Legal Problems of E-Business and E-Transaction

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Abstract

World Wide Web created very Opportunities and threats for human. One of these opportunities is E-business. It created several legal problems. This study attempts to survey the E-business in Law and Fiqh of Iran. It used descriptive and analysis methodology to explain subject. We follow some item so the needed concepts in Fiqh and law for changing new world Digital, the problems of law in E-business compared with traditional transaction, E-business in Law of Iran, E-business in Fiqh and etc.

Keywords: World Wide Web (www), Internet, E-Transaction, E-Business, Law, Computer Crimes

Introduction:

This concept (electronic transaction) has a variety of definitions and descriptions of each address: All aspects of the market process that can be done with the Internet and web technology and electronic business (Zargar, 2001). In general, the term e-business refers to electronic transactions will be done through the communication network. At first, the customer or the consumer pays for a virtual shop on the Internet and goods through the web or by mail order (Nikbakhsh, 2001). E-Business means conducting business transactions in electronic format (Sanayei, 2000). Information technology applications in business (Ahmadi Vam, 2002). In short we can say that the production of electronic data interchange, processing, use and exchange of information and documents between computer systems and automated electronic means and on the basis of a common language and clear standards and with minimal involvement of the human factor. However, e-business, electronic data interchange area to a wider Mrabt Dardv it is a revolution in communications. This definition is clearly in the sourcing, evaluation, negotiating, ordering, delivery, payment and supports the services that are carried out electronically. So e-business is a method based on that information, products and services are bought and sold through computer communications networks (Alipoor, 2001). E-business plays an important role in the
information age. It has legal and technical aspects those effects on the process in every country. However, E-business was not main purpose of web services in early years of its creation. It has very specially goals in the early years. It used for information security in organization and ministries. In next years it used for educations, research and scientific subjects. Based on this suggestion don’t pointed to legal aspect of trade in Web. But todays spreading of Web and internet caused to trade in internet and created E-business concept. E-business activities have better conditions in countries with better sub instructions (Ghorban Vand, 2010). E-business is pointed as phenomena of information technical revolution and communication. It globalized in late 1990 decades. Several economical benefits of E-business so Transaction cost savings, increased productivity for enterprise and industry, Change management and production firm, reducing search costs, and easier and cheaper access to information and etc. caused to more attention to this new phenomena. It is process of selling, buying, payment and services (Rahbar, 2011). One of the important discussions in new legal systems is E-business. It is used in private law and criminal law. Spreading of this technology is affected on the all aspects of human life and thus it has a potential ability to creation crime by offenders. There are several documents that proofed our sentences. Now it is important to know what do duty of law about criminal behaviour of E-business. Have Fiqh the suggestion for this new cyber challenges? Also there are some of the limited technical for legal discussion of E-business. These limits caused to slow the growth of E-business and created some bottlenecks and risks. The law of E-business would be having a high improvement in legal context. But very legal Act and articles is needed for a safe E-business. This study attempts to discussed and surveyed E-business in Fiqh and law of Iran.

The needed concepts in Fiqh and law for changing new world Digital

Since a major sector of Jurists disagree is related to time and place conditions and different levels of knowledge. Some disagree is affected from specially condition that extracted from disagree in basically concepts of Fiqh. There are differences between Fatwa of jurists in various ages of governments. Our means is that they affected from environment and condition of time (Shirazi, 1427 AH). There for jurists of Digital age must have different views rather than his predecessors. Based on this sentences legislature was clever and applied new theory or logical old theory for analysing crime in Digital space. Legal rules make to regulation the relationships between public and private actors in this scope. In other words major goal of E-business is " security of E-business, safe space and protection of law". The security of protection of data in against hackers is very important in E-business because internet is open space that easy access to others data for hackers. They can do criminal actors (Noori and Nakhjavani, 2011).

Electronics Business

Contract in E-business is not similar to traditional documents. In E-business contract buyer don’t payment any cash for selling. Therefore there is not any doubt that existing systems cannot used in common E-business. The definition expression of transaction rules is necessity to prevent damage of parties. The means of electronically sale is sell and trade of sales, services and information from computer networking so internet (Toorban, 2009). E-business means trade off same as yours with help by computer systems. But it is necessary that in digital age and internet space sells the goods that have not any physical material, they are just software.
The Problems of law in E-business compared with Traditional Transaction

Computer Crime and methods of committing such offenses is new and procedure has waned in this conditions. It is a new challenge for legislator to prosecution of offenders because computer crime is created by hacking and changing in data, information, programs and computer system. Legislator has some option in Penal law of Iran that affected on the Interrogation, inspection, examination place, confiscated objects and etc. but in computer crime we are faced with digital environment and its characterizes of space has a critical role in prosecution. Digital space has a non-physical format. It is perceptible therefore rules of procedure must regulate based on the characteristics of digital media. In several cases officer chased has not enough proficiency about cybercrime. He doesn’t know what to do? What do want and what the subject of crime (Bastani,2004).

