Crimes of Social Media in Iraq

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Abstract:

Communication and computer technology has made great progress in the field of media and communication, and this phenomenon has led to the emergence of a huge amount of information and an increase in knowledge. These innovations have generated new and unfamiliar crimes that reflect this reality and take advantage of its tools and characteristics, and thus are linked to the name that called. "IT Crimes" which are consistent with the term "electronic information technology era". Therefore, one of the most prominent damages to society is the development of online social sites, which can not only make friends, exchange information, and communicate intellectually and socially, but in addition to this, generate social and security risks that crime brings, which is equivalent to national threats.

Introduction:

The progress that has occurred in our world and our modern age, through the spread of computers, has brought about an amazing development, in addition to the widespread use of the Internet, and the consequent spread of social media among the world, which has become a requirement of life, and one of the urgent requirements in today's world. And it has had a clear impact on the convergence of cultures and ideas of societies, and the world has become under it a small village through the availability of scientific, cultural and social activities and other media means, and it resulted in the use of social media from smart devices (smartphones, tablets, portable devices and computers of various manufactures). It has a great benefit in facilitating the daily life, but it has not been free from abuse that has occurred and is still occurring by a large number of users.

There were many types of abuse committed by users, including insults, slander, defamation, impersonation, publishing pictures and clips that violate honor etc., associated with these means and the Internet, as well as taking the approach of incitement, theft, and destruction of the contents of various systems and computers, and even swept these devices to using social media and the information network.

Criminal responsibility for the crimes of using social media must be addressed, especially in

light of the many calls for absolute freedom of opinion, and that a person has the right to speak whatever he wants and whenever he wants, away from criminalization and punishment, and due to the ignorance of many of their own rights, which necessitates an explanation of the texts that deal with them.

Research Problem

Because of the use of modern means of communication, many users of social networking sites do not realize the gravity of what they are doing that may constitute a crime punishable by law, including the Internet and other forms of electronic communication via satellite, the subject of this research paper shows that it has become more important for the users to know the extent of criminal and civil responsibility that may fall upon them as a result of these crimes, so we will seek to shed light on the dangerous development of electronic crime in this research paper through its definition and characteristics, the reality of electronic criminality in the Iraqi Penal Code, and images of electronic crime, and how to deal with it by the Iraqi legislator.

Research Importance:

The importance of this research paper is through dealing with modern social media by people and institutions, and this research paper tries to find protection to reduce cases of violation that are practiced against the private lives of individuals, as well as it tries to define the need to respect the right to privacy because it is one of the most important personal rights of individuals, which cannot be violated by any party.

Research Plan:

The first topic: What are the crimes of social networking sites.

The first requirement: the definition of electronic crime and its elements

The second requirement: the characteristics and images of crimes of social networking sites

The third requirement: the reality of electronic criminality in the Iraqi criminal law

The second topic: applications on crimes of social networking sites

Research Methodology:

The study adopts the descriptive and applied approach, as it provides a description of the Iraqi legal system related to the investigation and proof of electronic crimes. The study also relies on a review of the legal texts related to the investigation of cybercrime, the collection of its evidence, and its applicability to the investigation procedures in cybercrime. The study also shows the applicability of the means of collecting and proving evidence of traditional crimes to those related to electronic crimes. All this done by comparing with the legal systems of advanced countries in this field, therefore, those laws on crimes (social networking sites) established by the Iraqi state will be analyzed. The research deals with the subject of the study in three frequently used sites (WhatsApp, Facebook, Messenger), as these are considered the most important social networking sites in which cybercrime is committed, and which this study discusses through the term cybercrime.

Research Difficulties.

The researcher faced a number of problems when writing the research.

- 1- Irregularity of the data contained in the statistical aggregates of the Central Statistical Organization.
- 2- The multiplicity of techniques used in collecting statistical data, which required its unification.
- 3- The difference of researched categories for each of the social networking sites.

