



## Legal Protection of Child's Privacy in CyberSpace with an Overview of Iranian Laws and International Conventions

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### ABSTRACT

Children's rights, as one of the most fundamental human rights, play a paramount role in securing the prosperity of the society and maintaining and strengthening the sanctity of the family entity when given proper priority in the policymaking practices of a country. This is the reason why many related laws have been introduced in different countries in recent decades to protect children's rights in the cyberspace. Protection of children's rights in the cyberspace demands legislative measures to be established in order to criminalize offensive conducts against children via the new information technology tools and to enforce compensatory retributions to violators of these rights for any physical or mental harm inflicted on children as well as negative moral impacts on their personality.

This paper investigates the existing rules and regulations of the country of Iran, particularly those related to the legal protection of children and teenagers which have been recently legislated by the Iranian Islamic Parliament. It also provides an overview of the conventions, treaties, international resolutions and protocols that deal with the legal protection of children's privacy in the cyberspace, and investigates legal measures introduced by Iranian legislators to confront violations of children's rights and argues on the terms and conditions under which such measures could be adopted for effective enforcement.

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## Introduction

Some users in the cyberspace exploit children to increase traffic to their personal pages and gain popularity. Photos taken at a special occasion that a child attends or pictures in which a child appears in pretty, special, or even strange poses are displayed by these users to attract readers to their virtual spaces on the internet. Some even share photos of children dressed in unusual or peculiar fashion with their page followers. Although such practices are often conducted by people not related to a child, sometimes even parents fall into similar conduct by sharing photos of their child posed or dressed in the same way.

Subjects related to these practices of violating the privacy of children or exploiting them in the cyberspace which can be examined in research studies require a prompt and deep analysis of different legal perspectives as well as judicial viewpoints which are based on national laws and regulations and international conventions. They also demand an examination of judiciary ruling practices in order to either adopt effective regulations which can be enforced, or to develop legal mandates in case existing regulations are found ineffective or not enforceable. This is to establish sound legal frameworks which can effectively prevent any violation of children's rights in the cyberspace by others. In particular, when violations are conducted by a child's parents, the defined legal parental relationships and obligations as well as particular familial relationships that may exist in different settings call for a comprehensive understanding of these relationships in order to predict the efficacy and enforceability of any laws or regulations.

In this article, we aim to examine these issues along two main points of discourse. First, we describe the concept of child privacy in the cyberspace and develop a case for the need to safeguard this right. The notions of children's rights and in particular, a child's right to privacy is expanded in order to place them in the framework of legal support. Second, we set to define conditions for the enforceability of the related laws and regulations by considering the proportionality of these rules with the violations which may be committed by others and especially by parents, and in the latter case also

examine if such rules could adequately represent the level of misuse of parental rights.

While this issue is understandably in its early developmental stages in the Iranian legal system as it is a novelty due to its emergence in recent years, a number of existing resources can be consulted as reference to gain an understanding of the concepts and basic foundations for approaching the issue. We will refer to these resources which have examined the problem in different societies as we develop our approach and study the relevance of these concepts.

It is noteworthy to mention that related research articles have in general approached the issue of child privacy from two different perspectives. One group of papers has approached the issue of child privacy violation without particularly focusing on conducting research on the cyberspace and its specific attributes. The other group has focused on the criminality of the acts that violate children's rights and discuss the issue of child privacy from a personal accountability standpoint. Our approach to the issue hence differentiates itself from the existing approaches in that we set to examine whether a violator of child privacy can be held accountable even if their action may not fall into the definition of a criminal act, and whether parents as the violators of their own child's right to privacy could face any legal retributions.

## **The concept of privacy as a child's right in the cyberspace**

As one of the most fundamental cases of human rights, children's rights serves as a driving force behind major societal policymaking efforts aiming to safeguard this right and its various aspects. Violating a child's rights can destabilize their personality and lead to unrepairable physical and mental damage. It can weaken the child's character and stamina, and may also impose excessive costs to different social services organizations throughout the lifetime of the affected child. Presence of these children in a society can also lead to the weakening of fundamental social norms and values, and replacing these norms with aberrations and anomalies in social behavior. Regulators need to address all these consequences in developing rules and regulations relating to children's rights, and also consider the relationship of a child's various particular life settings with each of the different rights that may be affected, as well as the potential impact of each regulation on the child's

personality. Such consideration of children's special settings can hence lead to developing more effective laws.