E-business in Iran Law

E-business law of Iran is accepted in 2003. It makes from several Articles that we express in this section. Article 1 in this Law is the set of principles that facilitate the secure exchange of information and electronic interfaces with the new communication systems are used. Article 2 involved some section or subsection that we explain them:

(Data Message): The symbol of the event, information or concepts in the electronics, optics and new technologies, data generation, sending, receiving, storing or processing.

(Originator): The origin of "originator" or produced by him or on his behalf, but includes the person who sent the "data message" acts as an intermediary will be.

(Addressee): a person who plans his Aslsaz ”data message” receives, but the person in connection with "Dadhpyam" will acts as an intermediary.

(By Reference Incorporation): namely, the external source of data research turning that in accordance with Article 18 of this Law is part of the "data message".

(Integrity): the availability of a complete and unaltered "data message." Actions arising from the tenure system, such as Post, store, or display information that is normally damage the integrity "data message".

"safe practices» (Secure Method): procedural validity of the registration is to implement "Dadhpyam" origin and destination with the specified dates and to find any errors or changes in communication, content or storage "data message" by a certain time. May be a safe procedure with the use of algorithms or codes, identifying words or numbers, encryption, authentication methods or reply back, or similar means, is safety.

Article 3 state Act should be interpreted with international character, the need to develop the necessary coordination between countries in its application and the

Article 4 states in times of silence or obscurity of the law, the courts must respect the laws of other chapters within the provisions of this Act or judge.
Article 5 state that any change in the production, transmission, reception, storage or processing agreements and contracts with certain parties Dadhpyam valid. Bservance of good faith be of concern.

Article 6 of the law is written, if there is a need, "Dadhpyam" the judge wrote, except as follows: Immovable property ownership documents.
Drugs sold to final users.
Announcement, notice, warning, or similar expressions that certain orders for export of goods or the use of special techniques to prevent current or omissions

Article 7 of the law state whenever there is sufficient signature, electronic signature is deemed necessary.
Article 8 state where the law requires that the information provided or stored, or maintained and presented this information Dadhpyam also possible if the following conditions are present:
Relevant information is available and can be used in further recourse.

Dadhpyam1 the same format as output format sent or received, or that generate exactly the information displayed, uploaded or downloaded, stored.
There are more articles in E-business law of Iran that this text regardless from them to summarization.

E-Business in Fiqh

E-Business in Fiqh has not a direct rule about E-business but we can extend the rules of Fiqh to aspects of E-business. The most important of E-business in law and Fiqh is related to criminal act in cyber space. Fiqh surveyed this act as a criminal Action and expressed some rules about it. In this section we investigated the material of Fiqh that is created for criminal act in cyber space. Fiqh accepted the specially type of cyber action as criminal act. For example it state that every action with destroyed context on the data or security system that created problem for owner of context is a criminal act and loser can claim against it. The condition of this rule is social and private losses of victim. These rules are agreed between some jurists. But others jurist state the basically concept of a criminal act is its Sinful and for proving it must be surveyed. The reason of third thinking is that there are not cyber-criminal act in past and it is a new concept. Fiqh state some section as a critical concept for analysis E-business criminal act that we explain in this section.

Being Forbidden to Harm Others

Some Verse of Quran is about being forbidden to harm others so Sura Baghareh, Verse 23; Sura of divorce, Verse 6 and etc. A majore document of this rule is related to an historical event in Prophet Age. It is related to "La Zarar and La Zerar" rule. There are several points of view about this historical event. But all jurists are agreed on the concept of this rule. In other words there is not harm and damage to others in Islam and it is forbidden (Shoshtari, 1427 AH).

Unauthorized Occupation
All jurists are agreed on the concept of this rule. Some Verse in Quran pointed to this subject so Sura of Nessa, Verse 4. Also, there are several Hadith about it in Fiqh. For example Imam Bagher state "Abusing the believer's is sin and war with him is blasphemy". The above narrative reasoning is enough for proving rules of respect as one of the providing evidence of coercive. Some jurists state "this Hadith just only pointed to Judgment task". In other they believe that this Hadith say seizing on public property is prohibited. They get this thinking from structure of Hadith.

CONCLUSION

The purpose of security of data is protecting information against offenders. Internet is open network that allow to everybody for accessing to data. This advantage is an opportunity for offender to hack in cyber space. Today, very information and services is online in web. They are not physical goods. Therefore, the type of theft of goods is different in this space and created new legal problems. Legislator makes several new Articles for cyber-crimes. Also Fiqh needed to analysis these crimes and must made new material and rules for cyber-crimes. Therefore, E-business has needed to new Acts and Articles for protecting virtual goods in cyber space.

References

Ahmadi Van H. 2002. E-business, Centre for Education and Industrial Research of Iran.