The First Topic

What are Social Media Crimes

Technology has brought about a real revolution in the field of information, media and communications through the Internet and the computer, and it has resulted in a large amount of knowledge and millions of information, applications and various websites. However, these innovations, despite their importance and positive role in the information field, have resulted in many negative practices and actions, harmful and dangerous as a result of the misuse of these sites which was called "information crimes" or "social networking crimes", and among those damages that affected society as a result of this is the exploitation of social networks over the Internet not for the purposes of benefiting and social communication, but rather exploited by some in committing serious crimes that led to in some of its consequences to collapse the moral foundations and the threat to the security system of the state, as well as the emergence of many dangerous societal phenomena.

The first Requirement

Definition of Cyber Crime and its Elements

The crime can be defined in general as "a criminally prohibited act, emanating from a wrong will, for which the legislator determines a penalty" or as "an act or omission for which the law entails a criminal penalty." Therefore, the crime is a disobedience that seeks to rebel against the will of the group, which makes it incompatible with the will of the law that defines the offending act and the consequent punishment based on the collective will (1).

Hence, the distinction arises between legal sin and criminalization, which represents the highest degree of sin. The crime represents a breach of an important obligation in the lives of individuals and society, which makes it deserving of punishment (2).

Electronic crime can be defined as an attack on stored computer data and information transmitted through information systems and networks, particularly the Internet. It is a technical crime that arises in secret, committed by smart criminals who possess the tools of technical knowledge, and is directed to undermine the right to information (3).

The information crime is (a criminal activity in which computer technology is used directly or indirectly as a means or target to carry out the intended criminal act) (4) The proponents of this jurisprudential direction go to say that the definition of computer crimes is taken from a legal aspect.

And classifying its images requires defining the necessary vocabulary related to the commission of a computer crime, which are: (computer, computer program, data, property, access, services, vital services) (5).

There is another aspect of jurisprudence that goes to the definition of computer crime as (crime that occurs by means of a computer or on it or through the Internet) (6)

Therefore, there must be an act or omission that can be proven, because there is no lesson in the thoughts that go on in the mind of a person because they do not enter the circle of criminalization, and the material pillar here varies from case to case according to the classification that falls on the act and accordingly it is not possible to limit the crimes of social networking sites under one adaptation. The perpetrated incident, which describes the crimes of social networking sites, may constitute a defamation, threat, or incitement, and in full conformity with what is being done in the Penal Code through some rules whose ruling applies even to crimes committed by means of a computer (7).

Proving those crimes committed through social networking sites is not easy and difficult to detect because they do not leave an external trace and there are no visible physical traces such as those left by murder and physical abuse, and it differs from the way of compromising reputation and honor through Facebook, Twitter

or other means, it may be done through A fictitious account and a pseudonym or the use of other people's data with the intention of sowing dispute between two parties. But if these crimes are committed through a clear user using his correct data, the difficulty will disappear as it can be inferred to hold the offender accountable and not escape punishment.

It also can be defined as those harmful actions and behaviors issued by the electronic publisher towards other users of social media with the intention of harming them materially or morally by means of a social networking sites that combines the electronic publisher and the user. The most important of these practices is the violation of the rights of others to their privacy and personal information.

The Crimes of Social Networking Sites have two Pillars: (8).

- 1. The material pillar
- 2. The moral pillar
- 1. The material element represented by criminal behaviour. Every phrase that could annoy the victim, frighten him, or inflict terror on himself or create fear in him of a danger intended to inflict on his person or money, or on the person or money of a person concerned, is considered a crime punishable by law.
- 2. The moral element represented by the criminal motive or the criminal intent to commit the crime, i.e. the intentional crime is necessary for its realization to have the criminal intent and this is achieved by the intention of the offender to achieve the incident with knowledge of all its legal consequences. The offender must know at the time of committing the crime by the meaning of his words and that it is according to its meaning Linguistically or customarily, it disturbs the victim, frightens him, affects his psyche, and provokes terror and fear within him.

Proving those crimes committed through social networking sites is not easy and difficult to detect because they do not leave an external trace and there are no visible physical traces such as those left by murder and physical abuse, and it differs from the way of compromising reputation and honor through Facebook, Twitter or other means, it may be done through A fictitious account and a pseudonym or the use of other people's data with the intention of sowing dispute between two parties. But if these crimes are committed through a clear user using his correct data, the difficulty will disappear as it can be inferred to hold the offender accountable and not escape punishment.

