
COMPARISON OF CHILD ABUSE CRIME IN CRIMINAL SYSTEMS, CASE STUDY OF IRAN AND INTERNATIONAL DOCUMENTS

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ABSTRACT: *In today's world, the idea of respecting the rights of children and adolescents is seen as a fundamental thought in their upbringing and in their support for the intellectual development of their mental health. Examination of juvenile or juvenile delinquency has shown that in most cases their rights have been impaired during childhood or that they have witnessed one of the psychological and psychological tortures. In the present era of education and reform, if it is taken up by judicial authorities or other support agencies, it is considered a right for them because if a child is misguided, it will certainly at some point in time be a form of inherent law. He has been ignored. Whatever divine religions, especially Islam, call for the inherent rights of a child for a healthy society structure and for the entry of a healthy individual for change and reflection on the health of the community, the Convention on the Rights of the Child has in many cases repeatedly stated the same rights in its articles and in the international community. Has encouraged it to achieve this. Juvenile judges are more concerned with the personality of a child and their educational role than before the task of dealing with socially and delinquent offenses against children and adolescents. The transformationalist view of laws and regulations in international societies and their widespread interpretation in favor of the rights of the child give the promise that the aim is to harmonize world ideas to prevent harm and harm that prevents children from real and legal rights.*

KEYWORDS: criminal law, child abuse, international documents

INTRODUCTION

Children are among the most vulnerable people in human society. For this reason, many peacekeepers and human rights advocates have long been calling for revenge, compassion, and forgiveness from people of every tribe and race. Because sometimes children were tortured and tortured in their presence in order to confess father or mother.

With the advent of civilization, the child's responsibility for committing crimes was taken into account with regard to their age, and their punishment was somewhat less severe than that of adults. However, children are always abused and exploited. In many cases, the severity and extent of the exploitation of children is such that the titles in criminal law are not sufficient to show the cause of action and cannot be complied with except as a disaster. The weakness of criminal laws and regulations, on the one hand, and the inability to enforce laws, on the other hand, exacerbates this painful reality. Childhood is a factor whose various aspects and effects in criminal law and criminology have always been the subject of special study and regulation. Because children are

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both weak and vulnerable to crime and more vulnerable than adults, so the mission of criminal justice is to protect and protect vulnerable and repeat offender children from recidivism.

Today, children are suffering more than ever because of the many tragedies and perils of life. Millions of children die each year from poverty and hunger, disease, and bloody armed conflicts. More than 250 million children of all ages are exploited and exploited in unsuitable work environments, with many children being exploited and sexually exploited in prostitution and sex tourism and millions of street children. In large cities in underdeveloped and developing countries, they continue to live in the worst conditions and are involved in thefts, such as theft, drug trafficking, and homicide. The abuse and exploitation of children today, along with scientific and technical developments around the world, is a concern of child rights advocates. One must expect the emergence and emergence of new crimes.

In recent years, child rights advocates have provided many protections in the form of various international documents and conventions on children. Differential policy was first incorporated into international documents and then into domestic, whistleblower and legal forms, as most countries adopted The constitution and ordinary laws have laid down special rules to protect children and ensure their well-being and well-being. Because numerous international documents have recommended states to adopt regulations to protect children. For example, the Committee on the Rights of the Child, which monitors the implementation of the provisions of the Convention on the Rights of the Child in countries, considers it an essential aspect of the implementation of the Convention for the Comprehensive Review of Domestic Law that this review should be within the framework of the Convention on the Rights of the Child and other international human rights instruments. It happens.

LITERATURE REVIEW

Criminal law in a society is a symbol of the power of the state that must be at the root of freedom and law, and all three (power, liberty and law) go hand in hand, because "the government must prevent abuse of liberty, power." Have. Freedom and law without power mean chaos. The law and power of free minus equals tyranny and power without liberty and the law of barbarism. "

The power of the state must be secured by criminal law in order to prevent both the interference of the government and the disorder and chaos. Because in any society, some people do not abide by the rules of social life, disrupt order and security in society, and by their behavior threaten society's way of progress and threaten people's lives, property and mental and physical security. In this case, society needs to control the behavior of these people. The most formal means by which people's lives and property can be protected and the levels of desirable social order, homogeneity, security and decency are established, are the criminal law and its associated institutions. In fact, the government is allowed to criminalize and preserve some of the behaviors and to prosecute them for maintaining social order.

