ABSTRACT

Objective: This research discusses one of the most important issues resulting from the rapidly developed technological revolution, as coercion and electronic extortion have become one of the negative results of that revolution.

Theoretical Framework: The coercion and electronic extortion is the most common negative results of that revolution, particularity that they do not require more tools or effort, as all the blackmailer needs is a picture, or an audio recording, or something that combines both of the picture and audio recording, or even a piece of information, on any social networking site, so that he, then, weaves the threads of his planned crime, behind which he intends to achieve specific goals, which are most cases achieving material or moral gain, engaging in a forbidden sexual relationship, or similar benefits. In addition, this crime is rapid spread due to its electronic nature. Accordingly, it is necessary to learn about these serious crimes.

Methods: The researcher used the analytical fundamental approach to study the crime and its elements and analyze the legal provisions with the objective down to reach forms of the implementation of the crime and its elements and the penalty to be imposed on the criminal regarding this crime.

Results and Discussion: This research work was divided into two sections. The first section discusses the definition of crime of coercion and its conditions, and the definition of crime of the electronic blackmail, and types and goals of the blackmail. As for the second section, it discusses elements of realization the crime and the punishment determined thereto by Law.

Conclusion: The crime of coercion and extortion goes through several stages, and the offender’s goal is to achieve his desires, whether material, moral, or sexual.

Keywords: legislative regulation, crime, blackmail, coercion, electronic, informational.

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* Associate Professor, Public Criminal Law, Department of Public Law, Collage of Law, Princess Nourah bint Abdulrahman University (PNU), Riyadh, Saudi Arabia. E-mail: imnaggi@pnu.edu.sa
Orcid: https://orcid.org/0000-0003-1642-9189
RESUMO

Objetivo: Esta pesquisa discute uma das questões mais importantes resultantes da rápida revolução tecnológica, já que a coerção e a extorsão eletrônica se tornaram um dos resultados negativos dessa revolução.

Quadro Teórico: a coerção e a extorsão eletrônica são os resultados negativos mais comuns dessa revolução, particularidade de que não necessitam de mais ferramentas ou esforço, pois tudo o que o chantagista precisa é de uma imagem, ou uma gravação de áudio, ou algo que combine tanto a imagem e gravação de áudio, ou mesmo uma parte de informação, em qualquer site de rede social, para que ele, então, tece os fios de seu crime planejado, por trás do qual ele pretende alcançar objetivos específicos, que são, na maioria dos casos, alcançar ganho material ou moral, engajar-se em uma relação sexual proibida, ou benefícios semelhantes. Além disso, este crime está a propagar-se rapidamente devido à sua natureza eletrônica. Portanto, é necessário aprender sobre esses crimes graves.

Métodos: O investigador usou a abordagem analítica fundamental para estudar o crime e seus elementos e analisar as disposições legais com o objetivo de chegar a formas de execução do crime e seus elementos e a pena a ser imposta ao criminoso em relação a este crime.

Resultados e Discussão: Este trabalho de pesquisa foi dividido em duas seções. A primeira seção discute a definição de crime de coerção e suas condições, e a definição de crime de chantagem eletrônica, e tipos e objetivos da chantagem. Quanto à segunda seção, ela discute elementos de realização do crime e a punição determinada pela Lei.

Conclusão: O crime de coerção e extorsão passa por várias etapas, e o objetivo do infrator é alcançar seus desejos, sejam eles materiais, morais ou sexuais.

Palavras-chave: regulamentação legislativa, crime, chantagem, coerção, eletrônico, informativo.

REGULACIÓN LEGISLATIVA DE LOS DELITOS DE AMENAZA Y CHANTA JE INFORMATIVO - ESTUDIO ANALÍTICO FUNDAMENTAL DE LA LEY DE DELITOS INFORMATIVOS SAUDITA

RESUMEN

Objetivo: Esta investigación discute uno de los temas más importantes resultantes de la revolución tecnológica de rápido desarrollo, ya que la coerción y la extorsión electrónica se han convertido en uno de los resultados negativos de esa revolución.

Marco teórico: la coerción y la extorsión electrónica son los resultados negativos más comunes de esa revolución, particularidad de que no requieren más herramientas o esfuerzo, ya que todo lo que el chantajista necesita es una imagen, o una grabación de audio, o algo que combine tanto la imagen y la grabación de audio, o incluso una pieza de información, en cualquier sitio de red social, de modo que él, entonces, teje los hilos de su crimen planificado, detrás del cual pretende lograr objetivos específicos, que en la mayoría de los casos son lograr ganancias materiales o morales, participar en una relación sexual prohibida, o beneficios similares. Además, este delito se propaga rápidamente debido a su naturaleza electrónica. En consecuencia, es necesario conocer estos graves delitos.
Métodos: El investigador utilizó el enfoque analítico fundamental para estudiar el delito y sus elementos y analizar las disposiciones legales con el objetivo de llegar a formas de la implementación del delito y sus elementos y la pena a imponer al delincuente en relación con este delito.

Resultados y Discusión: Este trabajo de investigación se dividió en dos secciones. La primera sección discute la definición de delito de coerción y sus condiciones, y la definición de delito del chantaje electrónico, y los tipos y objetivos del chantaje. En cuanto a la segunda sección, se examinan los elementos de la realización del delito y el castigo que determina la ley.

