Unauthorized usage of telecommunication facilities and the ways to prevent it

Syed Mahmoud Mir Khalili and Mehdi Baqeri

ABSTRACT:
Unauthorized usage of telecommunication facilities is one of the events which are considered as one of the social and even security problems that have caused many problems and difficulties for Telecommunication Corporation. Along with the development of urbanism and rapid progress of urban living in today's communities, people’s need to using some facilities such as urban gas, water, telephone and electricity is undeniable, but more important issue is public justice access to these necessary resources for life and we sometimes see the occurrence of some difficulties in some areas especially outskirts of the town in usage of telecommunication facilities. This research studies crime of telecommunication facilities usage and its constituent elements. This is an applied research regarding objective and it offers some scientific and practical solutions regarding research’s topic. Required information has been collected through documental and library method and also computer networks. At last, we can refer to this research’s results including usage of updated telecommunication networks and new facilities, supporting knowledge-based companies, evaluating subject’s criminology and its constituent elements and offering solution related to social, substantive and criminal prevention.

Keywords: Telecommunication, Unauthorized, Facilities, Usage, Prevention

INTRODUCTION
Human has passed different ages during his life and he has named each one of these ages through inspiring by great transformation and he has called them by inspiring by great development which is made at that age and a step of growth and development has made such as Fire age, Iron Age and contemporary age which has been named information and communication technology age. Although just one century is passed from the time of first telephone invention, however it is considered as a great transformation in science and technology world and so this device can open his place in all the aspects of human’s life and share somehow in all the developments. This general fortuity and increasing exploitation of telecommunication systems were accelerated when the possibility of connection was provided between some other countries at the end of 18 decade A.D. and two continents including Europe and America were surrounded by a network which was developed day by day. At this time, it was observed that borders and physical barriers have been ineffective and human’s universal dreams have been realized. But since this amazing phenomenon was available to everyone from the birth, each one benefited from it according to his intentions and goals and it naturally forced micro and macro policy-makers to plan a strategy. Therefore, they sought to prevent this crime everyday through development of science and technology in such a way that unauthorized usage of telecommunication facilities has been remarkably decreased by invention of advanced essentials and updated facilities. In addition to noting to scientific
findings and testing conducted works with these findings among collective of existing sayings, the most reasonable and rich topics can be organized and we can reach to a new attitude of this event through them. The possibility of taking advantage of existing capacities will be provided just in this case in legislative institutions in order to amend the rules, in executive institutions in order to amend the method of resistance and promote efficiency in judicial institutions.

A- Definition and stating problem

With respect to urbanism development and urban life’s rapid progress, people’s need to apply some facilities such as urban water and gas, telephone and electricity is undeniable. But the issue which should be considered is public justice access to these necessary resources for life that we sometimes see occurrence of some difficulties in correct utilization of these facilities.

For example, building’s inhabitants are sometimes settled in buildings that are often incomplete before their urban branches are legally connected because of expansive constructions. Since the need to these facilities is necessary and inevitable, they attempt to illegal exploitation of these facilities that this action is considered as a crime in addition to this fact that it is immoral and unprincipled. The person who applies his neighbor’s telephone branch before common internal wiring, he committed a crime and in addition to compensate sustained, he will be also sentenced to money judgment payment from one up to twice of on charge of do not pay branch fee and unauthorized utilization of telephone according to law, but if he applies it after entering to common internal wiring, it will not be considered as crime and it is only required to attract main owner’s satisfaction, because otherwise he has committed an immoral action. However, telecommunication company’s agents submitted a complaint to judicial authorities through legal department to prosecute this crime and they pursue the issue, but since this is one of the unforgiving crimes, prosecutor’s office is obliged to prosecute the offender upon notification of the occurrence of such a crime by officers or ordinary people. Those people who help unauthorized users to commit a crime, whether they are owner of telephone or other one, they will also be prosecutable as crime assistant. Therefore, respecting above cases and effective actions including usage of air copper cables coated with plastic and aluminum and collecting old cables, the vacancy of rule deterrent laws and absence of required instructions for dealing with unauthorized branches are felt. So it is necessary that some mechanism and legal tools required for more serious confrontation with the event of unauthorized branches usage must be available for telecommunication companies and government’s officials should more attempt toward acculturation of this subject as an abnormal and anti-value phenomenon in society through media.