A child's legal rights are formally recognized at birth or in some legal systems even before birth. These rights apply to a certain period of time and can be hence considered temporary as they only pertain to the infancy years and are scoped to consider a child's physical and mental limitations. However, they impose obligations and duties to the parents to safeguard these rights using all possible means as a condition for upbringing and nurturing the child (Raeiszadeh et al., 2010, 74).

The special attention paid by legislators to children's rights and the particular aspects of these rights in the cyberspace is further motivated by the special position that the cyberspace has attained in shaping social relationships. This attention thus calls for exploiting all possible means to protect these rights in their various aspects. It is however understandable that due to the complexities of the cyberspace and the extraordinarily rapid pace of new developments in that space, any legal regulations or rulings can hardly keep up with these changes in a timely manner (Ansari, Attar, 2012, 136).

Among the most important rights of children in the cyberspace is the protection of their privacy. The modern and legal definition of privacy is the extent of an individual's affairs, defined according to prevailing religious or social norms or as the individual wishes or intends or declares, which others should not be able to access or to violate (Begdeli, Aliakbari Baboukani, 2017, 15). Privacy offers an environment to the individual which allows for their personality's growth and maturity. According to the European Commission of human Rights, privacy leads to the appreciation of the entirety of a human being's physical and spiritual dimensions and enables humans to create a safe and serene personal space for themselves free of outside pressure, limitations, or unwanted interactions. In such an environment, they can pursue their most personal and sincere goals and dreams while defining various forms and levels of relationships with others according to their own wish. They can hence also express themselves as they like in the domain of emotions and personal feelings towards others. Furthermore, in such an environment, humans can find solace as a natural or conventional choice to personally evaluate and assess the purity, sincerity, and truthfulness of their thoughts or deeds without

being overseen by others and free from any impurity or show-off pressure (Vaezi, Alipour, 2010, 136). According to these definitions, it can also be stated that privacy as a right for a child is a relative right and its observance is indeed subject to some limitations (asadi, 2018, 12).

The concept of privacy in the cyberspace can be indeed scoped as protecting data. In this context, data mainly refers to features and attributes that pertain to the privacy of an individual such as their personal information and special attributes which differentiate the individual from others in the same group (Sabernezhad, Hosseinpour, 2017, 116). As such, the notion of privacy in the cyberspace has been replaced in some recent investigations with the concept of protecting personal data (Aslani, 2005, 51). Based on this argument, children's rights and their privacy in the cyberspace are two interconnected concepts.

## **Violation of child's privacy in the cyberspace**

The expression "virtual" relates to any link that is established through the computer language. As such, virtual social networks can be defined as web-based services which enable individuals to create public or semi-public profiles within a defined system, list other users they are connected to, and review the list of others in the system (Ansari, Attar, 2002, 115). The most important forms of violating privacy in the cyberspace occur as violating the basic norms of data protection which consist of two major aspects of "the principles of data usage" and "the right to the information within the data" (Mohseni, 2006, 35). The principles pertaining to these norms indeed correspond to a structured definition of the citizen's intrinsic rights to their personal data (Aghababaei, Ahmadi Natour, 2016, 10).

Illegal production or publication of harmful content and presentation and sale of children's personal photos and videos for commercial and financial gain and misuse of photos as well as publication of personal information and private photos of children by their parents in the cyberspace, which in some occasions are indeed a form of criminal act, can lead to destructive effects on the child's current and future life. Uploading, publication, and distribution of private films and pictures of a child in the cyberspace allow others to misuse this data to exploit or abuse the child. It appears that it is based on these notions that the Iranian legislation has criminalized the violation of a set of principles

it has established for publicizing and transfer of data and has defined retributions for the distribution of private or family pictures and films or private secrets of others through computer or communication systems without the owner's consent, conditioned that such acts cause harm to the owner or lead to the owner's social defamation.<sup>1</sup> The definition of a crime in this context is of course conditioned by the occurrence of harm or defamation (Mohseni, -, 578). As such, one can argue that this article is in fact not aiming to safeguard privacy per se, and only applies to protecting an individual when the violation of their privacy causes a loss or defamation to them (Aghababaei, Ahmadi Natour, 2016, 15).

