

## Legal and juridical study of child psychological abuse

Mojtaba Nikdosti (PhD), Marjan Azarm Faezeh Toghani pour, Mozhgan Motaleby

Department of Religious Jurisprudence and Islamic law, Isfahan (Khorasgan) Branch Islamic Azad University, Isfahan, Iran

**Abstract:** Legal and Juridical Study of psychological abuse of children. Article 958 of the Civil law says: child or minor is a person who has not reached physical and spirit growth necessary for social life. Abuse or harassment in word means torture, suffering and torment. Psychological harassment in the Quran comes in the form of denunciation and ridicule, slander, surveillance and backbit. For example, in verse of Hojorat says: O you who believe, people must never scoff and ridicule other people. Child abuse consists any kind of physical, mental or moral damage and harm, of children or adolescents that have been against the law and to threaten physical or mental health of them. Generally, child abuse occurs in two forms: (1) The child abuse caused by act of child's parent or caregiver that deliberately cause damage to children. (2) Child abuse resulting from the omission of doing activities that are necessary to protect the child's physical or mental health. (3) Psychological child abuse including factors that cause mental harassment of children and leave a lot of psychological effects and harm. (4) Psychological child abuse happen in two forms: 1- psychotic child abuse induced by act. (5) Psychotic child abuse caused by omission of act. Psychotic child abuse induced by act means obscene behavior that is harmful to children's mental health such as psychotic abuse caused by aggressive parents and denying abilities of children, or doing moral sins by parents like lying and dishonesty. Psychotic child abuse caused by omission of act includes parent's wastage and omit to psychological dimension of child such as lack of attention to the emotional needs of children and denial of education of children, So omission or neglect has 3 categories including emotional neglect, Training neglect and educational neglect. Kindness is a human basic need, especially for children, and lack of affection is groundwork for many and social crime and turmoil. The Prophet said about it: love children and affect them, then if promise them fulfill it because they see their aliment in you. Article 1173 of the Civil law says: when because of lack of care or moral decline of parents that have child's custody, physical health or moral training is at risk, court can consider any appropriate decision for child custody, based on request of victims of child or his(her) resident or head of the jurisdiction. Basic strategies forth prevention of psychotic child abuse such as, developing the awareness of society and parents about child right sand prohibition use of verbal violence for educational purposes in school and family, and effacing traditional methods of training that hurts children's mental health, can barefaced.

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### Introduction

#### A. Definition of child

##### 1. Definition of child from law perspective in Iran

Before civil law reforms in 1361, in civil law, minor was someone who has not reached the age of 18. By removal article 1209 and reforms in article 1210, 18 is not the exact age for adulthood. Today, the definition for "minor" is the same in juridical and legal literatures, it means a person who is not reached puberty (Vaziri, Majid; "mutual rights of child and parents in Islam" p25).

It is said in article 1 of "children and adolescents protection law" dated 25/09/1380 that all persons who aren't reach 18 years in solar years will be protected and benefited by the terms of this law (Mansoor, Jahangir, "family law" p. 269).

Article 958 of the Civil Code says that is a child or a minor is a person that his/here physical or mental growth is not reached to the level to have a social life.

##### 2. Juridical definition of child

In Holy Quran, traditions, religious literature there are some words like tefl (child), sabi (child) and saghir (minor) that are equal to child in lexical meanings.

First tefl (child): in Arabic language tefl (child) is used for young children, infant, immature child until he/she has soft bones and its plural form is atfal (children).

Second –sabi (child): it means a person who is not reached to the age of autoerotism, so, this word means a minor person (Abualhossein, Ahmad ben Fars, "Mojam Maghaees allogat" vol. 3, p. 331)

Third - saghir: in lexicon it means small in age and minor and it is against major. Its plural form is segghar (minors) (Esfahani, Ragheb, "al-mofradat" p.

485). In general, it has two kinds: discerner minor point and non-discerner minor.

Discerner minor is a person who can identify his/her gain and loss and non-discerner minor is a person who can't identify his/her gain and loss. All the actions of minors, both discerner or non-discerner, about their property or financial assets are wrong and inefficient (Emami, Hassan, "civic rights", vol. 1, p. 205).

Discern Age: this means the age at which children can recognize and discern between good and bad or between harmful and beneficial (Gorji, Aboalghassem, "legal articles", vol. 2, p. 342).