Conclusión: El delito de coerción y extorsión pasa por varias etapas, y el objetivo del delincuente es lograr sus deseos, ya sean materiales, morales o sexuales.

Palabras clave: regulación legislativa, crimen, chantaje, coacción, electrónica, informacional.

1 INTRODUCTION

The crime of coercion and blackmail is one of the most important crimes affecting the private lives of individuals, their honor, reputation, and dignity, which may lead to weakening the trust between people in their dealings. Therefore, the Saudi lawmaker formulated legislative provisions to criminalize the behaviors of such type in order to preserve the rights of the victims and to reduce these crimes within the society.

The crime of electronic blackmail is one of the abhorrent practices, as it disturbs safe people and transforms their lives from a calm life to a life filled with fear, depression, and turmoil, which makes the victim a hostage in the hands of the blackmailer as he/she becomes compliant with orders of the blackmailer and fulfills his desires, regardless of the content of the threat, whether it is related to honor, reputation and prestige, or to the soul or property. Therefore, electronic blackmail is considered one of the most heinous crimes, because it may bring the person to the degree of slavery and servitude, as it threatens others by various means to make them aware of the danger facing them, which makes them subject to the desires of the blackmailing criminals, so the researcher should have studied the crime of this type to find out extent of the adequacy of the legal provision for criminalizing this criminal behavior, and its impact on Saudi society, particularly that the majority of the victims of this crime are women and children, and extent of the adequacy of the penalty prescribed for this crime in order to deter anyone, whose self incites him to commit this crime. The purpose of this work is to study crime and its elements and analyze its legal provisions.
2 THEORETICAL FRAMEWORK

I. First: Informational threat crime:

The crimes of threat and extortion are traditional crimes against the persons, just like the crime of forgery, insult, and bribery, which are punishable by the traditional criminal laws in all countries. In Kingdom of Saudi Arabia, such crimes are classified as discretionary crimes, of which the ruler in the Islamic state takes over criminalization and punishment, with penalties, of which he estimates to deter perpetrator of such crimes, and prevent the others from imitating him in committing them. Issuance of the Anti-Cyber Crime Law was an opportunity to criminalize and punish this behavior, but this does not mean that they are an information technology crimes, as such crimes may be committed verbally, by correspondence, or by another person, who conveys the threat to the victim, or by phone, or in a public forum, etc. Therefore, we will study the crime and its elements to find out its nature.

What is meant by the threat?

The threat means an act undertaken by a person, who warns another person of a danger that he wants to inflict on the victim person himself or on his property, or we can define the threat as an announcement of an evil, which is intended to be inflicted on a specific person or on his property, and the same would cause a damage to the victim person or the victim performs the threat request against his will, and as result he suffer a harm. The threat is considered as a type of moral or ethical coercion, with the intent of obtaining a specific demand or with the intent of disturbing the threatened person and compromising his security and personal freedom (Al-Minshawy, 2023).

It is not required that the threat occurs regarding a specific matter, but rather that criminal performs any act, which would cause harm to soul of the victim. Accordingly, the threat may occur by publishing pictures of the victim, or some of his private secrets. In addition, it is not required that the threat is inflicted on the person, who is intended to be blackmailed, but rather it may be on him or on a member of his family. Moreover, it is not required that the criminal’s goal is to achieve the thing threatened, because the threat is a crime, which occurs, just because of the threat, due to the terror, which the threat causes in soul of the victim (Al-Muharj, 1436 AH).

To realize crime of the cyber threat, the following conditions should be met:
1. The threat and blackmail shall occur regarding a matter, which would harm reputation of the victim.
2. The blackmailer aims to engage the victim in a crime or harms his reputation and honor in eyes of the people.
3. The warning shall be regarding a matter, which is about to occur, because influencing the will of the coerced person and depriving him of freedom of choice is misplaced unless the threat is imminent.
4. The threat shall be serious to the extent that the intended person thinks that the threat has been realized, so that the threat would affect soul of the victim and the threatening person is aware of extent of this influence.
5. The threat shall occur via the internet.
6. The threat shall aim to obtain an illegal profit or harm reputation of someone. Hence, there is no crime in the case of threatening the debtor by the creditor with respect to resorting to legal methods in order to obtain his right (Al-Muharraj; 1436 AH).

The threat may be in writing, oral, by telephone contact, or by a third person, to infect the victim with fear and panic, which would force him to implement and spread the will of the criminal among the people (Al-Hait, 2015).

In application of the above-mentioned conditions, the defendant was convicted with blackmailing and threatening some girls, demanding them to have the sex with him, uttering words to them, some of which were indecent, establishing forbidden relationships with some of them and meeting with them separately and in privacy, committing preliminaries of the indecency and posting numbers of other girls to defame them and defrauding a girl to take sums of money (Al-Minshawi, 2023). It was also ruled that the defendant was convicted of having a forbidden relationship with a girl to whom he had no legal relationship, threatening her, and blackmailing her by publishing her pictures, storing, and sending her mobile phone what would violate public morals and the sanctity of private life (Al-Minshawi, 2023).