## **Necessity of confronting violations of child privacy in the cybersapce**

“The prevalent use of virtual social networks has turned the issue of privacy into one of the main concerns in this area. Privacy is the territory of a person who naturally expects it not to be accessed, viewed, or otherwise exposed to others without the individual's consent or prior notice. Social networks have violated the privacy of their users in various ways. They sometimes misuse the private information of their users, and sometimes provide means for others to exploit and misuse this information.” (Ansari, Attar, 2012, 136). The basis for protecting a child is to preserve their human dignity. This notion defines a platform for establishing a legal system in which legislators find an obligation to set rules and introduce additional regulations for monitoring their enforcement. In setting up a legal system for defining children rights, possible particular situations of the child related to each right need to be considered. Due to the importance of the family entity and the preservation of its identity, most efforts to protect children rights have been defined in the framework of the family, and as a result, there are numerous

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<sup>1</sup>Article 17 of the Cybercrimes Act of 2009 reads: "Anyone who publishes or distributes to others private or familial voice or photo or film of others or their secrets without their consent, such that this causes them a loss or leads to their social defamation, will be convicted to imprisonment from ninety one days to two years or a fine from five million rials to forty million rials or to both of these punishments."

commonalities between the set of rights attributed to children and those defined in parent-child relationships (Raeiszadeh et al., 2010, 75).

In order to safeguard and protect children's privacy in the cyberspace, comprehensive approaches are required in the legislative system of a country such that the observation of children's privacy and protecting it in the cyberspace is established as a legal duty for the public and first and foremost for the parents and guardians of children. In lieu of such an approach and the absence of a legal framework on this issue, children's rights will be the subject of violation albeit unintentionally. More accurately, justification for setting up related laws is to promote justice and establish the rights of the community members as the owners of their rights. Legislation of effective laws not only serves to define suitable enforcement means to prevent violations of child privacy rights by others and especially by parents, but it also allows for creating a serene environment for the growth of children which is protected and monitored by law. These considerations are a requirement for creating a fundamental change in the society towards its ideals through the definition of guiding visionary plans for the development of the country when such plans incorporate rules and regulations that offer comprehensive protection for children. This need is even more visible in societies where the interference of other people besides formal law enforcement agencies is not possible or allowed.

The cyberspace is an open field for individuals who use every opportunity to earn popularity or financial gain, or to have influence on the politics and direct public opinion towards their own benefit. Evidently, even the innocence of children is open game for such opportunists. It is in such a setting that exploiting children in the cyberspace and distributing their personal pictures becomes a practice that offers some of the named benefits to the violators of child privacy, including the children's parents who fall into this practice.

## **General enforcement requirements for violators of child privacy in the cyberspace**

One needs to investigate enforcement methods for child privacy violations in the cyberspace in such a way that these methods provide proper outcomes for both the child and the violators, and in particular, if the violators are the

parents of the child, such enforcement methods do not cause more damage to or further hurt the child. It should be noted that a general and common enforcement method may not be effective in all cases and the particularity of the situation has to be considered in defining legislative details. On the other hand, the interconnection of parental efforts for proper upbringing of their children, which are indeed regarded as a right for parents, with their duty to safeguard the children's privacy rights, makes the task of defining legislation in this domain an even more challenging task. As such, in certain situations, the existing legal regulations only define a protective role for the government.

We can infer the scope of protecting children's privacy rights in the cyberspace by studying the general framework set up by the laws and regulations. These regulations should generally be proportionate with the violation and the level of accountability of the violator has to be clearly defined in them.