B- Research’s objectives

General objective

1- Identifying effective factors on unauthorized usage of telecommunication facilities from the perspective of judicial criminology.

2-Specification of legal action’s effect regarding unauthorized usage of telecommunication facilities toward prevention and decreasing the crime

3-Offering solution in order to prevent unauthorized usage of telecommunication facilities

The practical objective: Offering scientific and practical solution to Iran’s Telecommunication Company in order to prevent this subject
C- Research’s questions:
1-What are the challenges of Iran’s main penal policy in fighting against unauthorized usage of telecommunication facilities?
2-What are the main solutions of preventing unauthorized usage of telecommunication facilities?

D-Research’s hypotheses
1- It seems that crime control and reducing a series of various behaviors which prevent progress and increasing this crime in society and supervising performance of confirmed offenders and codified law legislation are ones of these policies.
2- It seems that some actions can be taken place regarding Privatization of telecommunication Company and lack of serious protect from this company’s staff with support the company’s staff and also knowledge-based companies in order to produce new telecommunication requirements and support the ideas of telecommunication Company’s staff.

E- Research’s organization
This research studies different types of unauthorized usages of telecommunication facilities and its constituent elements and also substantive, social and criminal prevention of this crime and conclusions and suggestions will be discussed at the end of the study.

1-1- Concepts and definitions of unauthorized usage:
Unauthorized usage of public and governmental facilities is one of the main problems of some developing countries. In this chapter, we firstly take a look at telecommunication’s lexical meanings, its definitions and synonyms and then we will study other related concepts.

Usage: Taking advantage of, want a profit
Another: Except, Apart, Unless, Other, Alien, Stranger
Licensed: Allowed, Permitted
Permissible: A-If it starts with the first letter of English alphabet (A), it will be used against the truth. B- If it starts with fifteen letter of English alphabet, it will be used against forbidden and it means permissible and lawful
Prevention: Prevent, Intercept, Ejectment, Infection-prevention, Priority to maintaining, Protection, Validity-maintenance
Telecommunication: transferring and sending signs, writings and voices and any other information by wire or wireless, light or any electromagnetism device.
Public Telecommunication networks: Collection of telecommunicate devices which have been established for public or they will be established later.
Private Telecommunication networks: Collection of telecommunicate devices which have been established for application of a specific group or they will be established later.

1-1- Unauthorized usage of telecommunication facilities:
We firstly define crime of unauthorized usage and its constituent elements at this part and then different kinds of unauthorized usage of telecommunication facilities will be studied and in continue, related rules and regulations will be evaluated.
1-2-1- Definition of unauthorized usage crime from the perspective of law and its constituent elements

Crime is an anti-social event which creates disorder in discipline and security of society and country. The main duty of criminal law is society’s law preservation against offender’s violation and yet protection of the individual rights of all people. Crime determination, crime protection, offenders’ prosecution and punishment are monopolized by government not private parties; so Courts of Justice is responsible for enforcing rules of criminal law.

According to clause 1 of Article 17 of law related to Iran’s Telecommunication Company establishment, unauthorized usage includes: It is telephone address of the location which is specified in telephone’s case and it is forbidden to transfer it to any other address without coordination with telecommunication Company and it is considered illegal. Refusing to pay subscription charges and obtaining water, electricity, gas and telephone is not related to steal but legislator has allocated the provisions of Article 660 of penal Code as robbery and kidnapping another person's property to unauthorized usage of water, electricity, gas and telephone which have been expressed in Article 660. Unauthorized usage of water, electricity, gas and telephone exists in Article 660 of limitative Penal Code and it was better to use power or force word or an allegory should be stated. The minimum imprisonment had not been determined and imprisonment penalty has been added by this Article amendment in 2008 and it has been converted to money judgment.

B- The element of this crime’s Article is unauthorized usage of telecommunication facilities without payment for branch and obtaining it which implies that this crime will be realized by summing these three conditions: 1- Lack of payment for branch right 2- lack of obtaining branch 3- Unauthorized usage. It should be also referred that telephone branch is assigned to people through cable lines and obtaining subscription.

C- Spiritual element: It can be here referred to criminal action plan which means that perpetrator uses communication facilities illegally and by a specific plan and bad intention.8

---

7. Iraj Goldozian, Private criminal law, Tehran University’s publication, 2006, pages 519-520-521
8. The same
Unauthorized usage of telecommunication facilities and the ways to prevent it

1-2-2- Different types of unauthorized usage of telecommunication facilities
We will be familiarized with different types of unauthorized usage of telecommunication facilities in continue.