In addition, the defendant was convicted with establishing a forbidden relationship with a girl, who does not have Sharia relationship with him and threatening her of posting her pictures and storing and sending materials, which would harm the public morals and sanctity of private life in her mobile phone (Al-Minshawi, 2023).

II. Second: crime of cyber-blackmail:
The Electronic Blackmail is defined as an attempt to obtain material or moral gains from a person or persons, whether (natural or legal person), through coercion or threat and this is done by disclosing secret of the person being blackmailed, or threatened to attach shameful and false matters to the victim, such as photographing a girl in sexual positions and threatening her with posting them, or disclosing matters dishonoring her, or attributing them to her or to someone, who she cares about in the internet forums, dating websites, or mobile phone messages, unless she responds to the aggressor’s material or sexual desires (Al-Hait; 2015).

The blackmail involves defaming the blackmailed girl through publishing her pictures, audio or video recordings on the Internet or sending them to the mobile phone number of one of her relatives or to other persons (Al-Shazly, 2021).

III. Stages of the cyber blackmail:

In most cases, and in terms of origin, cyber blackmail consists of five stages, namely; obtaining the blackmail material, demand, threat, resistance, compliance, and finally repetition. We will discuss each stage separately as follows:

The first stage: obtaining the blackmail material:

In this stage, the offender obtains a picture, audio recording, video, or information, which the victim does not want to be posted publicly. The offender may obtain blackmail material with the victim’s consent and this is done either through the offender engaging in false love stories with women, exploiting conditions of the repression or emotional emptiness, which some women experience. The woman, who grows up in these circumstances is an easy prey for the offender, who waits for the opportunity to cast his nets on her. Then, he only take a while and binds her with a strong rope, exploiting her tools, which she sent to him willingly or because of the excessive trust, which the offender gives to the victim. Then, the offender informs her of information of a special nature, or important secrets, or even in some cases, he sends to her private pictures because of this trust, and from this point, the offender begins the first stage of his criminal process (Al-Minshawi; 2023).

In other cases, the offender obtains materials, through which, he forces his victim without her will, such as breach of the security measures of private websites, or what is known as Hacking, for purpose of decoding the login code (password), and in most cases, those, who do these actions, are category of highly intelligent youth people, who are fond of Internet technology, and after completing the decoding the access code, the offender
obtains the materials, which he wants, and through these materials, he blackmails his victim. In addition to the cyber blackmail, crime of assault of the private life can be realized, if its conditions have been met (Al-Baqli, 2010).

In addition to the above, the offender can, in some cases, exploit his job capacity to obtain blackmail material, for example, he may be an employee, who is authorized to review the messages or phone calls, or he may be one of those, who work in inquiries section for certain department, and list of phone number of the clients is available for him, or the offender may exploit technical or professional capacity, for example, he may be owner of a shop of maintenance of smart devices, or trades in used ones, or he may be internet service provider (Mahmoud; 2016).

Moreover, the offender may use some fraudulent methods to obtain blackmail material. For example, the offender may have a high-ranking political or social position, and tries to exploit his claim and get to know the victims, and tries to obtain any files from them under the name of friendship or love for the purpose of marriage, while the real goal is to blackmail these victims (Mahmoud, 2016).

In addition, some offenders may claim that they are fighting the cyber blackmail, which makes the victims of cyber blackmail resort to them to seek help. Thereafter, this person, who claims fighting the cyber blackmail requests the victims to send pictures for the purpose of helping them, and it only takes a while, then the offender blackmails them again through these pictures (Al Thunayan; 1433 AH).

The second stage: demand and threat:

Whereas the content of blackmail is a threat accompanied by a demand, therefore, there is no place for realization of the crime of blackmail, unless the threat is not accompanied by a demand, as the independent threat crime occurs when demanding the victim. It is worth noting that most of the legislations do not specify a specific form for the demand, as the demand may be undertaking or refraining from undertaking an act, or assignment to provide a benefit of whatsoever form (Al-Muharraj; 1436 AH).

This stage begins after expiration of the first stage, i.e. after obtaining the blackmail material, as the offender begins to threaten and pressure on the victim to achieve his criminal goals, namely reaching his goals, which he wants to force the victim to implement, and unless the victim responds, the offender will carry out his threat, which makes the victim in double bind: either submitting to the offender and achieving his goals and walking on a path, from which there is no return, or non-submitting to the offender,
thus experiencing the scandal and harm. (Al Thunayan; 1433 AH). All that is required at this stage is the serious demand and threat, so that the victim believes that the offender will inevitably carry out his threat, unless the victim carries out his demands. But if the threat is not serious, i.e. the threat is by way of a joke or fun, for example, so there is no place for the crime of cyber blackmail, and this case is subject to the discretion of the trial judge whether or not the threat is serious, according to realization of the criminal intent (Al-Baqli, 2010).

The third stage (resistance):
This stage begins after expiration of the first and second stages, when offender obtains the blackmail material and threatens the victim that he will post them, or that a harm will occurs to him/her, unless the victim carries out what is he required to do. At this point, the victim expresses his concern and rejection of the offender’s demands, especially if these demands are to commit illegal acts, such as involving in a forbidden sexual relationship, carrying out a theft in favor of the offender, drug trafficking, and the like (Al-Mutairi; 1442).