### **Proportionality of the penalty with the violated duty**

Legal regulations are only meaningful when they can be enforced. Enforcement needs to be both reasonable and normative and it should be proportional to the importance of the violated duty and the damage resulting from the violation (Karami, Ghamami, Mohseni, Alsan, 2019, 30). In fact, the enforcement policy should represent the level of duty violation. The principle of proportionality of the verdict with the violated duty refers to the notion that there should be a balanced and coherent relationship between the crime and its punishment, such that the more damaging a crime is or the more it goes against the established societal values, the more severely it should be responded to by the defined retribution. And on the contrary, the less it causes damage or violates social values, the lighter its corresponding punishment should be (Mohamadi, Javanbakht, 2016, 155). Obviously, the accountability of those causing losses or damages to others should follow the same rule. In other words, the level of accountability and the penalty that a violator is held responsible for should reflect the size of the damage caused by their action. These principles need to be followed to determine punishments for those who violate children's privacy rights by distributing their private or family audio, pictures, or videos in the cyberspace, and by doing so, cause physical and mental harm or harassment to the children.



Irrespective of the mentioned principle regarding the enforcement policy, Islamic law defines the protection of children's rights as a paramount duty of the legislator to ensure that children are not exploited as commercial goods by their parents or other people. In this regard, defining proportionality in the enforcement policy and especially ensuring the policy's enforceability within the scope of the family is a very challenging task which might even go against the essence and spirit of the law to the extent that setting regulations and defining retributions may even challenge or negate the intention of the legislator.

The enforcement policy defined for parents in regards to the violation of their child's rights should not violate the child's other rights or deprive the child from higher-level rights. For example, if the parents of a child repeatedly distribute private photos of the child in the cyberspace to gain popularity or other benefits and hence end up committing harassment of their own child in this way, punishing the parents by imprisonment is not only not helpful to the child in compensating the damage they suffered from, but it also results in a more severe harm to the child by depriving the child from the presence of parents in their life. Despite all the efforts the legislator body assesses to create a balanced solution in this challenging situation, they are still in need to receive comprehensive and multi-faceted consultations from experts in the different related areas such as child education and child psychology. As such, and according to the discussion that follows, setting up rules and regulations by a legislative system without paying attention to such considerations cannot lead to appropriate results.

## **Determining of the level of accountability of the violator**

Earlier we argued that the concept of privacy in the cyberspace is in fact equivalent to the notion of protecting personal data which may include the information or special features or attributes that differentiate a person from others. In the Iranian law, articles 71 to 73 and 78 of the Electronic Commerce Act define specific punishments for ensuring proper enforcement of the regulations pertaining data protection in this law. However, the ruling made by article 78 is scoped to only include civil accountability for harm and its text names only a specific set of means of causing damage. This kind of ambiguity in regulations eludes to the fact that one cannot refer to the general civil

accountability laws when working on the violations of data protection laws, and the existing rulings are only applicable when the specific violations named therein such as physical harm has occurred (Aghababaei, Ahmadi Natour, 2016, 12).

Although under this theory the general civil accountability rules do not directly apply to violations of data protection regulations, there are some articles in the civil accountability regulations which determine the level of responsibility in situations that are also usable in our context. For example, these regulations stipulate that when several individuals collectively cause a damage, they are all responsible for its compensation, and that the level of responsibility for each of them is determined by the court based on the type of their participation in the violation. According to this, the determination of the amount of the inflicted damage and the distribution of the compensatory load among the violators are linked in the Iranian legal system to the level of impact resulting from each violator's action or lack of action (Karami, Ghamami, Mohseni, Alsan, 2019, 34). Based on this general rule, the responsibility of the violators of child privacy who cause physical and mental harm to children by distributing their personal data is determined by the court according to the type of each violator's participation and the impact of their deeds on the child. It appears that in the domain of children's rights, punishing an individual who has caused mental and physical harm to a child is conditioned on their confirmed exploitation of the child. In response to this argument one can note that even if no bad intention is proven in the exploitation of a child, meaning for example that no publicity gain is achieved, the mere acts of defining a virtual identity for the child by parents and publishing unusual pictures of them can hold the parents legally responsible if such acts are deemed against the interests of the child. As the social theories rooted in individualism are fading and being replaced by theories adopted in legal systems based on an increased attention to the interests of the family and children in order to protect the family as a focal point for emotional and educational growth from harms caused by selfishness, accepting certain limitations in personal freedom will be understandable. It is in this context that the misuse of an authority bestowed to a person in the family can lead to their deprivation of that legal privilege as well as civil responsibility towards those harmed (Hekmatnia et al., V.1, 29).