A- Unauthorized telephones with branch:
Unfortunately, lack of preventive conduct in past has caused that a limited number of subscribers use telephone illegally in spite of having legal branch in such a way that they transfer their telephone without paying transportation cost by using wire. Of course considered telephone address and the place of person who want to transfer telephone should telephone be at the same limitation respecting Telecommunication installations and facilities and telephone’s technical facilities should not be changed. It is possible that unauthorized visit and reporting by company’s agents will be dealt according to note 1 of Article 14 of Telecommunication Company’s establishment Law which states that if a person uses private or public telecommunication devices which he own illegally, he will be firstly received written notice and secondly his contact will be broken off for 15 days or it will be forbidden and his subscription or usage privilege will be revoked in case of repetition or renewal of subscription or usage demand will be accepted following six-months expiration by observing technical facilities.9

B- Unauthorized telephones having network and lack of license of subscriber and Telecommunication Company:
The second kind of unauthorized telephone applicants are those who use unauthorized telephone in spite of network’s technical facilities, in such a way that they use unauthorized telephone without giving permission of legal owner and apply it illegally. This case has been also inspected by the report of company’s agents accompanied with police’s officers, legal experts and representative of Telecommunication Center and they are punished following minute’s adjustment and passing judicial procedures in Court of justice according Article 660 and they must pay considered telephone’s subscription.

C- Unauthorized telephone without network
According to Article 8 of the law banning the sale and transferring non-residential land which frankly prohibits servant companies to assign branch to these areas, some people have attempted to build houses and building facilities and use landline phone illegally at some suburban areas which have been declared outside the city limits so that they buy phone privileges at the place close to area at which there is technical facilities and person needs phone line and telephone is transferred to the place at which there is no facilities by wire and owner and it will be dealt with respect to report of Company’s agents and legal notice according to Clause 1 of Article 14 of establishment Law of Communication Company.10

1-2-3- Rules and regulations related to crime of unauthorized usage of Communication facilities
A- Islamic Penal Code: Article 660 of Islamic Penal Code approved in 2008/ November/22 states that: Everyone who illegally use water, electricity, gas, telephone and sewage network without paying their branch right, he will be sentenced to pay money judgment of equivalent or twice the damage suffered in addition to compensate for damage. If perpetrator is one of the mentioned companies’ officers, he will be sentenced to maximum punishment.11

B- Bill on the method to conduct with illegal users of water, electricity, gas, telephone and swage:

---

9. Law of Iran’s Telecommunication Company establishment
10. The same
11. Islamic Penal Code, 2013
Unauthorized usage of telecommunication facilities and the ways to prevent it

Government declares the method of dealing with any kind of unauthorized usage of mentioned items in the form of bill of dealing method with unauthorized users of water, electricity, gas, telephone and swage which of course will be applicable following passing legal procedures and final approval by parliament.

C. Law of Iran's Telecommunication Company establishment: It is appointed at Clause 1 of Article 14 of Telecommunication Company establishment Law:” If one uses public or private telecommunication device which he holds illegally, he will be firstly received written notice and at the second time, his contact will be broken off for 15 days or his contact will be forbidden, and in the case of repletion, his subscription or application privilege will be revoked and his request for subscription or application demand renewal will be accepted following expiration of six months and by observing technical facilities.

D. Article 17 of regulations of Iran’s Telecommunication Company

Explanation of Article 1-17: Telephone address is a place which is specified at telephone’s case and its transfer to any other address without coordination with Telecommunication Company is forbidden and it is considered illegal.

2.1. Prevention

Prevention term has two dimensions today in its common current sense. But in precautionary criminology, prevention is used in first sense that means informing, giving notice and advising. Prevention is divided to two kinds including criminal and non-criminal. Criminal prevention involves criminal threat of criminal law’s followers on one hand, and implementing this threat through punishing those who have violated criminal prohibitions on the other hand at the place of general prevention and special prevention of crime.

Non-criminal prevention: social prevention (prevention through social development) and substantive are two kinds of criminal prevention.

2.1.1. Social prevention in crime of unauthorized usage of telecommunication facilities

Social damages and deviations are studied in this part as a social event and social cause of deviations in crime of unauthorized usage of telecommunication facilities. However, different factors are effective in this area and some of them have been referred in this part.

