

Survey of the Computer Crimes against the Command Normal and Modesty in the Cyber Space

Mohammad Mahdi Yahyapour^{1*}, Raziye Najafi², Mohadeseh Yahyapour³

¹ Jurisprudence principle of Islamic law, Somesara Branch, Islamic Azad University, Somesara, Iran

² Jurisprudence principle of Islamic law, Bandar Anzali branch, Islamic Azad University, Anzali, Iran

³ Expert legal rights, Bandar Anzali branch, Islamic Azad University, Anzali, Iran

Received: June 10 2013

Accepted: July 10 2013

ABSTRACT

The computer Crime effects against the moral & modesty in the family & the society bounds, recognizing the legal Problems relate to it & presenting a way to solve the problems is of the research necessities in the information technology area. Areas that accuse the crimes against the modesty & the maval in it includes: forms, insult & accuse & issue of the computer lies, inviting the people to do criminal and anti-moral acts in the fantastic space, panderism, Pornography or lewdism, propagation of the absence act & sins, instruction crime & illegal relations, that panderism & prography is the most important crimes, because other mentioned crimes in deed are sub category of these two crimes. Considering the importance of these crimes it is tried to investigate panderism & pornography in especial & to survey the precipitation of these crimes & its effect on the family & the common people.

KEYWORDS: Crime, Cyber Space, Pornography (lewdism), panderism, moral, modesty.

1. INTRODUCTION

Legal laws like other sciences are developing and the legal researches have a significant help to this growth & elevation and usually faraway aspects of the reality from legislator's look and the research has main contribution in legislation reform.

Considering that the Islamic culture, the modesty & the moral has an special place, it needs to more research in this field to maintain the people limits. It seems that in the computer crime laws, crime meaning against the modesty & the moral is not paid attention to remove them by the legislator. Everyday are doing the crimes in computer against the modesty and moral of the people that keep away of the law lock, of the kinds of the computer crimes, inspection of some are more important because correlate to the moral & the modesty of the people directly and the family faces with the severe crisis. While there is no much date of enactment the special laws to the computer crimes, it is necessary that the specialists consider the crime extension pay it attention more and remove the new law

ambiguous. The present research with the mentioned aim tries to answer to this question "If the laws for the crimes against the computer moral & the modesty consists of all of the crimes against the computer modesty & moral and is fit with the destruction effects of these crimes on the family boulder not for this propose author defines the moral & the modesty, the crimes against the modesty & the crime and also the computer crimes in this field at the first discussion, at the second discussion says about the computer crimes fulfill against the moral & the modesty and at the third discussion, we investigate panderism & pornography as two much destructive sample of the computer crimes against the moral & the modesty in religious jurisprudence & law & finally we conclude.

First discussion: descriptions and concepts.

Modesty ("Effat") is an Arabic word from "Effaf" means and chastity and eye-clean (Rezaee, 1360, p. 15) & indeed a sense for the concupiscence (Ragheb Esfahan: 1374, p. 618). To define the morality is said, morality is the plural form of the temper and the temper is a since for the spirit that without thinking leads him to the works. In legal terminology unchaste defines: "any work that relates to the sexual affair and it is shameful in the common custom & senses & the laws accounts it the "Crime". (Jafari Langarudi, 1373, p. 473). The crimes against the common modesty & moral has full difference with rape & unchaste crimes, because the actions that discussed as the rape & unchaste is indeed measures that are doing relate to the human, but the crimes against the common modesty & moral indicate the statements and indications & the common are recognized anti good moral & the common moral. ("P.3). Considering the crimes that the legislator followed in 18th section, any action, behavior and the speech that is anti modesty & chastity, either illegal relations with adverse sex base of

rape, simulate to the unlawful act, wounding the common modesty, supply and purchase & sell of obscene pictures and... sever as the crimes against the modesty and the common morality. (as son fard, 1387, p. 18) To define the crimes against the common moral & modesty may be said: It is any kind of publishing, distribution, exchange and sending the obscene content, stimulate, encourage, threat or deceive the people, facilitating to reach the mentioned matters by computer or communication website.

Second discussion: factors to fulfill the computer crimes against the modesty & the morality, at least advantage of the crime analysis, may be offence and it tries to limit or decrease the situations that leads to the offence (Davoodi, 1388, p. 89) as it is possible. Third discussion: panderism & pornography computer crimes.