## **Legal protection of child privacy in the cyberspace**

The legal protection of children's privacy in the cyberspace possesses a very high importance. According to investigations, there are no specific laws, rules, or regulations in the current legal system of the Islamic Republic of Iran with explicit relevance to the protection and safeguarding of this right in the cyberspace. This calls for serious attention by the legislator body to this issue. It should be however added that one can deduct a general support for this right from the existing laws and regulations in the country. In addition, Iran has joined the children's rights convention in 1993, and since according to article 9 of the Iranian civil regulations law, any agreement established based on the constitution between the Iranian government and other governments is recognized as law, one can argue that the Iranian legal system is implicitly and under this convention committed to protecting children's rights<sup>1</sup>(Asadi, 2018, 10).

Based on this introduction, we will discuss in the following sections the issue of legal protection of children's privacy in the Iranian law and the conventions that Iran has joined.

### **Under Iranian Laws**

In the Iranian law, the violation of children's privacy in general and by parents in particular has not been explicitly referred to and there are currently no rules or regulations which explicitly or particularly protect this right in the cyberspace. However, it is possible to deduce a general rule for this issue from other legal regulations.

The Islamic Parliament of Iran approved the "Act of Protecting Children and the Youth" in December of 2002 with an objective to provide a legal support framework for children and the youth. This law covered all individuals under the age of 18. In addition, for the first time mental torture is recognized

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<sup>1</sup>Article 16 of the children's rights convention declares: "No arbitrary or illegal interference is permitted in the private or familial affairs or correspondences of a child, or to defame the child, and the child is protected by law against such interferences or defamation."

in this law as a crime, and more importantly, child harassment is counted as a general crime. According to this law, any acts of harming or hurting children and the youth, physical and mental torture, intentional ignorance of their physical and mental health, and their exploitation is considered a crime and subject to punishment. For example, in article 2 of this law, any kind of harassment to children and the youth which would cause physical, mental, or moral damage to them and endangers their physical or mental health is prohibited. In article 4 of the same law, any physical or mental harm or damage or harassment or torture of children and intentional ignorance of their mental and physical health and preventing them from education is prohibited and the violators are condemned to fines and imprisonment. As such, in addition to a child's parents, all other individuals including mothers, nurses and medical aids, are allowed to introduce child harassers to legal authorities. This law and other legal articles related to children rights were subsequently annulled during the approval of the new "Act of Protecting Children and the Youth" of June 2020 by the Islamic Parliament by article 51 of the new law. Paragraph A of article 1 of the new law defines "child" and paragraph T of the same article defines "misbehavior".

Exploiting a child to produce obscene or vulgar auditory or visual material is defined as a crime in paragraph 7 of article 10 of the mentioned law, and establishing any relationship with a child in the cyberspace for the purpose of sexual harassment or affairs is criminalized in paragraph 9 of the same article. Also, paragraph B of article 14 states that when the violator's actions lead to physical or mental harm to the child, they will be subject to the defined punishments. The ruling of paragraph 7 of article 10 of the law conditions the exploitation of a child for producing auditory and visual material on the obscenity or vulgarity of the created material. As such, if the exploitation is not conducted with an objective to create obscene or vulgar material, it will not be subjected to this rule. In other words, when a child is exploited to produce non-obscene and non-vulgar auditory or visual material, no crime has

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<sup>1</sup>Paragraph A of article 1 includes: "Child: Any individual who has not reached the religious puberty age." Also paragraph T of article 1 includes: "Misbehavior: Any deed or intentional lack of action which endangers the bodily, mental, moral, or social health of a child or a youth, including ... or placing the child or the youth in difficult or challenging situations ...".

been committed in the context of this law for its committer to be punished for it. However, if such an exploitation violates the child's privacy and leads to the publication of the child's personal information in the cyberspace, in such a way that physical or mental damage is inflicted on the child, according to paragraph B of article 14 the committer of this act in general, be it the child's parents or other individuals, will be convicted to retribution according to the law.