#### B. Definition of family

The family is a relative group that is responsible for socializing children and satisfying their fundamental needs. Family is a group of people that are related by blood, marriage or children adoption and they live with each other for an unknown period of time. (Coen, Bruce, "an introduction to sociology", translator Mohammad Salasi, p. 127)

The most important social factor in the life of every human being is his/her experiences during childhood in family environment. Family atmosphere is full of kindness, love, sacrifices, amnesty, devotion and sincerity but at the same time jealousy, enmity, wrath and rage can be seen there. A child experiences these emotions during his/her socialization beside his/her parents and brothers and sisters.

#### C. Definition of harassment

Abuse in lexicology means torture, suffering, punishment and harm but sometimes it means disease or illness. Dehkhoda Dictionary [www.jasjoo.com / books / word book / dehkhoda](http://www.jasjoo.com/books/wordbook/dehkhoda)

#### Harassment in Islam:

The concept of harassment in the Qur'an is in terms like abuse and its derivatives. It is used 24 cases, which in most cases it means irritate or annoy. For example, in verse 49 of Sura Baqara, God points to physical torture and annoying and says: remember the time that we freed you from Pharaoh's oppression, you were suffered from that because olds were killed and your women were bondwomen. This was a hard time and God's test for testing you.

Psychological abuse is mentioned in Holy Quran in the form of ridicule, slander, spying and scandal. God says in Surah Hajarat that: O ye who believe, people should never make fun of other people perhaps they are the best among the believers and also never make fun of other women because may be they are better than you. Never scandal about other people in the same religion, never call each other by bad names because when you are faithful to God, it is very bad to call bad named on other believers. A person who is not repent to God is cruel and unmerciful.

#### D. Definition of child abuse:

Child abuse means any physical or mental or moral damage or harm to the children or adolescence health that is against the law or any action that threaten their physical or mental health (Tarome, Mohammad Hossein "Juridical and legal Criminology in child abuse", Pegah Hoze, 25,278 p. 3, 1390)

In general, child abuse occurs in two forms:

1. child abuse by action: child abuse by action means all actions that parents or caregiver do and these actions are harmful for the child.

2. Child abuse by not doing an action: it means when not doing an action is harmful for a child. These actions are necessary to protect child's mental or physical health.

Each of these two can be divided into two mental and physical healths:

#### Physical child abuse

#### Physical abuse by an action:

It means all the actions that cause physical harm to the child or when the child is abused or harassed. In this form, harasser can do various things to harass the child. In most of the cases, physical abuse will lead to mental or psycho damages. This can be divided into some categories:

1. Maim
2. Sexual abuse
3. Economic exploitation

#### Child abuse by not doing actions:

It means disregarding child's physical needs or rights. Inattention to child's physical needs can cause serious physical damages or it can cause some physical growth disorders. This can be divided into 4 categories:

1. Not wanting to keep the child or neglect of the basic needs of children
2. Medical needs negligence (Naghavi, Azam, "child abuse", p. 42)
3. Lack of adequate monitoring or supervisors
4. The environmental negligence (Rakhshanpur, Firoze, "child abuse and negligence", p. 14" Discussion of physical child abuse will end right here.

#### Secondly, psychological abuse:

psychological abuse means those factors include psychological harassment of the child and can leave serious effects on his mental health.

Psychological child abuse can be divided into two categories: 1. Psychological child abuse by an action, 2. Psychological child abuse by not doing necessary actions

#### 1. Psychological child abuse by an action:

it means psychological child abuse which is related to doing unacceptable behaviors which can damage child's mental health.

This type of child abuse can be divided into 3 categories.

1. Psychological abuse caused by parent's aggression like threatening child, blaming child, insulting child and cursing child

2. Psychological child abuse caused by ignoring his/her abilities like comparing the child or discrimination between children.

3. Psychological child abuse caused by some moral sins that occurs in parent's actions such as lying or failing to promise.

Unfortunately some of the above mentioned harassments became natural to the people, so, when you explain for parents that these are some kinds of child abuse, they will surprise. Parents threaten their children easily for example by saying that I will leave you or they scorn their children among the others. They think that they are discipline him/her but they don't know anything about the horrible results of such behavior on their children mind.

First, at first we present some examples of psychological abuse from aggressive parents

1. Threatening child and its effects: threatening means frightening, sometimes parents wants to make the children to do what they want or they want to prohibit children to do something, so, they threaten the child by saying I will beat you or I will leave you. Threatening a child causes discharging cortisol hormone in his/her blood. This is a defensive hormone because the child believes in this threat. (Barim-Nejad, Leila, "threatening child by parents" [www.salamatnews.com](http://www.salamatnews.com), 37237)

By repeating this action, the child whose cognitive function is impaired will followed by disorders of the thyroid gland. This disorder causes blood sugar imbalances, decreased bone density, weakening the immune system and depression. " [www.khoshbin.ir](http://www.khoshbin.ir) jeniferr.scot "

threatening the child is related to anxiety disorder in children, it has a great role in strengthening the attachment to anxiety (Vebgel, Fariba, "separation anxiety disorder" 30/1/86, [www.aftab.ir](http://www.aftab.ir)).