Definition of child in Iranian legal system

Traditionally, infancy begins after infancy and continues until legal age. The infancy between adolescence and adolescence is commonly called childhood. The following legal scholars say: A boy and girl who have not attained religious maturity are abusers, disappearing as soon as they reach adulthood, without needing. It is mandatory for the ruler of the religious ruler to call him a minor, if he is mature enough to be clean before puberty.

Also, puberty says: Age of adulthood and growth with the emergence of one of the five conditions for the baby, which include hair growth in some parts of the body, (on the face, armpit and around the penis), lameness in boys, vomiting Girls, reaching 9 years old in girls and 15 years in boys, and the potential for girls to be fertile. If these features do not appear in anyone, the child will be young or young. It is also said that small group of people, and in the term "minor" is referred to as someone who has not attained the age necessary for the physical and mental development of social life.

Defining Childhood from the Islamic Perspective

The child is the product of the parent's life together. Parents bonded together and formed a loving and affectionate family center, considered by Islam to be the most popular and social foundation. Children have the right to life, growth, perfection and so on. In the word of the divine revelation and the word of the infallible infallibles and the religious instructions, the ways and methods of observing children's rights have been repeated many times. There is no specific mention of the time of childhood in the traditions, hadiths, and verses, but it must be deduced. In some verses of the Qur'an the word child is explicitly used: " people, if you are in doubt about the resurrection, then know that we created you right from the ground, then from the germ, then from the blood, then from the slaughter (some of it) and some of it, and some without form, until To make it clear to you that we can put everything in the womb and the fetus we want for a certain period of time, then we will expel you as a baby until it reaches maturity.

In this verse, God has called a baby whose spirit is blown out of its womb and born into a baby (small and small) until it reaches maturity and growth. In principle, Islam has been credited to him from the time of conception, and even provided for the following criminal penalties, thereby supporting the moment of conception in the womb. These protections, as stated in the jurisprudence books, are also reflected in Iranian laws, including the Islamic Penal Code, which originated from Imamiyah jurisprudence, as in Article 487 AH. M. It is a special diet intended for miscarriage from other stages of pregnancy.

This particular attention of Islam to the stages of the development of the uterus in the womb indicates that it has actually begun from the time of conception, albeit before the breath is born. Since the germ has been able to breathe since its inception, it has become a so-called potential human being, and it is only in this respect that it is justified to lay down the statutes and duties to protect him at various stages. God says in the Holy Quran:

God has said to himself after mentioning the stages of human creation and the breathing of the soul, which is another creation, and this is a sign of the greatness and dignity of man if he knows.

In addition to the foregoing reasons, other indications may be given as to the validity of the child's name on the coil. For example, in the case of inheritance and testament at the time of conception, there are many effects. If the heir dies after the time of conception, the abode conferred at the time of his death is part of the inheritance and is also said to be a testament that the testament is the proper carriage, though the soul is not blown on condition that Born alive, but if the dead come out, the will is void.

"He is the God who created you from the ground and then from the sperm and then from the spleen and then takes your child out to reach adulthood and then gets old but some of you get old before you reach old age. You go out and out to reach your appointed time and maybe think. It may be said that the name of the fetus and child is referred to as carriage when the soul is blown to him and before that time, the fetus and the child are not known to him, but it is accurately proved in the past. Because in the jurisprudence books it is referred to as carriage since the embryo was coined.

