the action is illegal ism spamming or creating a software which can create a same email with same information for and send it to the thousand persons for advertising or disturbing people to the internet users. The sample of the crimes which is the computer is the media of crime, accessing and controlling to some others websites and services.

Also some organized crimes like intelligence for seeing the military, economic and political secret from the defense strategic area, ministries, and nongovernmental organizations, which is being done by computer and internet, is sample of internet crime.

Internet crime is widely increasing, and vast its social, cultural, and economic effect in all societies, vilification, perverting the children and young, publishing amoral videos, banking robbery by net, internet terrorism, smuggling humans, publishing virus and spam and contravene of trust freedom and cultural aggressions.

This paper goal is The Analysis of cybercrimes According to Afghanistan Criminal Law and finding the problems and need of the reforms.

2. History of Cyber Crimes:

virtual space has been used in an academic-ideal fiction in 1982, however the virtual space is new, but its concept is not new, this concept made at the same time with the invention of telephone by Graham Bell in 1876, in fact, the first electronic crime has done in 1878, Bell company appoint some young boys who work in telegraph for connecting line of calls and, giving information in customer service, but as the Bros Sterling said in his Book about the combatant with hackers, “this company nearly confront with the problems by his employees”. The employee’s attitude was cheeky and discourteous, they tell lies to the customers, and usually fool them, ability and do not understanding to the results are the reasons which created the disturbance “Bell company decided to solve this problem, and appoint young and polite girls and the problem solved” (Azerang, 1371).

From the invention time there were no thoughts about the electronic crimes and the problem which created has been solve by companies with different attitude.

Internet invented in 1964 by Paul Baron in Rand company, he tries to find a way to connect the military member during real atomic attack, and purposed a decentral computer connecting net, the net name was Arpanet net, even there was the possibility of connection if some computer stops working, in beginning of the 70 decade researcher has found that the internet is not only a media for connection for military but it is a cheap media for connections, its told that the main reason of creating Arpanet was increasing the security of the secret and military information against Russia nuclear attacks (Jena, 1383),

3. Introduction of Cybercrimes:

According to the lexical cyber used for virtual, which means virtual an untouchable, but terminologically the cybercrimes or virtual crimes are the crimes which exist in virtual space, in the space of the national or international nets (this nets are connected by internet, mobile an etc) that have information about the relation of the persons, cultures, and the access of the nations or all the physical things which exist it this earth (written, image, sound, documents...) and exist in a virtual space, which the cybercriminals with the bad works uses the information for the benefit of themselves and the loss of others, and do the crimes, without existence in the crime area or do concrete crimes.

The cybercrimes in Afghanistan criminal law article 851 defines as follow:

- The cybercrimes are the crimes which is done with the modern information technology on electronic connections or in interned in cyber space.
- Cyber space is a virtual space that invented with the computer connecting ore internet nets (ministry of justice, vol 1260, 1396).

4. The Cybercrimes in Afghanistan Criminal Law:

Disturbing by emails: disturbing by email is not a new concept, this is same like disturbing by letters that the senders treat the others or disturbs them, the electronic disturbance are the followings:

- A) **Trickiness in emails:** the criminal with accessing to other emails use to themselves benefits and find the others password or change other email password for their benefits.

Afghanistan criminal law says about that:

- If someone find of change others electronic passwords and use them for their own benefit he will be punished double of the benefit which he or she earned.
- If someone do this crime in governmental offices he will be punished sixty thousand Afghanis up to three hundred Afghanis (ministry of justice, vol 1260, 1396).

- B) **Electronic bombings:** in inbox of emails you will find many emails from the disturbers, with the opening one email your all emails will be destroyed.

Receivers can block this emails by mobiles or computers, and the disturbers use other tricks, which the solving is not founded yet, additionally, sexual disturbance can be done by different ways.

Destroying others system illegally according the Afghanistan criminal has been introduce as following:

- If some illegally delete or uninstall the program and information and caused material of intellectual harms to others, according to the crime medium imprisonment and cash punishment from sixty thousand Afghanis up to three hundred thousand Afghanis.
- If someone do this crime in government, or do a crime which has more loss than hundred million Afghanis he will be punish in long imprisonment until 10 years.
- Or someone destroys or damage the ground transport lines of airlines or other important things he will be in long imprisonment if the fair of dying exist he will punish first degree long imprisonment.