The fourth stage (the compliance):
The compliance means surrender, which is the opposite of resistance or rejection. In this stage, the victim chooses between two things: the first is to experience the scandal or harm, and the second is to implement the offender’s demands. In most cases, the victim chooses to implement the offender’s demands rather than experiencing the scandal or harm to avoid its dire consequences, so the victim submits to the offender's threat and implements demands of the offender (Al-Shennawi; 1423 AH).

The fifth stage (the repetition):
The ambitions of some offenders do not end with the limit, where the victim fulfills his demand, especially when the offender feels that the deterring authorities are weak on the one hand, and that there is a response on part of the victim, on the other hand. Therefore, the offender resumes his criminal behavior, namely blackmailing the victim, whether this behavior is repeated by the offender himself, or the offender sends other persons to the victim for the purpose of blackmailing him/her again (Al-Mutayri; 1442).

IV. Goals of the blackmail:
The cyber blackmail is divided, in terms of the goal, into three types: namely the blackmail for a material goal, blackmail for a sexual goal, and blackmail for an utilitarian goal. We will discuss each type in some detail.
1. **The blackmail for a material goal**

The desire to obtain the money is one of the most important main goals, which leads offenders to commit acts of blackmail. A person’s love for money may often leads him to take the path of crime in order to obtain his basic needs, desiring to get rich quickly with as least as possible effort (Al-Mutairi; 1442).

This type of blackmail occurs against men, women, and juveniles, as well as legal persons, where the offender threatens the victim in order to pay sums of money, or other things of material value, whether directly, when the blackmailer demands the victim to transfer money directly to him or to the others, or indirectly, when the blackmailer demands the victim, for example, to pay debts on his behalf, or to pay the due car installments, or the like, and in return, offender does not implement his threat. This is one of the judicial applications of blackmail, whose goal is financial gain (Al-Muharaj; 1436 AH).

2. **The blackmail for a moral (sexual) goal:**

This type of blackmail is realized, when the consideration, which the blackmailer demands, is to have the sexual act or its preliminaries. The sexual factual blackmail is divided into two section; the first section is the cyber (virtual) sexual blackmail, and the second section is real sexual blackmail. The cyber sexual blackmail is that which is made remotely, i.e. via through long-distance communication applications and websites such as Facebook, Viber, Skype, ...) and other means of visual communication. As for realistic sexual blackmail, it occurs, when the blackmailer demands the victim to have illicit sex in reality (Abdul Aziz; 2018).

3. **The blackmail for an utilitarian goal:**

The cyber blackmail for an utilitarian goal of the offender is realized in any way, whenever the offender demands the victim to perform an act against his will, regardless of this act, and whether this act is legitimate or illegitimate and is devoted to interest of the offender or another person, such as when the offender demands an official in a government authority to appoint a person in a certain job, or the offender may use the victim as a tool to commit a specific crime and this type is often spread among organized gangs with the intent of implementing their criminal plans, so that the victim is exploited as a means to commit their crimes (Al-Baqli; 2010).

**V. Elements of the cyber blackmail crime**
The blackmail crime is one of the most dangerous moral crimes in our world, which sounds the societal alarm, and inflicts directly the human and religious values. The crimes of this type are capable of ending the life of an individual or make a family lose its dignity. Based on foregoing, this section will be concerned with explaining the legal regulation of cyber blackmail through presenting the material and moral elements and finally the legally prescribed penalty for this crime (Al-Shazly, 2021).

**First: the physical element**

At the beginning, the mean of assault in the crimes of threats and blackmail is the information system or one of its components, in order for it to be described as informational. Article 1, paragraph 8, of the Anti-Cybercrimes Law defines the Cybercrime as any act committed, which includes the use of the computer or an information network in violation of the provisions of this Law. Hence, the offender's behavior to commit the crime of coercion and blackmail through his mobile phone or his computer, is described as the cybercrime in accordance with the law. The physical element rests on three elements of the criminal behavior of the cyber blackmail crime, its criminal consequence, and the third element is the causal relationship between consequence and behavior.

**The criminal behavior:**

Article 3 of the Law stipulates that: “Each person, who commits any of the following cybercrimes shall be punished with imprisonment for a period not exceeding one year and a fine not exceeding five hundred thousand riyals, or one of these two penalties: 1 -...... 2 – The illegal access in order to threaten or blackmail a person to force him/her to do or abstain from doing an act, even if doing or abstaining from this act is lawful.

According to the legal provision, the activity undertaken by the offender is illegal access to a computer, computer network, or website. The lawmaker has defined in Article1, paragraph 7, the illegal access as: "a person's illegal access, without authorization, to a computer, website, information system, or computer network. The access is illegal, unless the person is authorized to access and the goal of the unauthorized access is to threaten or blackmail a person in order to force him to do an act or refrain from doing it, whether the requested act or abstention from doing the act is legitimate or illegitimate, as the legitimate end shall not justify the illegitimate means. The method or mean of the threat does not matter, as the threat may be made through the use of e-mail,
chat, chat rooms, forums, or any other means, which would drive the victim to do an act or abstain from doing it. The seriousness of the threat does not matter, as long as it would lead the ordinary person to respond to the offender’s demand (Al-Shazly, 2021).

