

Investigating economic cybercrimes in Iranian law

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Abstract

Cybercrime is a type of internet crime which include crimes that occur in the cyber environment, which in this article we define the cyber environment, which is a virtual environment, and the characteristics of the cyber environment, so that users can access any electronic information services around the world, and how to create crimes that are copied in the cyber space It is the same principle, and the types of criminals in the cyber environment include hackers, crackers, phone freaks, and possible crimes called cybercrime, and in the case of the future crime called cyber terrorism, who, like ordinary terrorists, have political motives for committing crimes, as well as cyber crisis makers, including viruses, spiders, search engines, electromagnetic pulses, worms, and logic bombs, and in the case of the police. cyber that according to the specificity of cyber crimes, need special training and finally about network security methods We provide data.

Keywords: Internet crimes, cyber crimes, economic crime, cyber space

Introduction

According to the advancement of technology and information, profit-seeking and opportunistic people are certainly trying to misuse technology by acquiring knowledge,

and these profit-seeking people have made the possibilities that the development of technology brings to human society into their own hands. It has caused problems for the users of technology and has caused doubts and doubts for the correct use of these facilities and technology, until today it has attracted the attention of statesmen, lawyers, and experts in the field of technology. The more computer technology develops, the more computer crimes will develop. But the laws that can deal with these crimes will not be responsible and the governments should make their laws appropriate to the crimes. Because computer crimes are fundamentally different from non-computer and classic crimes. First: The method of committing them is almost easy. Secondly: with few resources they can cause huge damages. Thirdly: computer crimes are usually in the international arena and it is not known which jurisdiction has jurisdiction over the crime. Fourthly: Due to the international nature of computer crimes, in some countries, these issues may not be considered as crimes, or there may not even be a law to punish the offenders, causing .conflict

First topic: generalities and concepts

The first speech - characteristics of cyber space

Users can access any electronic information services, regardless of where these information and services are located in the world fact has been Environment cyber Background Activities Economic Important and tools Necessary To do Kidney Maam Lat has provided commercial and international level without direct human

intervention. activity range user To borders physical One Home Or One Location Work and even borders One Country limited was not And in One level Low Cost every user Can at any time and a place With People At every Pointwise From the world meet and exchange information, without knowing the real location and identity of the person. From the economic point of view, cyberspace can be considered as a single global market, which is one of the successful fruits of the society based on modern information technology, which with the development process of social relations change the traditional and cultural rules governing people's relationships at the national level

The first paragraph - definition of the cyber environment

From a lexical point of view, in different cultures, cyber means virtual and intangible, it is a virtual and intangible environment existing in the space of international networks (these networks are connected through information highways such as the Internet) in which all information about the relationships of people, cultures, nations, and countries in general Everything on earth as There is a concrete phase (in the form of writing, image, sound, documents) in a virtual space They exist in a digital form and are usable and available to users and are connected through computers, its components and international networks

Second paragraph - Crimes in cyberspace

¹Pakzad, Betoul, Computer crimes, Master's , ۲۰۰۸ , p. ۲۴ thesis, Shahid Beheshti University

The cyber space is still in its early stages. The nature of these crimes and abuses committed in this new virtual world have never been seen in the real world. The insufficient security of technology along with its virtual nature provides a good opportunity for evil people. The most disturbing aspect of space cyber Fast release Information at that is, For example At the moment shortness a part From Informational That Can as potential item abuse appointment take Discovery it will be At space cyber To Searching and finding these crimes becomes more complicated problems. In the real world, bank robbery is quite clear because after the robbery, there is no money in the bank vault. But in computerized technology, a vault can be empty without any sign.²

For example, the thief can take a complete digital copy of the software and leave the original software exactly as it was. In the cyber space, the copy is exactly the same as the original to change

³The third paragraph - cyber criminals

A - Hacker: In the ۱۹۷۰s, the word hacker To Personal Applicability Been That At Programming to be very skilled and intelligent. Later, in the ۱۹۸۰s, this word meant a person who is adept at penetrating new systems anonymously. It is true that curious hackers can inadvertently cause significant damage, but the search for

² Deziani, Mohammad Hassan, Criminal dimensions of computer use and computer crimes, informatics newsletter, Supreme Informatics Council of the p. ۳۲ , ۵۸ .country, No

³ Jalali Farahani, Amir Hossein, An introduction to the criminal procedure of cybercrimes, Khorsandi p. ۴۵ , ۲۰۰۹ Publications, first edition, Tehran

information and education, not revenge or harm, is what drives most hackers to pursue their hobby. follow in a cruel way.