Despite the aggravation of many serious cybercrimes and phenomena, the Iraqi legislator did not legislate a special text to confront these crimes, contenting himself with applying the general rules in the Iraqi Penal Code No. 111 of 1969, the effective amended, which was explicitly indicated by the discriminatory commission of the Baghdad Appeal Court / Al-Rusafa Federal, on 7/5/2015, as the publication of slanderous, insult and defamation statements on the social networking site Facebook was considered an aggravating crime, since Facebook is one of the media referred to in the Penal Code, Article 19, Paragraph III. Also, due to the availability of the element of publicity and the common use of Facebook, it is considered one of the media and therefore it is subject to The Publication and Media Court. The Publication and Media Court also considered about 1,500 cases over a 15-year period from 2010-2015, and the fate of those cases was closure or referral to misdemeanour courts or specialized courts because the crimes committed were stipulated in the Iraqi Penal Code, which dealt with insulting and cursing through the means Various media, most notably Facebook (9). The court of publication also considered a case involving a convict publishing slanderous and insulting phrases against the complainant, and found that the evidence obtained was sufficient to convict the defendant. It was concluded according to the Iraqi Penal Code that the transgression through (Facebook) in this case necessitated punishment because it caused contempt for the complainant in the social and professional environment. Therefore, it decided to ratify the verdict of conviction, and considered it an aggravating circumstance, and the court considered that (Facebook) is one of the media; Because it is available and accessible to everyone and there is an element of publicity for the act (10).

Sexual extortion and seducing teenagers and young people, catching them and raping them are among the most heinous crimes committed through Facebook. The Iraqi legislator faced the crime of seduction or electronic luring by the Iraqi Penal Code after a dangerous gang lured a number of girls to Baghdad and kidnapped and sexually exploited them, and the place of the gang has been found, through the Facebook accounts that were found on the personal computer of one of the girls (11)

Also, most divorce decisions issued by Iraqi courts indicated that one of the main reasons that led to the high divorce rates during the past year 2017 was due to the spread of social media and the multiplicity of means of communication and modern applications. Iraq witnessed 70,097 divorce cases, and according to official statistics, Iraq recorded more than 625,000 divorce cases during the period from 2003 to the end of 2016, 56,594 of them occurred in 2016. There are some women who fell victim to mistrust by the family because of a message on the mobile phone or social media, and the result was either divorce or murder in some cases to wash away the shame (12).

The second Requirement

Characteristics and Pictures of Social Media Crimes

One of the characteristics of the crimes of social networking sites (electronic crimes) is that they do not leave a material impact due to the rapid deletion. They are also crimes committed via the Internet, as social networking sites have become today one of the important stations in the development of media, cultural and economic work (13), as well as expanding the audience, and transcending spatial boundaries because electronic crime does not know geographical borders (internal, international, with international dimension) as the computer has become a crime-committing tool and it is difficult to detect and prove cybercrime because of the nickname and because of Internet cafes. The emergence of the Internet was also an unprecedented revolution in the field of means of communication and information, due to the freedom and speed of follow-up of the event around the clock, and the multiple services it provided.

As for the images of crimes committed through the use of social networking sites, there are many images that we will mention some of which are as follows. (14)

- 1. Crimes of defamation, cursing, and undermining religious, political and social symbols.
- 2. Broadcasting false news and rumors that threaten public peace, public security and national security.
- 3. Electronic blackmail crimes by luring individuals by photographing them or stealing their personal information and then asking for money from them after threatening them with those pictures or videos.
- 4. Crimes of human trafficking and sexual and financial exploitation.
- 5. Crimes of kidnapping and child trafficking.
- 6. Fraud crimes such as fake advertisements and theft of official documents and data.
- 7. Crimes of theft and fraud.