Although accurate some of the Crimes against the moral & the traditional common modesty transmitted by internet accurate from physical environment to the fantastic environment (eg: pornography, sex tourism, illegal relations, panderism) but integrating all of them in the computer crime forms is impossible, because the legislator some times don't suppose the crime.

Indeed criminal enjoy of the computer as an instrument in this kind of the crimes and expand his work and facilitate it. One of concerns that has served the crime by Iran penal legislator in this domain, it can be referred to panderism pornography. The areas such as provide, publish, exchange & trade of the computer lies, invite the people to criminal measures illegal relations are of anti modesty & morality actions & sub categories of panderism & pornography and in this research we investigate two the mentioned crime.

1.1. panderism :

Based of "Lomeh & sharh" : Panderism is a person who reach two actors of the obscene act like adultery, pederast & lesbianism and mediate between them. (Ameli, vol. 9. P. 84)

Gathering among two prostitutes is said panderism (makki 1389, vol. 2. p. 231). Also based on "javaherkalam" panderism is gathering men & women for adultery or gathering men for adultery, although he is a child. (Najafi, 1363, vol. ul p. 399).

In Islam who do this crimes help to the sin, consciously or unconsciously that is a for bidden matter, who that make a site to introduce the immorality actors to each other or display lewd pictures, accompany in the sinful unconsciously and help him/ his in the sin in a sense. Noble Ayah "va la taanco Alalesm valodvan" implies on its prohibition, "Lataavanoo" statement indicates legislator, Inhibition

There are many statements about the inhibition meaning in the rules, and it is enough here that bath of facts are in probation and the real means of them is prohibition.

2. pornography

Pornography or lewdism, is one of the most important crimes that is doing against the morality? Modesty and has direct influence on the family.

Pornography means the statements that present by sex stimulate intention in the popular sense the pictures like the sexual organ of the man?

Woman, woman & man sex or woman with woman and their criminal meaning can be in the theatre, present, production, trade & shameful concepts, internet arising, made this crime non-traditional, provided efficient tools to the sexual abusers. This modern communication technology, result in many fold bulk of its abuse and in creating the numbers of the persons who receive the pictures & the picture bulk, unimaginable. (baym 1388. p. 358)

Word meaning of the pornography is " any writing, film, picture & statement relate to the sexual affairs that have not any literal, art, political & scientific value. Porno means prostitute and pornography means prostitutism. These kinds of the criminal actions that internally are in the traditional crimes, came by the computer & internet develop in the popular medias and is unique in the distribution extend aspect itself.

Allah says to the men & women in these Ayat, keep your eyes, the author of Tafsirolbayan interpretation says: base of keeping is reducing and when he/ she kept of his/ her sound or eyes means reduced. (tabarsi, 1379. vol 7. p. 137)

Alameh Tabatabaee said " Ghaz" means over laping the eyelids. (Tabatabaee 1303, vol 15, p. 157)

2.1. pornography background:

Pornography & its different forms like child pornography dates to the late 19 th century 8 the early of coth century and mostly is receivable in the paper pornography, magazine, paint & video. In some countries still these forms have either dominant are method. (Mohebi, 1378, P.117)

In Iran when video came in the homes in 60 decade, this crime stated in shameful films / movies & augmented and distributed in secret. By papering the computer & using it at the tiomes, these scenes

saved on the disc or CD and exchanged between the people. (salaryfar, 1381, p. 31). But now internet is not only as a mechanism to generate, perform, trade? Distribution does pornography, but as an instrument (vehicle) for pornography actors, generates, communicates and attracts offences. But, it seems that internet unit & agency that are busy to the child pornography sell, have rapid growth along other pornography forms.

2.2. pornography founders:

offended ones of these Crime that are the families in common divide two parts:

1- children & teenagers 2- adults

Children & teenager criminals in the international web (Internet) are of the important issues of the cyber crimes. Child lewding occurred as the child sex exploit & abuse that it can defied it: any drawing or explains tools of the child sex exploitation such as visual is that focused on the child sex organs or activates (kar, 1382, 87).