B. Crackers: On the other hand, crackers are malicious hackers. They break into systems to sabotage, spread viruses and computer worms, delete files, or cause some other types of destruction. Embezzlement, fraud, or industrial espionage (stealing a company's confidential information) are only a small part. It is one of the possible targets of crackers.

P- The difference between hackers and crackers : Hackers In a item Important With crackers Difference have, works That they do they give Usually From Roy malice is not motivation More For hackers this Work, . desire intense To learning how Work System computer, Find a way To log in Secretly To they And finding security holes in these systems is the thrill of reading information that they know they are not allowed to see or do anything with Knowing that it is not legal adds to the pleasure of touching such experiences by hackers as entertainment. They believe in the attitude of see but do not touch in their activities.

T- Phone freaks : Shape other From crimes a computer " Freaks . " The perpetrator 's phone be . freaks To Instead access To systems computers , they surf the cyber world through telephone lines. Freaks emerged from among the first hackers in the 1970's. One of the incidents caused by freaks in 1977 New York City Police Department Well, the freaks had hacked into the department's phone system and changed the recorded text that greeted callers to the new recorded text. said Been That Officers Police

busy Eat Bread sweets and drinking Coffee are Wafer sound Answer to give To Telephones particle for direct object do not have this Message To Contact receivers Attention was doing That At Items .emergency With Call number 119

The second speech - types of cyber crimes

The variety of crimes committed in cyberspace includes first-generation computer crimes (of course in a new form) and many new and unprecedented crimes.⁴

The first paragraph - traditional crimes in the digital environment

A - Computer espionage : espionage a computer like espionage classic supervisor To acquisition secrets the profession Oh you, commercial, Economic, political, Military And disclosure, transfer and use From secrets Is, Man Committed mass attainment and spread to do this secrets, political loss, It controls economic, financial, and commercial regulations. This is a national security crime exposes it to danger.

B- Sabotage : This mass Bajram Destruction similarity many has it, Target the criminal disturbance At political system and the economy of a country, and of course it is a disturbance in the affairs of the government. In fact, modifying, suspending, erasing unauthorized data or computer operations in order to disrupt the normal functioning of the system is called computer sabotage.

⁴ Sharifi, Mersedah, Computer crimes in international criminal law, master's thesis, Islamic Azad University, p. 21 , 1379 ,Tehran branch

C- Computer forgery: entering, changing, erasing or suspending computer data or computer programs for political and economic purposes. Computer forgery is the forgery of data. In computer forgery, the act of taking the data has an effect, with the difference that data is the nature of documents. It is not normal.

T- defamation and publishing information through e-mail : Post Electronic the most common And the most extensive service Computer Networks It is international, every user can be identified in international networks through a specific electronic address, which can be easily cheated by accessing its password. This email format can be an interesting tool for publishing criminal information or publishing lies and defamation of individuals, and the possibility of information control. For the producer It is quite difficult and in practice, due to the large number of e-mails sent, it is difficult to adopt general and extensive security measures and it is only possible for a small part of the data.

D- Illegitimate money laundering : got to bring Money From through non legal Or Dirty money , in a way that looks legal or clean, is one of the classic crimes that takes place in the cyber environment with the help of the Internet, e-mail and international communication networks . give Syntax Is That Gangs big Illegitimately , by e-mail or the Internet, without any proof, he requests to send sums of money to the account of a certain person, and in his request, how to send Money and salary and duration return Expression And in the face accept the side type and how Settings Necessary to

announce We have and so In the age of refund One A legitimate channel in e-commerce It should be noted that the majority of these requests are from people from countries that are at the international level in terms of information and communication technology and police coordination . Down Terry are dating Selectionit ⁵will be