The Third Requirement

The Reality of Cybercrime in the Iraqi Criminal Law

The reality of cybercrime in the modern era has imposed itself on the legislative and judicial arena in most countries of the world, so that it has become an obsession for all those interested in public affairs. In Iraq, although there is no legislation on cybercrime, this topic, as a result of the pressure of reality, has become the subject of the concerns of all sectors of the legislative, administrative and economic affairs in Iraq. However, this interest is still in the stage of attempts to reach the formulation of modern legal frameworks that achieve effective confrontation. Regarding electronic crimes, the criminalization applied in Iraq, the confrontation is limited to the rules of the traditional penal code, because some crimes committed via computers and the Internet are prosecuted and criminalized through the provisions of the current Iraqi Penal Code, such as extortion, fraud, theft, sabotage, forgery, imitation of seals,

forgery and texts that violate the law, insults, slander, revealing secrets, incitement to immorality, and making these texts applicable when they are committed. These crimes are committed through computers or the Internet. It goes without saying that these texts despite the aggravation of many serious cyber-crimes and phenomena, the Iraqi legislator did not legislate a special text to confront these crimes, contenting himself with applying the general rules in the Iraqi Penal Code No. 111 of 1969, the effective amended, which was explicitly indicated by the Discriminatory Commission of the Baghdad Appeal Court / Al-Rusafa Federal, on 7/5/2015, as the publication of slander, insult and defamation statements on the social networking site Facebook was considered an aggravating crime, since Facebook is one of the media referred to in the Penal Code, Article 19, Paragraph III. Also, due to the availability of the element of publicity and the common use of Facebook, it is considered one of the media and therefore it is subject to The Publication and Media Court. The Publication and Media Court also considered about 1,500 cases over a 15-year period from 2010-2015, and the fate of those cases was closure or referral to misdemeanour courts or specialized courts because the crimes committed were stipulated in the Iraqi Penal Code, and they dealt with insulting and cursing through the media. The Court of Publication also examined a case involving a convict publishing libelous and insulting statements against the complainant, and found that the evidence obtained was sufficient to convict him. According to the Iraqi Penal Code, the court found that the transgression through (Facebook) in this case necessitated punishment because it caused contempt for the complainant in the social and professional environment. Therefore, it decided to ratify the verdict of conviction, and considered it an aggravating circumstance. The court considered that (Facebook) is one of the media; Because it is available and reaches everyone, it has the element of publicity of action (16).

The Second Topic:

Applications on Social Media Crime.

Table No. -1Percentage of those who use the Internet in Iraq from five years or more for the year 2019.

Correlation	Educational Status		Internet om 5 years , according to age	Male Internet users 5 years and over, by gender		
	of %21 educated males	14.5	9-5		14.5	9-5
	of %20.16 educated females	23.7	14-10	Female percentage 19.84%	32.8	Male percentage 24.1%
		38.6	19-15		63.0	19-15
		52.0	24-20		76.7	24-20
		45.7	29-25		76.7	29-25
		44.1	34-30		71.2	34-30
		41.5	39-35		68.4	39-35
		43.5	44-40		64.8	44-40
		39.3	49-45		64.0	49-45
		30.1	54-50		59.4	54-50
		20.8	59-55		53.9	59-55
		13.8	64-60		50.7	64-60
			and 65 35.0 over		27.1	and over 65 35.0

Source: From the researcher's work based on the data of the Central Statistics Organization, Ministry of Planning.

15278.4 or 1.5% is the percentage of the total violations for both sexes when applying the correlation equation and the simple regression shows that the correlation of legal violations for the ratios of males and females to the number of violations was a complete inverse relationship (1), that is, the more Internet users are, the fewer violations, and as the fewer users of both sexes, the number of violations increased, and this is due to the fact that the more pressure on the

Internet becomes, the less attempt to hack because of the momentum, and as the fewer users, the greater the chances of penetration due to the strength of the network. This results in the highest rate of violations (crimes) occurring at times when few number of users of the network, which is normal because of the violations that occur when the person concerned (the victim) is not on the network, so the offender can achieve his goal in hacking and stealing personal files, whether he is an individual or a government institution.

Table No. -2The number of electronic crimes (social networking sites) WhatsApp in Iraq for the year 2019.

Number	Ages	No. of Users	According to gender	Wha	itsApp	Sites
	Ages	Females	Males	Educationa	l attain	ment
	25-20				0	1
	30-25				26	2
19	35-30	24	76	27	53	3
11	40-35				21	4
10	45-40					
5	50-45					
4	50					

1- Primary, 2- Preparatory, 3- Bachelor's degree, 4- Postgraduate studies.