Internet offenders use of the chance & simplicity of the children & try deviate them from the dialogue rooms & post electronic and finally abuse them in pornography and broad cast their pictures on the shameful sites (khorasani, 1381 p.9)

The child pornography is a big abuse of the child legal rights and it most think that how the legislator is silent against of this kind of the crimes. In globalization conditions the children training is beyond of the parents.

and even "the education system in beyond of the government monopoly. (firahi, 1382, P. 162)

child train requisite, is to know him/ his and supervise on his/ her relations (seyf, 1383, p. 192)

this knowledge is done easily until the child is under supervision & control at the family, but today, two processes have made difficult this control. First, globalization, second, communicative & informative new technologies in the present society, the old generation (parents) have less knowledge than his/ her sons about new communication technology and gap, decrease or omit the supervision and control possibility on the child (Asadi, 1388, p. 35). At the recent years a considerable amounts of the pornography allocated to the child pornography. Children among other offences have special situation, for their offence percent is very high and the possibility of the crime detection and following the criminals is very low and the body & mind damage on the children is more than adults and, usually appears in the young ages. (Davoodi, 1388, P. 14)

In sum, lewding accounts a severe threat in three aspects for the children in the cyber space. First of all the children access to the shameful lewding in the internet is possible, second, lewds, found the children lewding as a easy way to sell their products and for this the sex abuse from the children prevalent to this extent, the thirty and the most severe danger for the children is that pederasts and the other dangerous people can attract their victims, through internet and by communicate, Email on gap and trap them in the real world. (jinadi, 1382, p. u1-22). Adult offences are profound today. What is an offence higher than becoming weak the families amidst the trusts and change the marital relations, the men who familiar with the shameful pictures miss bounding to the wife and are shifted, even it is possible the women forget her position, also abuse of the people's pictures leads to many broad distinctions and separations.

The worse than this is the person's rape, when a respectful person picture montage, locate an prostitute body and caused his/ her disgrace or distribute the family pictures of the people and destruet the respect and position of the person. Islam values for the person's respect equal their spirit, how I can not account unlawful this kind of offences while all of us know how attempts to encourage the obscene act, and easily extend the absence with publishing the shameful pictures and opens the unlawful door. "mark laser" says: Internet having three features is the most important sources to encourage the lewding. these three features are; easy access capability of the users to the internet, ability of the people to pay it, being unknown the users (laser, 1382, 72)

The crimes that are against the modesty & moral that pornography is one of its meanings have direct relation with the family are account the crimes against the family. Based on a definition, "the crimes against the family are a group of the crimes that threaten the survival of the family or family, respect and dignity or the family members or unstable the family relation stability or have negative effect on the genealogy, birth and generation" (katebi, 1385, p. 19). In a narrative from Imam said: who clears a sin, is like a person who started that sin. (sadoogh 1404 h.g. P. 247)

3. Conclusion

Considering the increasing extent of the computer usage among the society, its abuse percent increased too, has formed a new branch of the crimes. This matter made challenge able the society panel laws, worried the government. The legislators established special laws to solve this problem that generally was in rash and needs more investigation & more thinking.

In our country there is not any coordination among Islamic penalty laws with computer crimes penalty laws, and the legislator accounted two kinds of the penalty for a crime.

In measured investigation among Guo-630 article of Islamic penalty laws with 15- 14 article of the computer crimes laws has seen a clear opposition that it must be omit.

Also among the computer crimes against the modesty & moral there are a groups that the children are their direct aims and must have much high penalty, because underage child can not distinguish and misled from this channel. This paper doesn't know enough the present laws and based on the special importance of the respected offends suppose that care more in the penalty laws.

Also is worthy the computer crime penalties against the modesty & the moral to its traditional from have much severity because the computer crimes can disturb the world for of fenced person, because the reflex of the offence in the computer crime is very vast from the traditional sense.

An alternative that gained after investigation & the care about the computer crimes against modesty & moral, having codified law about use of the internet & the computer communications as the computer communications requires use of the code and identification & other personal information's, that when accrued a crime, recognize the criminals and resign the law. If perform these solutions, absolutely we will witness the considered decreasing of the computer crimes.