Second paragraph - Crimes in electronic commerce

Crimes in electronic commerce Contains Scam At Business, Definition overall And classic Scam is the phrase From " tehsil ". property the other by using personal fraudulent" means At Pointwise unknown " With Enter To Network International (eg Internet) and introduction self To Title businessman One Company valid in One site commercial Varae " Institutional ". Similar office Record The documents this institution responsibility registered data commercial and business until the give Arrangement of business license to enter the field of exchanges Electronic particle for direct object acquisition " Whmm " Such institutional That At Business Electronic To Meaning Public key infrastructure The ⁶ .Is basis of e-commerce and one of its major and important axes is to have this institution for merchants "(totally unreal and false), it states that it has a product with a certain price, type and quantity and can be offered to customers on the part of buyers who are

⁵ Javednia, Javad, Electronic Commerce Crimes, , ۲۰۰۸ Khorsandi Publications, second edition, Tehran p. ۳۳

⁶ Aalipour, Hassan, Information Technology Criminal Law (Computer Crimes), Khorsandi Publications, first p. ۵۹ , ۲۰۱۹ edition, Tehran

engaged in business in the network space. Electronics (buying and selling After receiving the message, they announce their acceptance (buying) of the network communication (which is often in the form of e-mail or sending a request through the network) and request a quantity of the desired product. Account number or credit card number takes action to receive the money. The buyer also waits to receive the goods after paying the money (usually in the form of electronic payments) in the event that the seller has previously been able to take the mentioned institutions for himself through fraudulent and influence operations, and by this means he has illegally obtained .an amount to ⁷earn

The third speech - history of crimes cyber At Iran

,took place on June ۲۶ 1378 . A printing press worker and a computer student in Kerman attempted to forge travel guarantee checks, and since there is not much difference between computer crime and internet crime, their action is considered an internet crime. It was after this that the hacker groups known as the Mesh Qasim group and... committed other crimes, such as forging banknotes, documents and tickets of bus companies, forging government documents such as certificates, termination cards, certificates Education and forgery of traveller's and normal checks are part of these internet crimes.

According to the available statistics in ۲۰۱۴, cases related to internet crimes were filed ۰۳ in the country, which shows that ۰۰٪ of the

crimes were discovered. Among the most important cases of Internet and computer crime in the past year, ۳۲ cases of misuse of credit cards, ۱۱ cases of Internet fraud, ۷ cases of harassment through the Internet, ۳ cases of copyright and ۲ cases of publishing falsehoods through the Internet, and ۰ cases of miscellaneous issues. have been. According to the statistics of ۱۹۸۴, the number of detections related to fraud, forgery and other computer and internet crimes shows an ۱۱٪ growth.⁸

The second topic - economic cyber crimes

The first speech - examples of economic cybercrimes in Iran

Paragraph ۱: Computer theft

Computer theft is not considered a computer This crime is a .۱۲th century crime in the pure computer crime because stealing data where the same data remains in its place is like spying and unauthorized eavesdropping, which is against the confidentiality of the data and where the same data is removed from the system by means of cutting. It is removed, it is the same as data destruction. Therefore, it is included in the category of crimes in which the computer is the target or object of the crime and should not be included next to fraud in which the computer

⁷ Ibid., p. ۴۲

⁸ Umidi, Mehdi, Comparative study of computer crimes from the perspective of Iranian jurisprudence and criminal law, master's thesis in criminal law and criminology, . Islamic Azad University, Tehran branch, center, ۲۰۰۷, p ۴۹

plays the role of a tool to commit the crime.⁹

1- Material pillar

1-1 The subject of the crime

The subject of computer theft is data. According to the interpretation of Article of Computer Crimes, this data must belong to someone else. Whether the data is of financial value, such as a formula, whether it is not, such as an accepted article, or whether the data owner has created it himself, such as the text of a book or this. That it Data particle for direct object bought from someone else or obtained through legal means. you have given that belongs to another must be on his computer or where it is legally located. Hi it Man Is, be So if anyone written Other particle for direct object That It is freely available on the Internet, it can be uploaded and received, it is not a thief, but if someone steals another article from his computer, even if the text of that article is freely accessible on the Internet, his action is punishable.¹⁰

perpetrated behavior 1-2

The behavior of computer theft, like traditional theft, is kidnapping. What constitutes the concept of kidnapping is tampering with another's property or taking it without the owner's consent. It means that