The visual comparison of the use of whatsApp for the primary category also shows nonexistent, while the preparatory stage represented 26% of participants to this network, while there were 53% for bachelor's degree, while the number of participants for postgraduate studies is 21%, and this shows the great deficit in the distribution of the use of this network to serve the stage and study, while the percentage of the use of whatsApp network for the age group shows the highest participation for the 25-35year-old group, amounting to 26% of the participants, followed by the age group 20-25 years, amounting to 25%, and then the group 30-35 years, amounting to 19% Whereas, the age groups (35-40 and 40-45) had a decrease,

amounting to (11% and 10%), and the age group (45-50 and 65) years with the lowest participation, amounting to (5% and 4%).

This indicates that the group prone to committing crimes is the group confined between (25-35 and 20-25) years, which is the age group extending between preparatory school students and bachelor students, specifically if we know that the percentage of males is higher than females, where the participation rate for males is 76%, while females are 24 %, and the table below gives us an indication of the age group and education that most likely to commit crimes on these sites. See Figure -1 –

Chart Title

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Figure No. -1- WhatsApp network users in terms of age and school stage.

Source: From the researcher's work based on Table No. -1-.

Table No. -3-Facebook users in Iraq for the year 2019

No. of Violations	Age and ratio		Percentage according to user's gender		No. of Users
	Ratio	Ages	Female	Male	21276000
	6.4	17-13	3.82	.%71.7	
	30.1	24-18			
	39.5	34-25			
	23,5	44-35			
	6.8	54-45			
	2.6	64-55			
	1.2	65			

https://napoleoncat.com/stats/facebook-users-in-iraq/2019/12

Table No. -2- related to Facebook indicates that there are 21,276,000 users of this website, with a percentage of 71.7% males and 28.3% females. The highest internet participation in terms of age was for the 25-34-year-old group, which represented 39.5%, followed by the age group 18-24 years, amounting to 30.1%, then we find the age group 35-44 years, amounting to 23,5%, and then the age groups 45-54, 13-17 and 55-64 years, whose participation rate is (6.8, 6.4, 2.6), respectively, while the age group 65 years

and over recorded the lowest participation within these sites, which amounted to 1.2%.

Here, we can distinguish the age group that has the most access to this site, which is limited to the category of intermediate and preparatory education, bachelors and postgraduate studies, as this table reveals the groups most vulnerable to committing cybercrime, see Table No. -2-.

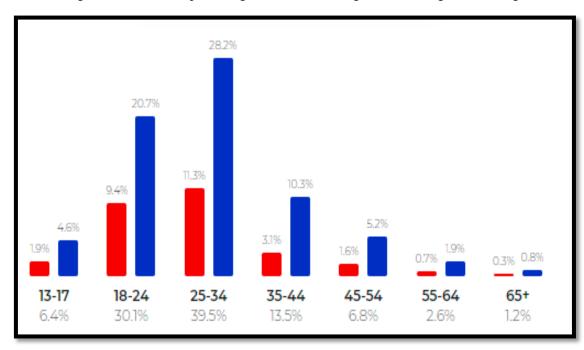


Figure -2- shows the percentage of Facebook usage in terms of gender and age.

https://napoleoncat.com/stats/facebook-users-in-iraq/2019/12

Table No.-4Instagram users in Iraq 2019

Number	of violations	Age and Percentage		Percentage according to user's gender		Number of Users	
		6.4	17-13	females	males	9545000	
		53.6	24-18	%38.2	7.68		
		39.8	34-25				
		11,8	44-35				
		4.5	54-45				
		1.3	64-55				
		0.5	65				

 $https://napoleoncat.com/stats/\ Instagram\ -users-in-iraq/2019/12$

While we find the Instagram network users, the number of users is 9545000 users, the number of males is 68%, and the females are 38.2%, where the highest percentage is for the age group 18-24 years, amounting to 53.6%, and comes after

the group in terms of participation, the group 25-34 years, amounting to 39.8%, and the age group is 35 - 44 years, amounting to 11.8 %, while the age group (13-17,45-54,55-65,64 and over) years (6.4%,4.5%,1.3, 0.5%).