Now let's consider the case in which the actions of the publisher of information related to child privacy do not cause physical or mental harm to the child, but for example leads to current or future financial damage to the child. What would be the punishment of the violator in this case? To answer this question, one can note that article 17 of the "Cybercrimes Act" approved in March of 2009 has criminalized the violation of the principles of publicizing and transfer of private data.<sup>1</sup> The text of this article states that any individual who distributes such data must obtain the consent of the owner of the data before publishing their private or familial audio, photo, or film, and that this consent must be available at the time of distributing or publicizing the data. Moreover, the article declares that the duty to obtain the owner's consent is with the distributor of the mentioned information and it should not be assumed that it is the duty of the owner of the data to announce their lack of consent to such distribution to the individual publishing their private secrets. This crime is also a conditioned one, meaning that a loss or social defamation must incur for it to take effect (Mohseni, - , 578). Similar to the laws on protecting children and the youth, this article is also in fact not protecting privacy per se, but offers protection when the named actions lead to damage or social defamation of an individual (Aghababaei, Ahmadi Natour, 2016, 15). Moreover, according to paragraph D of article 28 of the same law,<sup>2</sup> and in

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<sup>1</sup>Article 17 of the Cybercrimes Act approved in March of 2009 prescribes that: "Anyone who uses computer or communication systems to distribute private or familial audio or photo or film of others or secrets of others without their consent except when permitted by law or to make such information available to others such that this causes damage or social defamation to them, will be convicted to imprisonment from ninety one days to two years or a fine of five million (5000000) rials to forty million (40000000) rials or to both punishments."

<sup>2</sup>Paragraph D of article 28 of the Cybercrimes Act approved in March of 2009 declares: "... Iranian courts have the competence to investigate the following cases: ... D) Computer crimes

order to safeguard the rights of children in the cyberspace, Iranian courts have the authority to investigate computer crimes related to the exploitation of individuals aged less than 18, regardless of the nationalities of the violator or the victim. Even though according to these rules, any person causing financial or spiritual damage to others and anyone who harasses a child, is identified as a criminal and is condemned to punishments defined in these rules, it appears that anyone who engages in the physical or mental harassment of a child through publishing their private or familial voice, photos, or films or makes them available to others in the cyberspace, will be punished conditioned on that they do not obtain the child's consent and that their actions lead to harming the child.

As discussed above, anyone who violates the privacy of a child, if this causes physical or mental damage to the child (according to the Act of Protecting Children and the Youth of 2020), or if the violation causes a loss to the child and the violator is unable to obtain the child's consent (according to the Cybercrimes Act of 2009), will be convicted to the punishment defined in each of the mentioned laws.

## **Under international agreements and conventions**

Children's rights are regarded as one of the important cases of human rights and many international document pertaining to the human rights such as the 1948 Universal Declaration of Human Rights, the 1968 European Convention on the Protection of Human Rights, the 1966 International Covenant on Civil and Political Rights, and the 1990 Islamic Declaration of Human Rights have all explicitly condemned its violation (Ansari, Attar, 2012, 120). On the other hand, Iran has joined the Convention on the Rights of the Child in 1993 and since according to article 9 of the Iranian civil regulations law, the agreements established based on the constitution between the Iranian government and other governments are regarded as law, it can be stated that the Iranian legal system is also implicitly committed to protecting children's rights under the framework of the convention. In addition, several other international

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consisting of abusing individuals aged less than 18 years, inclusive of whether the committer or the victim are Iranian or non-Iranian.”

conventions have been established to generally protect children's rights in the cyberspace, some of which are introduced below.