2-blaming the child: humiliating and blaming children in public is a big obstacle on the way of true upbringing. This is not a way for reform but instead it provides him deviation and corruption.

[www.tebyan.ir](http://www.tebyan.ir) // zn.ir

Humiliating and blaming children is prohibited in Islam. The Prophet of Islam says: peace be upon the person who helps his/her child and forgive their slips (Esfahani, Second Majlesi, Mohammad Bagher, Bihar al-Anwar, vol. 104, p 98).

3-repeated warning and sarcasm of children:

repeated warning and sarcasm reduces child's self-esteem, but a sense of hopelessness increases in his/her mind. This is the first step of depression disorder and in some cases it is the motivation of suicide. The other consequences of repeated sarcasm

are sense of shame in the face of social interaction or reluctant to participate in group activities or seclusion. If this situation doesn't cure, it can be a good bed for other mental illnesses. <http://rista.ir/> 104837.

4. Cursing to child and its effects:

It means calling bad names on persons to show distaste or hate to him/her. Every human being seeks respect and one of his/her psychological needs is having social respect. If this need satisfies, success path will be easy for him/her. On the opposite, if this need does not satisfy or the person does not have a good place in the society with social respect, he/she will seclude and any path to success will be closed to them or they will do any erratic or immoral things. So, parents must know that scorning a child will make him/her to retreat.

The Prophet said: respect your children and teach them good manners and methods to be forgiven.

Violation of the sanctity of a person causes separation of children from their parents. Islam forbids cursing and it is scorned in many religious literatures. Iran's law is against this evil practice and considered laws about it.

In Article 145 of the Islamic Penal Code says: a curse that is cases listener abuse will be punished. Any words like pigs, dogs, little, mail, infidels, apostates or any other words for insulting people is subject to this Act, except in situations when the person is worth humiliating. One example of such abuse is extrusion it means accusing someone to adultery or sodomy. In Islamic law or Iran's Penal law, extrusion is a crime and if the father or grandfather extrude the child, there is a penalty of up to 74 lashes for chastising them to be considered (Article 142 of the Islamic Penal Code)

Secondly, psychological abuse by denying child's ability occur when parents ignore child's ability or show them less than they seem. Sometimes comparing them to other children or discriminating between children or having excessive regulation will cause the destruction of his character.

1-discrimination between children will cause their loss of mental balance to become selfish, stubborn and avaricious. This situation is the root of some crimes that is caused by parents' inattention to the children (Sharifi, Mohsen Pasha, "child and adult psychology", translated by Parvin Ghaemi, p. 19)

Islamic law also rejects discrimination and it is believed that parents should treat their children with the utmost fairness (Beheshti, Ahmad, "Islam and child rights" p.221). It is said in religious literature that the Prophet Muhammad (PBUH) saw a man who kissed just one of his two children and ignore the other one. The Prophet protested him and said: Why you did not treat them as equals? (Qomi, Saduq, Mohamed Ben Ali "man layahzar alfaghih", Vol. 3, p. 483).

2. Comparing children sows the seeds of jealousy in their minds. It will damage them mentally. The child who is destroyed by comparing to the other one is looking for an opportunity to overtake the other one. He feels satisfied by humiliating them. Some of the consequences of comparing children are lying, hiding, pretending, lack of self-confidence, lack of love and need to other persons praise, trying to gain success even by illegal methods like cheating in exams just for having excellent results.

[www.bartarinha.ir/fa/news/31805](http://www.bartarinha.ir/fa/news/31805)

God says in Quran in Sura Noah, verses 13 and 14:

Why do not you bow before the God who made you different?

On the other hand, in Sura Aaraf, verse 42, God mentions to this point that he has given responsibilities to everybody based on his/her abilities. So, parents must expect their children according to their abilities. They can't blame their children because of some inherent weaknesses.

Third = psychological child abuse caused by doing moral sins:

Sometimes parents who are the most important child's behavior pattern do something that is a sin and forbidden. This behavior not only makes a sin very simple and ordinary in the eyes of children, but it has an ill effect on his/her psyche. One of these misconducts is telling lies.

Lie: What is a lie?

Lie means a saying that is against reality and liar is a person who reports against reality.