if someone gets another's property without his consent, his behavior is kidnapping. Stealing data also means tampering with other data, either by copying or cutting. It should be taken or copied in the cyber space. If someone breaks into another system that is protected by security measures and finds data or information and those R Cloud Roy Paper to write Committed lamb Unauthorized access, not computer theft. Data cutting should be done in such a way that the perpetrator takes the data from his place and sends it to another place, whether it is a computer or a data carrier. If the perpetrator deletes another's data without benefiting from it, his behavior is an example of destruction. However, if the perpetrator moves the location of the data so that the same data is not in the possession of its owner, he has committed computer theft. Hijacking a computer in the law of computer crimes Raised done Is, Ratio To abduction At space external a look does not have For example, if someone steals someone else's laptop on the street with the intention of stealing data, or goes to their computer desk and takes several CDs and steals them, it is not cyber kidnapping, even though the subject has stolen data. This theft is a traditional type of theft.¹¹

2- Psychological pillar

The perpetrator must be aware that the data belongs to someone else. The perpetrator of computer hijacking must have intent in his behavior, which can be intentionally intercepting or intentionally cutting data

⁹ Fazli, Mehdi, Criminal responsibility in cyber space, p. 121, 2009 Khorsandi Publications, first edition, Tehran
¹⁰ Ibid., p. 120

¹¹ Jalali Farahani, Amir Hossein, An introduction to the criminal procedure of cybercrimes, Khorsandi p. 24, 2009 Publications, first edition, Tehran

Punishment - ۳

The punishment determined for the crime of of the ۱۳ computer theft based on Article Computer Crimes, for taking a copy of the (۱'۰۰۰'۰۰۰) data, a fine from one million rials in cut (۳'۰۰۰'۰۰۰) rials to twenty form. Imprisonment from ninety-one days to) one year or a fine of five million) rials and twenty million (۵/۰۰۰/۰۰۰ (۲۰/۰۰۰/۰۰۰ Rial or both will be punished.

The second paragraph - computer sabotage and extortion

Computer sabotage means modifying, suspending or deleting unauthorized data or computer operations in order to disturb the normal operation of the system . Computer sabotage may be a means to gain more economic benefits than competitors or to advance illegal terrorist activities to steal data and programs for extortion purposes.¹²

Third paragraph - computer fraud through credit card

In the research conducted by David Carter, a professor at the University of Michigan, the most common computer crime reported in recent years was credit card fraud. Credit card fraud is tempting because fraudsters abuse credit cards in a very short time just by connecting to the Internet without the need for special skills. Fraud is one of the most important crimes against property and ownership, which some have named as the crisis of the ۲۰th century. In Roman law, the

¹² Javednia, Javad, E-commerce crimes, p. ۳۰

crimes of theft, betrayal of trust, and fraud .are not separated from each other It includes all three crimes Is . But with the progress of science and technology, fraudsters also use these advances to achieve their goals have used _ And They have committed computer frauds using computers and cyber space.¹³

Computer fraud, like traditional fraud, is a crime bound to obtain a criminal result and must be committed by misusing the computer through actions such as creating, erasing, stopping data or disrupting the computer system, property or benefit or financial benefits. In computer criminal law, as in traditional criminal law, the misuse of computer software Oh you To education property or benefit or financial benefits distinguish computer fraud from other similar crimes. of the Computer ۱۳ Article of the Criminal ۳۴۱ Crimes Law (Article Code) is considered the legal element of this crime.

۱- Material pillar

The subject of the crime ۱-۱

The subject of computer fraud is money or property or benefits or services or financial privileges. Computer fraud is more common than traditional fraud in terms of subject matter, and in addition to money and property, it also includes benefits, services, and financial privileges.¹⁴

¹³ Deziani, Mohammad Hassan, criminal dimensions of computer use and computer crimes, p. ۰۴

¹⁴ Shirzad, Kamran, Computer crimes from the perspective of Iranian and international criminal law, Optimum

١-٢ misbehavior

According to the definition of the word "anyone", the perpetrator of this offense can be any person, just like the traditional fraud, except for legal entities, which are currently not criminally responsible in Iranian law without special clarification from the legislator. Computer fraud is a compound and two-behavior crime. The first behavior is the 13th century in that metaphorically in computer crimes To it Hint done Is practical Because come in to do, change, delete, create or stop data or disrupt the system. These behaviors should be done without permission and if they are done with permission, Computer fraud did not occur, even if it led to illegal acquisition of money.¹⁵