## **Convention on the Rights of the Child**

The Convention on the Rights of the Child was approved on Nov. 20, 1989 and its execution was mandated from Sept. 2, 1990, and aims to guarantee a comprehensive set of human rights protections such as civil rights, as well as cultural, economic, political, and social rights for children. The convention declares that private and familial affairs of a child or their correspondences with others cannot be arbitrarily or illegally interfered with or be insulted by anyone and that the law protects this regulation.<sup>1</sup> Besides, the main responsibility for the growth and development of children rests with their parents or guardians, for whom the most essential task in this regard would be to provide and safeguard the highest interests for the child.<sup>2</sup> The right of a child to be protected against harmful mental, spiritual, and moral acts has been explicitly affirmed in paragraph 1 of article 32.<sup>3</sup> Based on these, observation of a child's privacy right is conditioned on the lack of a conflict between that right and the right of the child to receive proper training which is the duty of the parents. In any conflict between these two rights, preserving the highest interests of the child points to giving higher priority to the child's right to receive proper training. Accordingly, it can be deduced that children's

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<sup>1</sup>Article 16 of the Convention on the Rights of the Child declares: "No one can arbitrarily or illegally interfere in private, familial, or the correspondence affairs of a child or insult the child on these affairs, and the child is protected by law against such interferences or insults."

<sup>2</sup>Paragraph 1 of Article 18 of the Convention on the Rights of the Child declares: "The convention's signatory countries allocate their utmost effort towards guaranteeing the recognition of the principle that the child's father and mother bear joint responsibilities regarding the upbringing and development of the child. ... that their most essential objective in this regard is to safeguard the interests of the child."

<sup>3</sup>Paragraph 1 of Article 32 of the Convention on the Rights of the Child declares: "The convention's signatory countries recognize the need to protect children against financial exploitation and any harming actions and ... or be damaging to the physical, mental, spiritual, moral, and social development of the child."

privacy in the domain of information has been paid particular attention to in the Convention on the Rights of the Child (asadi, 2018, 10).

## **Optional Convention on the Rights of the Child**

The optional Convention on the Rights of the Child was approved on May 25, 2000 by the general assembly of the United Nations with a focus on the sale of children, child prostitution, and child pornography, and defines provisions to the member countries to include crimes and offenses related to the violation of children rights such as distributing perverse and obscene pictures of children by their parents or others into their domestic legal systems according to the defined international standards. The government of Iran joined this convention in May 2007. According to this convention, the adopting countries should set domestic laws and regulations pertaining these crimes in order to protect privacy rights of children. Any action to produce, distribute, assemble, import, export, market, or sell child pornography content or possessing obscene pictures of children with the purpose of production, distribution, publication, import, export, presentation, or accepting such material is defined as criminal act.<sup>1</sup> Along with defining legal responsibilities, criminal punishments, and administrative duties, the adopting countries should establish legal enforcement means in order to introduce the violators of children's privacy as criminals or felons.<sup>2</sup> The convention even allows the adopting countries to resort to defining extraterritorial jurisdiction for their laws with regards to the punishment of the violators of children's rights and those who engage in the named criminal acts. In other words, these countries are allowed to use extraterritorial means to pursue and punish those engaged in the violation of children privacy.<sup>3</sup>

## **Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour**

The International Labour Organization (ILO) approved a convention in 1999 called "The Prohibition and Immediate Action for the Elimination of the

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<sup>1</sup>Item C of paragraph 1 of article 3 of the optional Convention on the Right of the Child.

<sup>2</sup>Paragraph 4 of article 3 of the optional Convention on the Right of the Child.

<sup>3</sup>Paragraph 2 of article 4 of the Optional Convention on the Right of the Child.



Worst Forms of Child Labour”<sup>1</sup>, which was subsequently renamed to “The Worst Forms of Child Labour Convention”. According to this convention, the member countries should adopt effective and immediate actions in the form of setting laws and regulations which prevent the exploitation of children by their parents or others as labour force or forcing children to work as labour for other people. By the expression “the worst form of child labour” this convention refers to forcing children to engage in the production or sales of obscene and vulgar pictures.