In order to complete the material element of the crime, it is not necessary for the victim to perform the act or abstain from it. The threat is one of the formal crimes, for completion of which, it is sufficient to commit the criminal behavior, but it is not necessary to achieve the purpose of the threat in order to complete the material element of the crime. Accordingly, if the offender commits the threat, and its purpose was to force the victim to do an act or abstain from doing it, but the victim did not carry out what he is required to do, the physical element is fully realized against the offender. Whereupon, the offender must be punished with the prescribed penalty. In this case, it cannot be said that the commission of the threat by the offender and the victim’s non-responding to it constitutes the attempt of the crime, because Law requires that the offender’s purpose for the threat is to force the victim to respond to the threat, not to actually respond to it, so that the crime takes place. (Al-Hait, 2015).

The criminal behavior in the crime of the cyber blackmail is a threat accompanied by a demand, as this threat is required to involve a harm, and leave an impact on the victim’s psyche, which leads him/her to implement the blackmailer’s demands against his/her will, such as when the offender claims for sums of money or demands to establish forbidden sexual relations, and in the event of non-response, the blackmailer will implement his threat. In fact, the criminal behavior in the crime of cyber blackmail has two forms: the first form is the threat of physical harm, and the second form is the threat of moral harm, as follows:

1. The threat of physical harm

The physical harm is the harm, which committed against the body or money, such as the threat to cause physical injury like the killing, beating, etc. Thus, the threat is considered an extortion, if a person threatens a woman to kill her, or destroy her valuable property (such as expensive antiques, or those of special value to her (such as pictures and personal belongings), if she ceases to continue the sexual relationship with him (Abdul Aziz, 2018).

Threat of the physical harm has two forms; the first form is the threat to cause harm to the body, and the second form is the threat pertaining to the money and property.
The threat to cause harm to the body includes all forms of threat of violence against the body, whether towards the victim or another person, whose matter concerns him, and it is established in the judicial applications regarding the threat of harm against the body is whether the accused person’s threat to kill the complainant using the gun is accompanied by a demand to waive the immediate and deferred dowry.

As for the threat pertaining to the money and property, it includes all forms of threats directed at money, regardless of whether its ownership belongs to the victim or another person dear to him/her, as long as the threat has an effect on the will of the victim and makes him/her obedient to the orders of the blackmailer, and the essence of this threat is to jeopardize the money and property, which introduces terror and fear into the victim’s soul, thus paralyzing and restricting his will. As a result, the victim obeys the offender’s desires and fulfills his demands, for fear of his oppression and implementing his threat, by committing a harmful act pertaining to money and property. For example, the offender may threaten the victim that if the victim does not give him a sum of money or leave his job, offender will burn the house, which belongs to the victim (Al-Muharj, 1436 AH).

2. The threat of moral harm

Moral harm is the harm pertaining to the honor, reputation, or prestige, such as threat of the matters, which defame, dishonor accuse a person. There are many forms of the threat of moral harm, including threat of disclosure or attribution of shameful matters to someone, or accusing him, as well as the threat of taking legal actions, would undermine his reputation, social status, or job position, or put him in conflict with the law. (Al-Shennawi; 1423 AH), such as threat of disclosure or attribution of shameful matters inflicting the honor; such as disclosure or attribution of matters to the victim, which undermine his reputation, honor, and prestige, i.e. denotation of these dishonorable matters is identical to the same denotation assumed by the crime of slander; the matters, which if true, they will necessitates punishment for the person, to whom, they are attributed, and make him/her disdainful among the people of his country. The criterion for considering that an incident is punishable is the Criminal Law, i.e. when an incident is attributed to the victim, and this incident is a crime under the Criminal Law. As for the criterion for considering that an incident is worthy of contempt, it lies in this incident's reducing the extent of respect, which the victim, regardless of his circumstances, has the right to enjoy in society. In fact, the criterion of the shameful act is a relative criterion, as the shameful act attributable to someone may not be the same for another person.
Therefore, estimate of this criterion falls within the scope of the discretion of the Trial Judge, who shall study and consider the circumstances of the victim, imagine the extent of respect attached to him/her, and decide whether or not the incident attributed to the victim has derogated this extent of the respect (Al-Minshawi, 2023).

For example, if someone attributed to another person that he visit the porno shops frequently or that he escaped from the mental hospital, these are disgraceful matters (Shatra). The multiple emotional relationships are also one of the disgraceful matters.

Disclosing the disgraceful matters and attributing them to the victim are equal in this regard, as the disclosure means announcement of true matters, i.e. they were actually done by the victim. As for the attribution, it means that these matters were not done by the victim, but they have been falsely attributable to him/her. The offender does not accept to prove validity of the matters, which he threatened to disclose, even if the victim is an employee, and subject matter of the threat is related to works of his job. The offender must be punished in the two cases, whether the matters are true or false (Al-Ghadayan: 2018).