Defining the child from the perspective of jurisprudence

Jurisprudential textbooks mention criteria for leaving childhood and reaching adulthood, which is considered to be a child until these signs and criteria are met. According to the celebrated jurisprudence, among the numerous symptoms and changes that occur when leaving childhood and reaching adulthood in the human body structure, some have cited signs that are either permanent or predominant symptoms of puberty. ‘ Such as changes in appearance, modulus, poetry, etc. Note 49 of the Islamic Penal Code states: The child is someone who has not reached the legal maturity. Religious adolescence is based on the provision of Article 1210 of the Civil Code for a 15-year-old lunar boy and a 9-year-old lunar girl.

Children from the perspective of the Iranian Constitution

The Constitution of the Islamic Republic of Iran does not define a child, but in principle it uses the word "orphaned children" in Article 21, which seems to refer to Article IV of the Constitution referred to in the preface of this article. It should refer to a child who is considered to be a child religiously and in the simplest sense that a child in this constitutional principle includes the same minor as a child who has not reached puberty.

Child from the point of view of the Constitution and the Convention on the Rights of the Child

However, in accordance with Article IV of the Constitution of the Islamic Republic of Iran, all civil, criminal, financial, economic, administrative, cultural, military-political and other laws and regulations must be in accordance with Islamic standards, and this principle applies to all or all of the principles of the Constitution and Other laws and regulations are in place and the responsibility of the Guardian Council's jurisdiction is to be determined, but there is still no uniform procedure in the laws and regulations regarding what age and child are included !?

In this article, while looking at the various laws (the Constitution and some international documents), it seeks to express this disparity in determining who the child is. And how old is the baby? That is, perhaps in addition to the educational benefits of this issue in various laws, it may

also provide a comprehensive look at this important and fundamental issue. The Convention on the Rights of the Child, ratified by the United Nations General Assembly and adopted by most countries in the world, has defined the child; and this vacuum has overturned the Universal Declaration of the Rights of the Child which was adopted in 1959 on the Convention. Because, in spite of all the emphasis and importance claimed by the United Nations and its General Assembly in this Declaration and its introduction to the importance of the rights and freedoms of the child and the pursuit of his or her happiness, the child is essentially defined in that world document. Was not! And it clearly shows weakness and kneeling compared to Islamic laws and regulations, especially Shiite jurisprudence, because Shi'a jurisprudence was not enacted 50 or 60 years ago, but rather centuries ago, with special attention to the rights of the child. And the finesse has defined the importance of defining the subject in any ordinance. However, after 30 years the UN General Assembly came to understand the necessity of defining a child in the 1989 Convention on the Rights of the Child and felt the vacuum of the Universal Declaration; let's take a look at that definition;

Article 1 of the 1989 Convention;

For the purposes of this Convention, children are considered to be human beings under the age of 18 unless they are under the law applicable to the child.

On the basis of this Article the following points may be noted:

First: This Article of the Convention merely defines the child from its perspective and does not refer to it in its entirety and without reservation and should therefore not be generalized further.

Secondly, the article itself has some shortcomings and omissions, including that it did not specify whether the birth of the child or prior child was subject to the Convention under protection, something which could be very helpful and prevent conflicting interpretations.

Thirdly: Article 1 of the 1989 Convention on the Rights of the Child, under the age of 18, applies to the term "child" unless the said exception "shall not be regarded as maturity under applicable law", so this criterion cannot be found. It has flexibility under different laws and can adapt itself to the laws of different countries.

Child rights from the perspective of the Convention on the Rights of the Child

According to the Convention, children under 18 are considered to be underage unless the law provides for a lower age of puberty. Thus, under the Convention on the Rights of the Child, only those who are under the age of 18 are subject to the provisions of the Convention and that the age of adulthood provided in this article is no longer an absolute age but varies according to the national law of the child, provided that the 18-year Convention, Maturity criteria. According to the document, this age is both a measure of maturity and growth. The onset of childhood in the Convention on the Rights of the Child is unclear and has been completely silenced.

According to the concept of childhood, the rights and duties of children are clarified in different ways. In Islamic thought, the responsibility for protecting the child is borne by the parents before and after the child is born, and the community has specific responsibilities towards the child. The details of some of the duties of parents and society towards the child are explained in the article, and it is generally specified that in Islamic thought both the family and the community have the duty to provide the ultimate ground for the child's physical and spiritual development, and in short,

Rejected. The work of Iranian officials should focus on understanding Islam first and then doing the right thing, and taking into account Iran's international commitments in the field of children's rights in order to keep the status of children from day to day. Promote respect for human rights.