The second behavior is education, whether it is receiving real or virtual credit or taking financial credit for oneself. The platform for committing this crime is the cyber space. Therefore, physical behaviors and education should be done in cyber space. If a person uses the computer and cyberspace only as a means of committing a fraud crime, such as by means of an illegal advertisement on his blog, he deceives another and identifies himself as the owner of an institution for sending students abroad, and by giving an account number, a user or users to trick him into depositing money into his account, or he has received money or property in the outside environment, he has committed a traditional fraud, not a computer one.

p. , ٢٠٠٨ Comprehensive Publication, first edition, Tehran ٢٩

¹⁵ Aalipour, Hassan, Information Technology Criminal Law (Computer Crimes), p. ٩٠

١-٣ The result is

The computer fraud must lead to the acquisition of property or benefit or financial services or financial privileges. This education can be done for yourself or someone else. The other is the person who asked the perpetrator to study for him.

-٢ Psychological pillar

The psychological element of fraud includes behavioral intent, i.e. intent in allegorical computer behaviors and intent in acquiring property or benefit, and the perpetrator's awareness of the belonging of property or benefit or financial services or financial privileges to another. Also, the perpetrator must know that performing allegorical computer behaviors, without It was permission.

Punishment -٣_

The punishment determined for the crime of computer fraud, in addition to returning the property to its owner, imprisonment from one to five years or a fine from twenty to one hundred million (٢٠,٠٠٠,٠٠٠) million rials, or both. It is a (١٠٠,٠٠٠,٠٠٠) punishment.

Paragraph ٤ : Drug trafficking through the Internet

Due to the easy access of people to each other through the Internet and sending e-mails, any buying and selling and distribution of drugs is done through The confidence factor ¹⁶ .computer networks of drug traffickers through computers is

¹⁶ Aalipour, Hassan, Information Technology Criminal Law ٩٣ . (Computer Crimes), p

higher than its traditional type. Because the police cannot easily find out about the plans of the traffickers, and therefore, the police's actions regarding the detection of drug sellers and buyers are impossible.

The fifth paragraph : computer money laundering

Money laundering and looting is one of the classic crimes that has a long history, and with the advancement of technology, this crime is carried out through computers and the Internet. The way of doing this is that the large illegal gangs send an email and offer to do a business to a person, and without leaving any traces, they offer to send money to the account of the person to whom they sent an email, and in their request, how They state the sending and share of each of the parties, and if the other party(email recipient) agrees, they declare the type and method of the necessary guarantees, and basically, at the time of refunding the money, they choose a legitimate title in electronic commerce with the commercial ¹⁷. .origin and coordinate with their purpose

The third topic - a comparative study of the crime of Internet fraud in Iran and England

One of the most important economic cybercrimes in the world is internet fraud. In this comparative study, we will discuss the definition of the crime and its punishment in .the two countries of Iran and England

First speech: definition of the crime of computer fraud in Iran

The similarity of computer fraud in terms of crime to classic fraud and its difference in terms of the process of committing it with its classic type have been discussed. The definition of crime is classic fraud. The Organization for Economic Cooperation and Development in its ^{۱۹} reports under the title of computer-related crimes imposes policy The economic authorities have defined computer fraud as follows: computer fraud is entering, changing, erasing, stopping computer data or computer programs that are intentionally and with the intention of transmitting Funds or any other valuable thing has been legalized. According to Article ^۱ of the Cyber Convention, the definition of computer fraud can be summarized as follows: any entry, change, deletion, stopping of computer data or disruption of the operation of a computer system that is intentional and without the right and It is called computer fraud if it is done by an economic entity for oneself or another with the intention of fraudulent or illegal study and without the right to cause financial loss to another.¹⁸

But the important issue is whether according to the definitions provided by the international organization for computer fraud, the laws related to classic fraud can be applied to what is called fraud ... ? Article ^۱ Escalation Punishment Perpetrators of embezzlement approved by the system detection assembly, which are the components of the classic fraud crime: ^۱- resorting to means ^۲- other's intelligence ^۳- obtaining a document or money or property