## **The Convention on Cybercrime**

The Convention on Cybercrime, also known as the Budapest Convention, is among the first international agreements related to the crimes of the cyberspace which are based on employing the internet to violate copyrights, conduct embezzlement acts, violate network security protocols, or engage in child pornography. This convention was introduced by the European Commission in 2001 and became effective on July 1, 2004. Article 9 of this convention defines regulations related to criminalizing child pornography in the cyberspace conducted using computers. In this article, the member countries are asked to work on establishing related legislation and establish other means to criminalize the production, publication and distribution, or possessing pornographic and nude pictures of children under the age of 18. Although this convention was approved by the European countries, its article 37 allows for non-European countries to also join and become a member of it.

## **Convention on the Protection of Children against Sexual Exploitation**

The Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (also called the “Lanzarote Convention”) was adopted by the European Conventions Council on Oct. 25, 2007 in Lanzarote, Spain. It established regulations on the protection of children’s privacy. In article 20 of this convention, which relates to child pornography offenses, the member countries are asked to criminalize the production of pornographic photos of

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<sup>1</sup> ILO, Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

children for the purpose of lewd and sexual pleasure, and set up penalties and retributions for these crimes. In addition to the production of such content, this article also calls for criminalizing the preparation and offering, distribution and publication, possession, and access to these materials through the cyberspace and related communication technologies. Article 23 requires the member countries to take legal and judicial action with regards to online grooming offenses to criminalize all acts to mediate or intercede for sexual exploitation of children using information and communication technologies.

### **Prevention, protection, and international cooperation against use of new information technologies to abuse and/or exploit children**

The United Nation's Economic and Social Council adopted a resolution in 2011 in regards to the prevention, protection, and international cooperation against the use of new information technologies to abuse and/or exploit children. This resolution states that new information and communication technologies have been unfortunately misused to exploit children by their parents or other individuals in such a way that children become victims of sexual abuse or exploitation by others. It continues by emphasizing the fact that new technological tools and computer software are being used in the cyberspace to produce, distribute, and reproduce obscene and repulsive videos, films, and pictures of children, the content of which would be severely damaging for the physical and mental health of children.

### **The World Congress III against the Sexual Exploitation of Children and Adolescents**

After the Stockholm Declaration and Agenda for Action of 1996 and the Yokohama Global Commitment of 2001, the World Congress III against the Sexual Exploitation of Children and Adolescents was organized in 2008 in Rio de Janeiro in Brazil. The issues of sexual exploitation and its various forms and new scenarios, as well as the required legal structures to confront them, the need for a unified and integrated inter-departmental policy, the steps that corporations can take to fulfill their social responsibility, and strategies for international cooperation were discussed in this congress.

The final document published by the congress explicitly asked countries to: First, adopt and execute all international documents related to the human rights and children rights. Second, define, prohibit, and criminalize all forms of sexual exploitation of children within their legal, judicial, and executive competence, and create a platform for an effective extraterritorial enforcement in the international arena. Third, allocate effort to prevent sexual exploitation of children and adolescents through expanding their integrated nationwide protection systems and protect children against any form of violence or sexual exploitation. Fourth, define and execute multi-faceted mechanisms for the protection of children and provision of services to the children who are victims of sexual crimes. And fifth, prevent the formation of systematic social behaviors such as sexual discrimination and stereotypical segregation which lead to harming the physical and mental health of children. Even though this document is not an internationally enforceable document, the actions it proposes the countries to take can lead to the prevention, halting, and criminalizing all forms of sexual exploitation of children by parents or other persons using internet-based tools or related technologies.

## **Conclusion**

Children's rights in general, and child privacy in particular, have been explicitly placed under protection by the Iranian legislation. However, protection of children's privacy in the cyberspace, which can be deduced from various laws including the Act of Protecting Children and the Youth of 2020 and the Cybercrimes Act of 2009, is conditioned and limited to the occurrence of physical or mental damage or harm or social defamation of the child. In addition, by joining or accepting the membership of international conventions, protocols, resolutions, or agreement, Iran as a member country is obligated to define and establish legal responsibilities, criminal punishments, administrative duties, and enforcement policies to protect children's privacy rights and declare as criminal act any actions to produce, distribute, publish, import, export, present, and accept violating content. Moreover, the distribution, publication, and possession of such pictures and accessing them through the cyberspace and communication technologies which could be identified as violation of child privacy in the cyberspace is identified as punishable criminal acts.

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