2.1.1.1. lack of families’ attachment to religious teachings

Studies and researches show that As long as community members adhere to their religious beliefs, they and their children will not resort to corruption and crime. So the families should resort more to religious issue and institutionalize it inside their family in order to prevent crime incident. Social exclusion

The way of criminal’s dealing with friends, relatives and neighbors influence his mutual view upon others. Totally, if these attitudes are violent and as people’s exclusion from the social environment, his separation of society will be accelerated and it causes that person again lead toward crime and this prevent from this kind of people from crime commission by tolerance and better behavior. We can refer to homelessness, drug dependency or addiction, poverty and economic problems, unsuitable friends, environment, cultural poverty and incorrect

12. Law of Iran’s Telecommunication Company, 1971, page 12
training and some systematic planning can be formulated in order to reduce this crime.

2-1-2-Substantive prevention of unauthorized usage of telecommunication facilities:

2-2-1-1-Monitoring and inspecting telecommunication Network: With respect to increase of telecommunication Networks at different place including outskirt of the town and other areas, we can refer to this issue that Telecommunication Networks’ control influences remarkably this crime reduction and some effort can be taken at the place in which there is possibility of this crime commitment through support and backing company’s personnel. We can do a lot in order to prevent substantively from this crime through modern and updated technology application and also replacement of old facilities by modern facilities.

2-1-2-2- Development of protection: Protection of telecommunication networks is different from protection in real world, in such a way that these facilities can be protected in real world by using guardian and auditor at security-information and commercial centers beside automatic system. For example, Banks and offices can apply manpower in order to protect their facilities. These facilities are not also as extent and frequency of telecommunications facilities which are expanded all around the city and they exist at especial location and this issue facilitates and simplifies protection of these facilities. Telecommunication facilities can be protected by using some facilities that unauthorized application of them is not possible regarding telecommunication facilities and also protecting telecommunication networks and successive visits and so telecommunication networks’ security and protection can be pursued.

2-1-2-3- Promoting official surveillance: supervising telecommunication networks such as supervision at physical environment is one of the strategies which prevents crime commitment in addition to rapid detection of crime. Some care measures can be applied through two ways: the first way is applying physical measures at physical world as it is applied regarding other crimes, for example: application of cables with high security coefficient in order to connect telecommunication’s subscribers which will lead to decrease in unauthorized usage of telecommunication facilities. But the other way is electronic supervision in which activities of telecommunication networks are monitored by application of special equipment and plans.

Conclusion

Unauthorized usage of telecommunication facilities is an issue which has involved Telecommunication Company. So will and intention of managers and officials are required for dealing with crime. Therefore, solving this problem requires its correct analysis and application of new methods in order to prevent from this crime. Now, we are faced with contradiction at the action scene. Telecommunication Company condones with offender subscribers and they are not dealt seriously and it does attempt to implement these plans at the places in which network development and plan implementation are required because of financial burden on the one hand, and it intends to fight against this crime on the other hand and this issue is not possible unless accurate planning in order to decrease this crime. Accordingly, we should try toward guiding this crime reduction and regularize it. If we spend more than 100 rials for supplying 100 rials of Telecommunication Company’s salary, doing nothing will be actually preferred. Hence, activities of confronting organizations’ agents for decreasing this crime are more effective.
Therefore, this reality dictates that telecommunication Company’s managers and police forces should coordinate together and do all their power to prevent and decrease this crime. Judicial power is complementary of efforts of legislator systems and executive organizations such as police force and telecommunication Company. Creating method unity and unification of rules related to unauthorized usage of telecommunication facilities and also acceleration in handling these cases and coordination with other responsible organizations in the field of fighting against this crime require establishment of special judicial circles for this important issue. Cooperation between telecommunication Company’s officers and judicial power and executive institutions are required for its implementation. Since base and start of any plan and also action toward reducing and preventing this crime is rules and regulations’ legislation, application of Parliament’s legislative capacity following conducting complementary studies in order to decrease this crime regarding current rules’ amendment is a fundamental necessity.

2- 1-2-4- Training- informing measures: The other one of Clark’s strategies is this one that people offer some justification for their action and they express some excuses for removal of their liability. This strategy’s substantive solutions are planned in order to remove such justifications. These items include: rules legislation, stimulate the conscious, warning signs installing and facilitate regulations observation.