As for the threat of taking legal action against the victim, in fact, the crime of cyber blackmail does not require that the threat is made regarding an illegitimate matter, as the threat can occur regarding legitimate matter. For example a someone may threaten another person that he will resort to court, if the other person does not fulfill his demands, to which he has no right, or he may threaten the other person that he will delay his deserved promotion, or harm his job or social status. The threat in the crime of extortion occurs when the intention is evil, even if intention does not constitute a crime. The crime of extortion is also realized, when the threat includes pressing accusation against a person, unless the offender achieves the goals, which he wants. For example, a male employee may threaten a female employee that he will report crime of misappropriation of public property, if she refuses to have the sex with him, as this constitutes an extortion, whether or not the female employee has committed this crime, because purpose of the threat is not realization of the justice or contribution to find out the crime, but purpose of the threat is to extort perpetrator of the crime.

We have explained threat of reporting the crimes in the above lines, but there is a raised question about extent of application of the same to the person, who threat another person that he will resort to the competent court to obtained his right.
In fact, the threat of resorting to the competent court to claim for a right is legitimate, because the real purpose here is to obtain the right, but the threatening person must be the holder of legal right, and the right must be established and not just a claim, regardless of the nationality of the complainant, whether he is a citizen of the country or an expatriate.

Accordingly, if the offender has a right to the thing, which he obtained, he/she is not considered to have committed the crime of extortion, even if he take the method of threat (regardless of its content) in order to obtain his right, along with the extortion, even if in order to obtain his right he took the method of threats (regardless of its content), noting that non-punishing the crime of extortion shall not prevent punishment for the crime of threat when its conditions are particularly met, i.e. when the threat includes committing a crime, or attributing or disclosing dishonorable matters (Al-Shazly, 2021).

3 METHODOLOGY

The researcher used the analytical fundamental approach to study the crime and its elements and analyze the legal provisions with the objective down to reach forms of the implementation of the crime and its elements and the penalty to be imposed on the criminal regarding this crime.

4 RESULTS AND DISCUSSION

The criminal result:

The criminal result represents the second item of the material element, and it also arise from the first element (criminal behavior), but it is separate from it, considering that completion of the activity does not necessarily lead to achieve the result. (Al-Marri; 2017). The crimes are generally divided, in terms of the result, into crimes of damage and crimes of danger. The crimes of harm or crimes with a result are those, for realization of which, the lawmaker necessitates a change in the material world, which arises from the behavior of the perpetrator of the crime, as they do not occur completely, unless their result is achieved, and most of crimes belong to the crimes of damage. The crimes of danger or formal crimes are those, for realization of which the lawmaker does not require a change in the outside world and they are few in number compared to the crimes of
damage, such as the crime of refraining from giving the testimony, crime of possessing a weapon without a license, or crime of practicing medicine or pharmacy profession without a license, and the like (Ouda; 1977).

The criminal result in both types takes a specific form. In the crimes of damage, we assume occurrence of criminal behavior resulting in external material effects, which involves actual aggression against the right (which is the material meaning of the criminal result). As for the crimes of danger, they are characterized by the fact that the effects of their criminal act represent a potential aggression against the right (which is the legal meaning of the criminal result) (Bakr; 1977).

Based on the foregoing, criminal jurisprudence on determining the meaning of the result of the cyber blackmail crime has been divided into two trends, as follows:

The first trend deemed the cyber blackmail crime has a legal result, and is realized, once the penal provision is breached and the criminal behavior constituting the crime of blackmail is committed. As a result, and according to this trend, it is a crime of danger, in which no tangible material result is required on the ground. Thus, it is not probable that this crime is initiated like the crime of threat (Al-Ruqi; 1432 AH).

While the second trend deemed that the cyber blackmail crime has a material result and its result should appear on the ground in order for realization thereof. As a result and according to this trend, it is one of the crimes of damage, in which occurrence of a material result is required, namely the victim’s fulfillment of the demands of the offender (the blackmailer). Hence, when the victim refrains from the compliance with the desires of the offender, the crime stops at the limit of attempt. Thus, this crime differs, in terms of its legal structure, from the crime of threat (Al-Marri; 2017). The researcher deems that the crimes of this type are considered one of the crime of damage, for which punishment requires the occurrence of damage to the victim and the damage does not have to occur at present, but it can occur in the future.

**The causal relationship:**

The causal relationship is described as one of the items of the physical element, and it is limited to one category of crimes, namely the crimes of damage, i.e. those crimes, in which the lawmaker does not require occurrence of a criminal result, i.e. they result in a change in the material world. As for crimes of danger, its material element does not include the necessity of occurrence of a criminal result with certain nature, as it is
sufficient for these crimes take the criminal behavior only, and the problem of causal relationship does not arise thereafter (Al-Marri; 2017).

It is natural that this logic applies to the crime of cyber blackmail, as long as we are supporters of the trend, which deems it as one of crimes of the damage, that is, i.e. a crime with a result. Hence, there must be a causal relationship between the threat issued by the offender (whether it is a threat of physical harm or moral harm on the one hand, and the threat must be prior to implementation or at least synchronized with it) and the victim’s implementation of the offender’s demands on the other hand. In other words, the implementation by the victim must be due to the offender’s threat

In application for this logic, the offender cannot be held accountable for a complete crime, unless the victim implements his/her demands, and the crime of cyber blackmail is null, if a person achieves a benefit for another person without a request from him, but rather in his/her desire to avoid the harm by this person (Al-Shazly, 2021).