Characteristics of the Convention on the Rights of the Child

The Convention on the Rights of the Child has certain features that distinguish it from other international treaties, which briefly refer to the following:

The first and foremost feature of the Convention is that all countries of the world (with the exception of a few countries), despite the differences in their different fields - cultural, social, educational, health, judicial, safety and welfare due to the extraordinary importance of childhood growth. And the human rights and children's role in the future development of human societies and the relative awareness of governments to this end have been accepted.

Another feature of the Convention is its wide reach, which is due to the fact that persons under the age of 6 are subject to Article 5 of this Convention, which is the largest number of the population, especially in Third World countries.

Children from the perspective of the 1990 World Declaration of Survival, Growth and Protection of Children

With all the positive points highlighted in the UN Declaration of Survival, Growth and Child Protection, adopted by the United Nations on September 30, 1990 (the World Summit of States for Children), unfortunately, there is no trace of child definition in this World Declaration! According to published information, the situation of children in current societies is worrying. According to UNICEF (1989 - 1990) 40,000 children under five die every day due to malnutrition and preventable diseases; nearly 100 million children are deprived of primary education programs; half are children; In developing countries, they do not have access to safe drinking water; half a million mothers die during pregnancy and childbirth; more than one hundred million children worldwide earn their living through hazardous work and often under deadly conditions. More than a million people (most of them children) are deprived of home and life and more. Violations of children's rights in developing countries are mostly caused by poverty, while in the West, the moral problems and weaknesses of family foundations violate children's rights. However, it is always the Western countries that are pressuring Third World countries for child rights abuses.

Prohibition of Child Abuse in International Documents

Paragraph 1 (d) of the Supplementary Contract for the Suppression of Slavery and Slavery, and the Related Slavery Operations and Equipment adopted 1959, provide: Any custom and arrangements whereby a child or non-adult person (less than 18) Year) is prohibited by one of their parents or both of them, or by their guardian in exchange for or without payment in order to satisfy the child or adult or to use his or her work to another person.

2. Paragraph 3 of Article 10 of the International Covenant on Economic and Social Rights, dated 16 December 1966, also states: Children must be protected against economic and social exploitation. Forcing children to do things that are harmful to their morals or health or endanger their lives or impede their natural development should be punishable by law.

3. Article 9 of the Covenant on Civil and Political Rights of 16 December 1966 provides: No one shall be held in slavery or servitude or compelled to perform forced or compulsory labor.

Article 32 of the Convention on the Rights of the Child provides: States Parties to the Convention shall in particular consider the following:

- A. Determine the minimum age or age appropriate for the job.
- B. Determining appropriate regulations regarding hours and working conditions.
- C. Determining the penalties and other guarantees of effective and proper enforcement for the effective implementation of this Article.

In its first international move to abolish child labor, in 1919 and in pursuance of Article 427 of the Versailles Convention, the International Labor Conference in its first meeting adopted the Minimum Age Protocol on Industrial Affairs, which made 14 years the minimum age to enter industrial activity He was determined to pass. The conference also adopted the Convention on Youth Work at Night that same year. These two protocols constitute the first global steps towards the gradual elimination of child labor.

ILO Protocol No. 138, 1973 (ILO), also set the age at 15 years of normal work and 18 years of harmful work to children. The same convention stipulates that in countries where their economies and educational institutions are underdeveloped, the age will be reduced to 14 years, and for harmful practices stipulated that this age be provided if the security and moral health of young people is Completely maintained, down to 16 years. The Convention on the Prohibition of the worst forms of child labor in 1999 also emphasized the provisions of Article 1973 of Article 2 of the Convention: For the purposes of this Convention, the term child shall be used for persons under the age of 18 years. Article 3 of this Convention defines the worst forms of child labor:

- (A) All forms of slavery or similar forms of slavery, such as the sale and trafficking of children, slavery and forced servitude, forced or compulsory labor, including forced or compulsory employment of children for use in armed conflict.
- (B) The use, supply or supply of a child for prostitution, production of ugliness or obscene performances.
- (C) The use, supply or supply of children for illicit activities, in particular for the production and trafficking of narcotics, as defined in relevant international treaties.
- (D) Work that, because of its nature or the circumstances in which it is performed, is likely to be detrimental to the health or safety of the child. Paragraph 5 (b) of the Convention also states: Each Party shall take into account the importance of education in the elimination of child labor to prevent, first, the employment and exploitation of children in the worst forms of child labor. Second, create the necessary obstacles in this case. Third: Provide access to education for all children who are left out of the worst forms of child labor. Fourth: Identify children at risk and consider the specific situation of girls. It should be noted that the Convention was ratified by the Government of the Islamic Republic of Iran under the law ratifying the Convention on the Prohibition and Urgent Action to Eliminate the Worst Forms of Child Labor. It mandates that persons who place children subject to harmful activities covered by Article 3 (d) of the said Convention be punished by the penalties provided for in Article 172 of the Labor Code and the

temporary revocation of the work permit. Other Articles of the Article shall be governed by the laws of the subject. In addition to all these documents and protocols to eliminate and gradually abolish child labor, the International Labor Organization (ILO) continued its activities in line with the policies set forth in the 1967 Documents of the International Labor Organization. Approve the inspection letter. The Code provides for continuous inspections of factories, workshops and other facilities to prevent child labor, protection of working women, protection and occupational health.

Prohibition of Child Exploitation in Iranian Laws and Regulations

According to Article 79, the law prohibits the employment of persons less than 15 years of age. There are three exceptions to this rule:

A. According to Article 188 of the Labor Code, workers of family workplaces whose work is exclusively performed by the owner of the work and his first-degree relative and spouse shall not be subject to the provisions of this Law. As a result, the minimum age for workers in such workshops will never be respected. In fact, the legislature has helped raise the level of child abuse by parents and their relatives.

B. The exception that is clearly made by the ILO Code of 1973 (ILO) is Article 84 of the Labor Code. (Anonymous, *Children of Suffering*, 1999, pp. 9 and 10). It prohibits the use of persons under the age of 18 for work that is harmful to the health and morality of the teenager.

C. This is an exception to the exclusion of workplaces with a maximum of 5 workers from the labor law, which will certainly have horrific consequences for children and pave the way for their widespread exploitation at the community level (imagine workshops without any supervision). And free from any protective law, even in today's economic situation). It is interesting to note that under Article 191 of the Labor Code, with the proposal of the High Council of Labor and the approval of the Cabinet of Ministers, it was possible to dismiss workshops with less than 10 workers from the scope of some labor law regulations, but unfortunately the legislator disregarded this. The article excludes workshops with less than 5 workers from the labor law. Wouldn't it have been better to use this material, would it have been mandatory to at least observe child and woman employment regulations in these workshops? This, of course, contradicts the recommendation No. 52 of the General Conference of the International Labor Organization, as well as the first exception. The conference stated in June 1937: "Member States shall apply the minimum age requirements for admission to all industrial and family establishments. On the other hand, the Convention on the Rights of the Child and the New Labor Convention, as noted, do not accept any provision for the exclusion of some minor workers from the relevant laws, and all these laws apply to the exploitation of children in any form, whether family or otherwise. Another form of condemnation.