REFERENCES

1. Great Qoran
2. Azad fallah, Raheleh, computer crimes, M.A thesis, Tehran Azad university, since technology unit, 1387.
3. Ebn maskuyeh, Ahmaddbn mohammad, Tahzibol Akhlagh & TathiroAaragh practical pornography, correct & translation: Mahdi najafi after, Tehran, noorsaghalyn publishers, 1383.
4. Asadi Leyla sadat "the child private limits & the parents rights on training" Tehran two section of the family relatigious ????? prudence. & the aws of Emam sadegh university 7 pardis of women, spring 7 summer, 1388.
5. Nabashahi, mohsen, the survey of Guo article of the Islamic penalty law (Tazirat) in sight, M.A. thesis, Azad university of Tehran, central, 1377-76.
6. Bastani, Broomand, the computer crimes a new presentation from offence ding, Tehran, Behnami Publishin, 1383, first Edition.
7. Bay , Hossein Ali & Poorghahraman, Babak, survey of religious juns prudence laws of the computer crimes, Qom, research center of the Islamic science & culture, fall 88, first edition.
8. Fafari langaroodi, Mohammad jafar, laws Terminology, Tehran, Gange Danesh, 1378.
9. Jinadi Angliz, " syber crimes, Translation of saeed hafezi & Abza samad khoramabadi, Tehran, high council of the junsdiction development. 1382.
10. Hor Ameli, Mohammad ebn Hassan, vasaelo sheieh ela tahsil mosaelo sharieh. Tehran Islamic school , 1382.
11. Khorasani, Alireza, "an international tool to the crime" jam jam newspaper, Tapesh vizenam, 9 Bahman, 1381.
12. Davoodi, Homa , offen cedism of the women & the effective fields in decreasing the crimes, Tehran, two sections of the religious gunsprodence and the family laws of Emam sadegh university 7, pardis khaharan, fourteenth year, no 50, spring & summer, 1388.
13. Ragheb Esfahani, Abolghasem Hossein ebn Mohammad en fazl, Almofradat fi gharibel ghoran, translation of khosravi Hosseini, seyed Gholamreza , Tehran Mortezaavi publishments, 1374, second Edition.
14. Rezaee, Mohammad, Qoran words, Tehran, Mofid publishers, 1381.
15. Salari far, Mphammad reza " bounds in the family in the Islam sight and structural school (the women in the slam), jurisdiction & university sections 1381.
16. Sayfo Ali Akbar, train Psychology, Tehran, Agah publishers, 1388, twelveth edition.
17. Sadoogh, Mohammad en Alien Hossein, Alkhesal, Qom, Qom teatures society publish, 1403. H.

18. TabaTabaee, Mohammad Hossien, Almizan fo Tafsiralgoran, Translation of Mosavi hamedani, Mohammad bager, Tehran, AlammeH TabaTabaee mind & science foundation, 1363.
19. Tabarsi, Abolfazlen Hassan, Majmaolbayan fi TafsiroIgoran, maktabiyeh lelmiy ele slamiyeh, Tehran , saghol shirazi, 1372.
20. Ameli, zeynolabeden Ali (sani shadid) "Alrozahol bahiyeh fir sharh lomeh, translation of hamid masjid saraee, Qom Islamic laws publishments, 1387, second edition.
21. Amidi, Mahdi, comparative study of the computer crimes in Iran penal laws & religious junsprodence, M.A. thesis Azad university , central Tehran branch, 1387.
22. Onsoni fard , Abbass, insulting the cammon modesty in Iran laws, Tehran Majd publisher, 1385.
23. Firahi, Davood, globalization & training, the collection of the papers about globalization, Tehran , research center of the education strategy studies, 1382, first edition,
24. Katebi, Mostafa, Iran legislator penal policy in the crimes opposition of the family right & duties (subject 642 to 647 articles) Tehran , M.A. thesis of penalty laws & judgmentism, Emam sadeh university 7, 1385.
25. Kar, joan, "child offencedism justice background" country anosmatic high council secretariat, irantranslation. Of Dazyani, anosmatic news, No 89, mordadi , 1382.
26. Laser, mark. " affencedism in Internet " letter month of the west policy, 1388.
27. Mohebbi , MohebAli, look orders, M.A. thesis , karaj Azad university, 1376.
28. Mohammadi, Abolhassan, the basics of the understanding of the Islamic laws, Tehran university publisher, 1388.
29. Maki , Mohammad , (Aval shaded) Aroze holbahiye fi sharh Lomeh, Translation explaining of Ali shirvani, Qom, Darol fekr publishers, thirty two edition, summer, 1386.
30. Najafi, Mohammad Hassan, javaherkalam fi sharh sharaeo Ieslam, Qom Darolketab al eslamiyeh, 1368.
31. Lasser M.A. pornography in internet. <http://galenet.Gralegroup.com>