¹⁷ Javednia, Javad, E-commerce crimes, p. ۶۱

¹⁸ Jalali Farahani, Amir Hossein, Convention on Cyber Crimes and its Additional Protocol, Khorsandi p. ۲۲ , ۲۰۰۹ Publications, first edition, Tehran

taking another's property according to Article 2 of the Convention on Cybercrimes, components of the crime of computer fraud : Unauthorized interference in data or computer system - Causing harm to another

The second speech: the crime of computer fraud in England

The third country that has so far passed regulations on economic crimes related to computers is England It came into force. This law, while explaining the various crimes of forgery in the subject law and Katman Law, in section 1 to 4, deals with the definition and explanation of the crimes of forgery, copying a fake document and copying a fake document. Paragraph (d) of paragraph 1 of article 1 of the first part contains a special part that defines the fake document as follows:¹⁹

Any disc, tape, audio track or any other device on which information is stored or recorded mechanically, electronically or in any other way.

In addition, it is stated in paragraph 3 of article 1 of this law: This part of the law includes references related to persuading a person to accept a fake document as a real document or a copy of it. Articles 1 and 3 of this law have recently been invoked in the United Kingdom in the pursuit of people who are alleged to have accessed a computer system with a fake identity . However, the aforementioned cases are still open, the question of whether it is necessary to make other amendments to the English laws is

¹⁹ Shirzad, Kamran, Computer crimes from the perspective of Iranian and international criminal law, p. 146

being investigated by the Law Commission, as part of the program of this commission in developing the criminal law.²⁰

Section 1 of the Forgery and Fraud Act is not applicable in Scotland. What is worth mentioning about the Scottish law is that in the Law Commission of Scotland, 1987 which has been involved with computer crime issues since 1984, made a detailed analysis of the Scottish law. published that was notified for comment. The commission believed that there is no special need to amend the regulations on fraud and the spread of counterfeit money. He also suggested the criminalization of unauthorized access to data processing systems, and at the same time, he turned his attention to some accusations that have a much wider scope than accusations related to computer crimes²¹.

Conclusion

The advancement of technology and the use of computers in all economic, military and social affairs can lead to various crimes At Area computer face give _ so Legislator In order to fight and prevent these crimes, in law on computer crimes was the 1998 articles 56 approved in. No definition of this concept has been provided in Iranian law, neither in the law of electronic commerce nor in the law of computer crimes. Perhaps the reason for that is the basic differences among lawyers regarding the definition of computer crimes

²⁰ professor Elrich - Genesis Among International Criminal Law - Translation Mohammad advantage Daryani, Nash Qu, 1992, p. 96

²¹ Abd al-Hamad-Khorramabadi- Information Technology Crimes- Dissertation PhD - Publications University Tehran July 84, p. 63

But the following definition can be given as an example: those crimes that are committed by abusing a computer system against the law are called computer crimes. Of course, this category of crimes can be considered as including traditional crimes that are committed through computers, such as fraud and theft, as well as emerging crimes that have entered the field of life with the birth of computers, such as crimes against the integrity and integrity of data . In fact, in Iranian law, the definition of computer crimes has been left to silence, and in most cases, they have accepted almost the same definition presented by the Organization for Economic Cooperation and Development. The computer crimes law is one of the most ۲۰۰۸/۱/۱۱ approved on complete Rules At The field of crimes related To space virtual And computer Oh . you is

of internet violations in Iran % ۸۰ But about are related to economic and financial violations. The law to fight computer crimes is not perfect and this law should be in a form that can predict crimes. Iran's internet ۵۰۰ users are more than ۳۶ million and million of the country's ۲۶ . people thousand internet users are young people, most of of the % ۲۲ whom are students, and in fact country's internet space is used by students. billion ۳۸۸ The income from cyber crimes is .dollars

of the crimes are withdrawals from % ۴۸/۵ bank accounts, which is due to negligence of the owners in keeping their passwords, internet abuse of their accounts, or hacker penetration into the bank network and

False information . money withdrawal of from university professors, stealing photos

Using created emails and publishing it on websites. Internet fraud using phishing and pharming is the third cyber crime in the country. The phishing base is closed on the other side of the borders; In phishing, a site is designed completely similar to a bank's internet portal; After registering the account password, the account information and passwords will be sent to the hacker and he will immediately use this information to . empty the person's account

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