- C) **Insulting others:** insulting others by technology and internet change to a big problem, criminal uses pseudonym in cyber space and threat others or intend to insult or contempt others with using obscene ore contempt images in social medias without knowing their location and name and address.

- D) **Abusing others images:** most of the abusers in social medias especially during meetings and texting uses others name and images, but these movements are not crime in social medias, and there is no law about this, this abominable and criminal activities sometimes being done individually sometimes gregarious or organized uses other image and make changes by computer programs and upload them in social medias for insulting their goals, also they use the son and the daughters image of politics and religious leaders after changes in computer programs for different goals (income, revenge, ethnic prejudice, or religious) and publish them or transfer them by mobile.

Afghanistan criminal position about these crimes is the following:

1. If a person with using system, computer information in cyber space uses other image or private video, and threat others for publishing those image and videos his punishment is short term imprisonment or cash penalty from thirty thousand Afghanis up to sixty thousand Afghanis or both of them.
2. If in these crime body or intellectual harms his punishment is medium imprisonment.

- E) **Crimes against Common moral and honor:** one of the Islamic values securing common moral and honor, securing the common moral and honor can prevent most other crimes which emergent from anarchy in people movement, for example one of the main reason of illegal sex and lesbianism is the lust of the criminal which increases by obscene issues.

The porn centers with publishing immoral clips and videos by internet for the persuasion of adult to the brothels and watching provocative videos, global porn centers play an important role in committing crimes against moral and honor.

Crimes against common moral and honor came in Afghanistan criminal law as following:

- If someone produce, publish, send or sell them as business the immoral and non-Islamic issues by electronic system, he or she will be in medium imprisonment up to two years or penalty from five thousand up to sixty thousand Afghanis, academic usage of them is exception.
- Immoral issues of the in above articles are the issues is complete nude pictures with showing the sexual parts of bodies.

Pornography:

- If someone do the following activities, it will be count as pornographic activity and its punishment is medium imprisonment and the cash penalty from sixty thousand Afghanis up to one hundred and twenty thousand Afghanis:
 - Producing pornography with others or for publishing in cyber space.
 - Offering or providing pornographic by cyber space.
 - Publishing pornographic in cyber space.
 - Saving pornographic in computer system or in other saving medias.
- The concept of pornography which used in above articles is the medial of pornography which are the following things are seen able.
 - Person in a clear sex status.
 - The real image of the person in sexual status.
- The intention the publishing in of the item one and second article is distributing, publishing, showing, changing, buying or selling, or presenting in any kind.
- If the intension of the crime is encouragement of children the maximum of the punishment should be done.
- If the above activities done for academic affairs or have the permission that is not illegal (Afghanistan Criminal Law, article 784).

F) **Stealing spiritual property:** every kind of publishing, sending, transferring, reposing to common usage, selling and illegal using of the computer programs and software is called software robbery.

in other word, spiritual property is the collection of the rights for the persons and juridical persons that is protected by law, and the illegal activities which loss to this right is stealing spiritual property¹ this is called in cyber space copyright.

Afghanistan criminal law says about the right of spiritual rights:

If a persons do the crimes which named in the section of the aggression against spiritual crimes by interring, modification, changing, deleting, buying or selling, by information technology the punishment of this crimes are the short term imprisonment or the cash penalty from thirty thousand Afghanis up to the sixty thousand Afghanis (Ministry of justice, 1396, criminal law).

5. CONCLUSION:

The cybercrime in Afghanistan criminal laws are disturbing by emails, abusing images and videos, crimes against common moral and honor, insulting others, electronic bombing, copyright, stealing spiritual rights. Every crime has its own punishment and penalties, but this law need some reforms like copyright is not gets seriously the penalties are too small and also in some other crimes, in this paper all the article about cybercrimes has been discussed one by one and it can be a great collection to the readers.

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¹ <http://www.ohara.ir/post>