2-1-2-5- Application of updated facilities and modern technology: We are today witness to incident of science and technology progress at all the fields, especially at the area of planning and implementing telecommunication networks that we are actually witness to this industry’s development and flourishing at the companies inside and outside the country in recent years and some action can be taken place in order to improve network and increase security factor and decrease this crime by using modern technology such as application of new cables with a diameter of four zero and replacing them with old systems which are yet found at some old regions.

2- 1-2-6-recognizing area’s advantages and preventing this action’s increase: As it was referred at last discussions, this crime commitment is more possible at the suburban areas and the places in which there are no telecommunication facilities and installations. This crime is very rare at the places in which people have better economic condition and therefore, we can take some actions in order to decrease this issue by recognizing each area’s advantages and focus on those regions in which this crime is more common and also by using modern methods.

3- 1-2-Criminal prevention

Today, Government and officials of judicial and executive power attempt to decrease this crime commitment and prevent it criminally because of committing several crimes and frequency of criminal cases. Unauthorized usage of public facilities is one of the issues which are discussed at criminal prevention topic, from which we can refer to telecommunication Industry, but legislator has referred it at Article 660 of Penal Code and a specific person will be condemned to damage compensation and money judgment. Of course, imprisoning up to 3 years has been predicted at Penal Code in 1996 that this crime was decreased to money judgment because of decriminalization and non-penalization.

1-3-1-2- Solutions of criminal prevention from unauthorized usage of telecommunication facilities: As we know, one of the legislation’s reasons is preventing from crime commitment that we will be familiarized with some cases which can be
Unauthorized usage of telecommunication facilities and the ways to prevent it

Syed Mahmoud Mir Khalili, et al.

applied as prevention in telecommunication industry.

A- Establishment of special telecommunication’s judicial branch at administrative centers in each province:

According to second part of Clause 5 of principle 156 of Constitution in which criminal prevention has been considered as one of the judicial power’s duties, judicial power can determine special branch in order to fight against the crime of unauthorized usage of telecommunication facilities at administrative buildings of each province and it can decrease this crime by accurate and correct planning.

B-Deregulation: As an example, it has stated at Article 17 of law of Telecommunication Company Establishment regarding unauthorized usage that perpetrator is firstly given notice that he must attempt to collect it and at the second time, subscriber’s connection will be broken off and his privilege will be revoked at the third time, while perpetrator is sentenced to money judgment according to Article 660 of Penal Code. Therefore, if we want to fight against this crime, administrative and managerial structure must attempt to organize regulations. Regulations amendment should be done by finding the cause of the issues.

C-Actions related to disciplinary affairs:

Police force should focus its activity on preventing and predicting unauthorized usage of telecommunication facilities with coordination and cooperation by telecommunication’s safeguarding in order to prevent this crime commitment.

Suggestions

As we know, one of this research’s goals is presenting suggestions in order to prevent from social problem or crime which is happened at the society, some preferable suggestions which are referred at below. It is hoped that these suggestions will be helpful for Telecommunication Company.

- Network monitoring plan periodically with in coordination with network elements
- Focus on living conditions of the network personnel
- Establishment of specific judicial branch for handling this crime
- Understanding Telecommunication centers network’s advantages and disadvantages
- Help network’s sector and Telecommunication center’s development
- Creating new job opportunities and reducing unemployment rate
- Support knowledge-based companies in order to new products production
- Enough consideration and supervision on activity of network’s personnel
- Actions related to security affairs
- Enough supervision on network’s officials and supervisors in order to report this crime
- Creating incentive plans among network’s personnel to decrease this crime
- Creating network’s plan in areas restricted of Telecommunication facilities
- Avoiding layoff policy and maintain and preserve existing staff
- Informing the people behind the bill for the purpose of reducing this crime
REFERENCES
1. Regulations of Iran’s telecommunication company, approved in 1999
4. 4-Sadeqi Mir Mohammad, 2006, Crimes against poverty and ownership, measure, second printing
5. Dehkhoda Ali Akbar, dictionary, publication and printing institution of Tehran University, spring 1994, involved (unauthorized)
6. Facilities law of Iran’s telecommunication company
8. Gosan Rimon, 1995, the relationship between substantive prevention and crime controlling, translated by Hussein Najafi Abrand Abadi, Martyr Beheshti University, Legal researches journal, No19-20
10. Bill of confronting with unauthorized appliers of water, electricity, gas, telephone and sewage