Based on the foregoing, the cyber blackmail crime does not occur, in the case of absence of the threat, or absence of the causal relationship between the blackmailer’s threat and the victim’s execution. This occurs, when the victim implements the offender’s demands under the influence of a factor other than the threat, such as when this occurs out of the pity or sympathy and the like. Realization of the causal relationship between the threat and implementation is left to the discretion of Trial Court, which adjudicates this matter in accordance with the circumstances of each incident.

Second: moral element:

It is jurisprudentially well-established that the crime is not a purely physical entity consisting of the act and its effects, but it is also a psychological entity, and modern criminal law has established this principle, which stipulates that the materiality of the crime does not create responsibility and does not necessitate a punishment, unless the psychological elements required by the entity of crime are realized alongside it and these psychological elements are gathered in an element pertaining to it, called the moral element (Al-Ruqi; 1432 AH).

The moral element in the cyber blackmail crime takes the form of criminal intent, as it only occurs intentionally, and the general criminal intent is sufficient to realize this crime, meaning that this crime does not require special intent. (75) The moral element of this crime rests on two elements, namely the knowledge and will. We will discuss each element separately. Whereas the element of knowledge is precedent to the element of will
in the chronological sequence, so, the jurisprudence settled on consideration of the

in the chronological sequence, so, the jurisprudence settled on consideration of the element of knowledge before the element of will as a matter of priority in progression and not as a matter of preference in terms of value and importance (Al-Otaibi; 1429 AH).

It is not required that the accused actually made the threat or blackmail as long as his intention is to achieve this goal, and conclusion of this intention is left to discretion of Trial Judge in view of conditions and circumstances of the incident. Saudi Law mentioned provision of the threat or blackmail in a word, which suggests that the principle to be relied on is that the threat or blackmail is made through illegal access, so if the accused person threatens or blackmails actually, he will commit the two crimes, i.e. the crime of illegal access and the crime of threat or blackmail. A Provision punishing for the threat or blackmail should have been separately contained in the Law (Al-Shazly, 2021).

1. **The knowledge**

The knowledge is the perception of the reality of a thing, i.e. realization of matters in a manner, which matches reality, or a quality, by which the thing becomes clear and appears as it is. Knowledge of the thing is the opposite of ignorance of it, which is a complete or partial lack of knowledge (Al-Otaibi; 1429 AH).

In the crime under study, it is required that the offender is aware of all the elements, which contribute to committing the cyber blackmail, i.e. the offender must know, at time of commission of his/her act, that his/her act would force the victim to implement an order against his/her will, and he must also know that the benefit, which he obtains, is the result of the threat issued by him/her, and that he does not have the right to do what the victim is obligated to implement and if the offender is ignorant of the same, as when he believes in good faith that he is recovering a money owned by him/her, or that he/she is collecting a debt owed to him/her by the victim, or that the victim has handed him the money out of sympathy to him/her or in consideration of the kinship or friendship between them, the cyber blackmail crime does not occur, due to the absence of one of the elements of criminal intent, namely the knowledge, and in the absence of criminal intent, the cyber blackmail crime is not realized, because it only occurs intentionally, noting that non-punishment for cyber blackmail crime shall not prevent, in some cases, the punishment for other crimes, such as threats or other crimes, if their conditions are met.

2. **The Will**

The will is defined as a psychological activity, on which the person relies, to influence the things and people surrounding him. The will directs the nervous forces to
commit acts resulting in material or moral effects, which satisfy the person’s needs. (Al-Ruqi; 1432 AH).

The meaning of will in criminal intent extends to the behavior and result, meaning that the will in criminal intent rest on two elements; namely the will to conduct and the will to achieve the result. The first element is common in the intentional crimes and unintentional crimes, as it assumes the offender’s knowledge of the nature of his behavior and the extent of its danger to the right protected by the law. Hence, the offender instructs an order to his body parts to perform the movement required to accomplish this behavior, and in cyber blackmail crime, the offender's will must be to threat the victim to force him to implement his demands. (Al-Otaibi; 1429 AH).

The will to conduct alone is not sufficient for occurrence of the complete crime and realization of the criminal intent on the part of its perpetrator. Rather, in addition, the second element, namely the will to achieve the result arising out of this behavior must be realized (Al-Otaibi; 1429 AH). Therefore and in addition to the will to threaten accompanied a demand, it is required that the will is to achieve the criminal result of this threat, namely obtaining a benefit of whatsoever from the victim.