27.2%

24.1%

12.6%

8.3%

2.1%

1.6%

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Figure -3It shows the percentage of Instagram usage in terms of gender and age

Source: From the researcher's work based on the data of Table No. -3-.

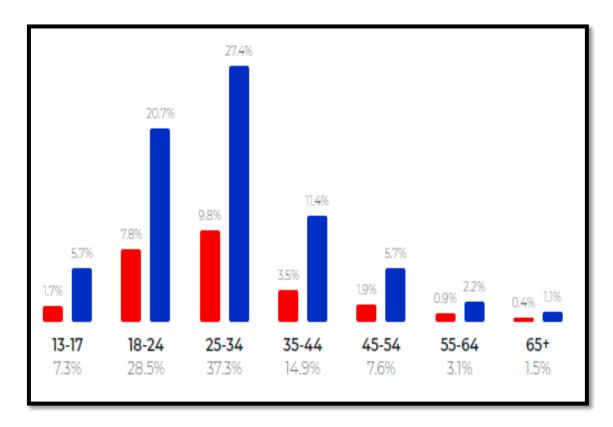
Table No.-5Shows the percentage of Messenger usage in terms of gender and age Users of Messenger in Iraq 2019

Number	of violations	Age and I	Percentage %	Ratio according to user's gender		Number of users
		7.3	17-13	females	males	1925000
		28.5	24-18	25.8	.%74.2	
		37.3	34-25			
		14.9	44-35			
		7.6	54-45			
		3.1	64-55			
		1.5	65			

https://napoleoncat.com/stats Messenger -users-in-iraq/2019/12

The number of users of the Messenger site is 1925000 users, the percentage of males is 74.2%, and the percentage of females is 25.8%. The use of this site by age also shows a discrepancy between the age groups, as it reached the highest in the 25-34 age group,

which amounted to 37.3%, and the age group 18-24 years amounted to 28.5%, while the age groups (45-54, 13-17,55-64,55-64,65+) years came at rates (7.6%, 7.3%, 3.1%, 1.5%), respectively.



Source: From the researcher's work based on the data of Table No. -3-.

Conclusion

In this research, we dealt with the topic of "crimes of social networking sites in Iraq, in Iraqi legislation". At the beginning of this study, we discussed the nature of the crimes of social networking sites (electronic crime) in general, through their definition, characteristics, and the reality of electronic criminality in Iraqi law, then we touched on the applications of social networkingthat represent sites of electronic crimes, but through this study it was found that most of the legislation did not It includes legislative texts that deal with these crimes in detail, and some have begun to deal with them recently. The Iraqi legislator also faced this type of crime through the general rules of the Iraqi Penal Code No. 111 of 1969, and the rest of the relevant laws.

Despite the aggravation of serious cybercrimes, the Iraqi legislator did not put a special text to confront these crimes, contenting himself with applying the general rules in the Iraqi Penal Code No. 111 of 1969, the amended and

effective, which was explicitly indicated by the Discriminatory Commission of the Baghdad Appeals Court / Federal Rusafa, on 5/5 /2015. The publication of defamation, insult and defamation on the social networking site Facebook was considered an aggravating crime, since Facebook is one of the media referred to in the Penal Code, Article 19, Paragraph III.

Results

- 1. The Iraqi law is concerned with the provisions that criminalize social networking sites in all their forms through social media.
- 2. A person is criminally liable for the crimes of social networking sites through their means, when he violates these laws.
- 3. The Iraqi legislation did not refer explicitly to the explicit name of these sites, but rather an implicit reference under the Penal Code.

Recommendations

- 1- Activating the role of fighting crime through social networking sites, by activating the role of educational institutions.
- 2- Legislate a law to combat crimes that occur through social media, according to penalties commensurate with the severity of the crime.
- 3- Unifying legislative and judicial efforts to combat crimes that occur through social networking sites and working to control and prove them through legal means.
- 4- Determining the responsibility of Internet service providers in Iraq and holding them responsible for the supervisory side of the crimes committed in accordance with their technical work tasks.
- 5- Developing the security services through training courses to confront electronic and information crimes through social networking sites.

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