According to Articles 80 and 81 of the Labor Code, workers 15 to 18 years of age are adolescent workers and must undergo medical tests at the time of employment and on an annual basis. According to Article 51 of the Labor Code, the working hours of workers must not exceed eight hours per day. However, with the agreement of the worker and the employer this period can be changed, provided that the total working hours do not exceed 44 hours per week. Article 82 of the aforementioned law states that the working hours of adolescents shall be less than half an hour less than those of ordinary workers. According to Article 83 of this Law, it is forbidden to refer any

overtime and night work, as well as to refer to difficult and dangerous and overloaded work without the use of mechanical means for the juvenile worker. The night, as defined in Article 53 of the Labor Code, is the time interval between 22 and 6 am. According to some jurists, what is not foreseen in the law is the nature of the occupation that requires such work to be done at night. It is therefore advisable to amend the law in the light of juvenile worker materials so that adolescents can use their talents in such jobs as well. Apart from all this support, it appears to be legally compliant with international standards and standards. In accordance with Articles 96 to 106 of the ILO and especially under the Inspection Protocol (1967) of this Code, the Ministry of Labor and Social Affairs has established the Inspectorate General of the Ministry of Labor and Social Affairs for the proper implementation of the law and technical protection rules. Is.

It is set up to oversee the implementation of regulations governing the employment of women and young workers. However, note 98 of the aforementioned law states that the entry of labor inspectors into family workshops is subject to the written permission of the local prosecutor.

As already stated, in accordance with Article 188 of this Act, some family workshops have been excluded from the scope of the Labor Code. According to this note, inspection of such workshops (if they are subject to labor law) is subject to many restrictions.

On the other hand, the law does not mention the training of special investigators in pediatric affairs. The legislator seems to have seen no need for such an inspection in a country with at least 1 million young workers. Finally, it should be noted that the legislator, by enacting Articles 171 to 186 of the Labor Code, has imposed severe penalties in the form of imprisonment and a fine for violators of labor law, including child labor regulations.

SUMMARY AND CONCLUSION

The history of the rights of children and adolescents indicates that the response of societies to children and the protection of their rights has varied in different circumstances. In the meantime, Islamic countries have played a significant role in the development of the rights of children and adolescents according to Islamic jurisprudence. Promoting religious beliefs in favor of children's rights and world-class schools promoting humanitarianism and nihilism, the reform of children or juveniles as delinquent or perverse was considered a right of their offspring in social situations. Humanitarian thinking, especially about children and adolescents, has led many countries (including Islamic countries) to adopt international partnerships and the need for child protection through nutrition, health, education and so on. It resulted in the adoption of the Declaration of the Rights of the Child on 20 November 1959, Resolution 29 November 1985, Resolution 14 December 1990. On the other hand, the impact of these declarations and resolutions and the necessity of accepting the real rights of children with regard to the religious and customary principles rooted in the religious identity of the Islamic countries themselves, have been influenced by the countries of the world (including Islamic countries by other countries and human rights organizations). It is a child's rights.

Despite some of the differences found in the provisions of the Convention on the Rights of the Child and Islamic Jurisprudence (such as adoption, etc.), there is generally some kind of collaborative effort in the area of child protection and protection. Islam believes that the family is

the primary social origin of humanity, and the Prophet, peace be upon him, says: "No Islamic foundation is more favorable to God than the foundation of marriage and family." Accordingly, the family as a fundamental group in the introduction to the Convention on the Rights of the Child It is taken for granted that the child must grow up in a natural environment. The development of a child's personality is shaped by the material and spiritual support of the family, and understanding and affection are considered inherent in family and community care so that his readiness to enter society in the light of a range of assistance is free from discrimination and humiliation. In matters of custody, alimony, honoring the child's personality rather than humiliation, lack of exploitation, the need for free education, no imposition of a specific opinion, prohibition of psychological, psychological and physical torture, the necessary measures for welfare. Physical and mental development, counseling, the need to register and have identity and nationality, the necessity of orienting and preparing the ground for children to be socially abusive, granting freedom to the child, encouraging educational, educational, scientific and cultural development, granting appropriate care facilities and services in adolescence or childhood, avoiding educational negligence, building cohesion in the home environment Gay, ensuring the protection of children with disabilities, meeting their health and biological needs, familiarizing children with their inherent rights, providing the welfare facilities and supplies that children and adolescents need, and so on show that their attitudes are in line with their rights. And adolescents and developments in this field vary from time to time according to the conventions of the Convention on the Rights of the Child and Islamic Jurisprudence.

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