The motive for committing the cyber blackmail crime does not matter with respect to realization thereof, even if this motive is noble, such as if a person blackmails another for the purpose of obtaining a sum of money to buy medicine for his sick mother, or if this motive is disgraceful, such as if the offender obtains money by threatening the victim, simply because of the desire for revenge and retaliation for the insult, was previously caused to him/her by the victim. We conclude from the foregoing that the moral element in the cyber blackmail crime takes the form of general criminal intent, which requires the offender’s knowledge of the nature of his threat behavior accompanied by a demand, and that the consideration, which he obtained is the result of that behavior. The criminal intent also requires the will to commit the criminal intent, i.e. the will towards the threat accompanied by a demand and towards the criminal result, i.e. towards the consideration, which the offender seeks to obtain. The motive for committing the cyber blackmail does not matter, regardless of the justifications of this motive. (Al-Marri; 2017)

VI. Penalty of the cyber blackmail crime:

"The legislative formulization of criminalization and punishment provisions is not merely a transcription of the texts into formal templates, but rather it is, first and foremost, a legal thought, returns the texts to their legal controls, in adherence to logical principles."
Hence, they involve verifying the agreement of the texts with the criminal act.” (Al-Otaibi, 1429AH).

Article 3 of the Law stipulates this formulation stating that: “Each person, who commits any of the following information crimes shall be punished with imprisonment for a period not exceeding one year and a fine not exceeding five hundred thousand riyals, or one of these two penalties: 1 - ...... 2 - Illegal access to threaten or blackmail a person, to force him to do or abstain from doing an act, even if doing or abstaining from doing this act is lawful.

The original contracts:

In accordance with the lawmaker’s formulation, the original punishment for this crime is imprisonment and a fine, or either of them. The Law has punished the crime of threat or blackmail, which occurs via the information system with a prison penalty for a period not exceeding one year and a fine not exceeding five hundred thousand riyals, or one of these two punishments. The minimum prison penalty is the general minimum penalty, which is 24 hours, the maximum penalty is one year in prison, and the minimum fine is the general minimum fine, which is one riyal.

The complementary penalty:

Confiscation of the proceeds of the crime or the tools used for committing the crime is one of the complementary penalties such as, the confiscation of the mobile phone or computer, through which the threats and blackmail is made, and the confiscation of money, pictures, gold jewelry, or anything else, the offender may have obtains or uses, when committing the crime (Al-Shazly, 2021). The closure is also one of the complementary penalties, which can be imposed on the offender, such as closing the account on social media networks or closing the shops...etc.

Cases of augmentation of penalty:

1. Article 8 of the Law stipulates that: The penalty of imprisonment or fine shall not be less than half of its maximum limit if the crime is associated with any of the following cases:

2. If the offender commits the crime through an organized gang.

3. If the offender holds public position and the crime is related to this position or if the offender commits the crime exploiting his authorities and influence.

4. In the case of deluding and exploiting the minors and their equivalent.
5. Issue of previous local or foreign judgments to condemn the offender in similar crimes.

The lawmaker has determined cases of augmentation of penalty and mentioned that the crime may be made through an organized gang, which means that the crime may be made in order to achieve the goals of an organized gang consisting of two persons or more. This may occur in the case of coercion and blackmail of celebrities for a profitable purpose. Moreover, the crime may also be made through persons, who work in a job, which allowed them to see the victim’s secrets, and the offender exploits this information to coerce and blackmail the victim (Al-Shazly, 2021).

The crime may be committed by the offender exploiting minor children or incompetent persons. As an evidence for the same, electronic games collect information about the children, who play this game and ask them to submit for pictures of themselves in certain position or pictures of one of their relatives. Thereafter, these electronic games force and blackmail them to implement the orders of this game.

In addition to the foregoing, there is a case of special recidivism, which means that the offender had previously committed a cybercrime in particular, and the offender had previously been sentenced with a final judgment for this crime, then he recommits another cybercrime, and the effect of this recidivism is to augment the penalty for the offender, whether the previous judgment had been issued by a foreign or national court.

The effect of realization of one of these cases is that penalty of the offender will be augmented. Upon verification of realizing cases of this augmentation, the court is obligated to this augmentation. The lawmaker has stipulated that when the court rules to the condemnation, the court may not deviate from the provision of the maximum limit for both penalties of the imprisonment and fine.

5 CONCLUSION

The crimes of coercion and extortion are one of the traditional crimes inflicting the security of society and the stability of its structure. These two crimes may be implemented via the information system or one of its components, and here this crime is called a cybercrime. The Saudi lawmaker mentions a provision stipulating these crimes within the crimes inflicting personal life through information filtration. The crime of
coercion and extortion goes through several stages, and the offender’s goal is to achieve his desires, whether material, moral, or sexual.

With the development of technology, which has been accompanied by the spread of these crimes of this type and the diversity of methods of implementing it, we see the importance of augmentation of the penalty for the offender to three years at most, along with combination of imprisonment and a fine. In addition, there is an aggravating factor to the circumstances mentioned in the law, specifically in crimes inflicting the private life, for example, the victim may be a woman, with the aim of deterring the offender and preserving the sanctity of women within our society.

It is necessary to intensify the awareness programs for citizens, especially women and children, about the new methods of implementation of these crimes and their seriousness, as well as ways and means of safe reporting in order to preserve the reputation of the family and the future of these victims.

Victims of crime must be encouraged to report these crimes so that judicial authorities can track down and arrest the offender and then prosecute him/her.

The penalty of the defaming shall be added to the offender in this type of crime, similar to the crimes contained in Article 6 of the Law.

REFERENCES