The Prophet (PBUH) said that keep away from telling lies even if this will save you because it is really killing you. (Mostadrak alwasael, Vo. 5, p. 8)

Imam Ali (AS) says about telling lies that: the greatest sins to God is the tongue of a liar (Feyz Kashani, Mohsen, "Mohajaba- albeyza" Vol. 5, p.243). Psychologists believe that it is no matter why lies are told, it must be proved to children that telling lies is a bad behavior, even white lies.

[WWW.Seemorgh.com](http://WWW.Seemorgh.com)

it is obvious that even white lies can ruin children trust toward their parents. [www.persianv.com](http://www.persianv.com). 2009

Psychological child abuse caused by not doing an action:

It means not doing necessary actions by parents. It can damage psychological and mental aspects of child, including lack of attention to child's emotional needs or inattention to child's education or trainings (Naghavi, Azam, "child abuse" p. 41)

The psychological child abuse by not doing an action or negligence can be divided into 3 categories: emotional negligence, educational negligence and training negligence.

### 1. Emotional negligence

Receiving love is one of the most important needs of every human being, especially children. Lack of it can make a good bed for any crime and social turmoil. Most of the children psycho disorders can be cured by organized love to guide them toward needed goal.

The Prophet of Islam (PBUH) said: love your children and express your love to them. When you have promise to them, be honest to it because they see their livelihood in your hands (Hor-e-Ameli, Mohammad, "Wasael-al-Shie" Vol.15, p.201)

When you express your love toward children, they feel safe and secure. This makes a good bed for their growth.

Emotional negligence has different kinds:

a. inadequate care or love

This type includes such things as repeated inattention to child's emotional needs, inadequate love, no hugging or no kissing the child, exposing the child to others violence or lack of trying to stop such violence actions.

(Darman, Ismail, "violence against children and several mistaken beliefs")

[www.ravanoline.com](http://www.ravanoline.com)

Imam Ali (AS) said to his son, Imam Hassan:

I didn't find you a part of my soul but the whole of my soul. If you are in trouble, I am in trouble. If death comes to you, it means it has come to me. So, I think endeavor for you means endeavor for me (Nahjolbalaghe, p.336)

b. acute or chronic spouse abuse

It means every action for harassing spouse like maim and physical or mental harassing like forbidding her to visit her family or damaging her personality by scurrility.

[www.majiran.com](http://www.majiran.com) = 2825 number5019

According to article 1115 of civic law, if a man make some physical or mental harass or abuse to his wife, she can leave the house and this action does not need any judgment or final order.

In Islam, harassing everybody especially spouse is a bad and illegal action (Lankarani, Mohammad Fazel, "Jame-al-masael" Vol. 1, p. 448)

Every action of a man who harass his spouse will lead to child abuse because lack of calmness and peace in parents' actions will have negative effects on the child. Harassed women are impatient and neurotic so they can satisfy their children needs. Depression will transferred from parents to children. A violent scene of mother is beaten by father will remain in child's mind for years. This will lead to truculent actions in children.

### 2. Educational negligence

Education here means growth, high up and desirable.

[www.loghatnameh.org](http://www.loghatnameh.org)

Upbringing a child means educating him/her with social etiquette and moral behaviors in accordance with his/her family environment and education means endeavor to teach him/her a perfect knowledge or industry in accordance with the time and social situation of the family. Then, he/she can live in peace for the rest of life (Emami, Hassan, "civic law" Vol. 5, p. 195)

The Prophet of Islam (PBUH) said: let your child play until 7, then, the second 7 years he must obey you, this is a chance for discipline him/her, in the third 7 years, let him/her enter your job and be familiar with social, economical and political affairs, by this way he/she will learn how to have a better life.

(Mousavi Gharavi, Mohammad Javad, "Law basis in Islam", p.46)

Imam Ali (AS) said to his son Imam Hassan (AS): beware my son, heart of an infant is like a vacant land, empty of any seed and plants, so, each seed that you plant in it, will grow (Nahjolbalaghe, p. 337)

In article 1173 of Civic Law is said: when physical or mental health of a child is in danger because of his/her parents' inattention, the court can decide for freeing this child and his/her custody.

Sometimes parents indirectly invite the child to violent behavior such as playing violent video films that are not suitable for their children. And sometimes immoral films cause patterns of interpersonal violence for children. Therefore the child to arouse admiration of other people will show abnormal behaviors. So parents should not allow the continuation of violence in the personality of the child.

Sometimes educational neglect is caused by children isolation from communication and interaction to other people. Some parents exclude their children from interaction with their counterparts or other adults at home or in the society.

(Saleh Tabari, Mohammad Taghi, "child abuse and inattention to the children)

[www.amuzeshbendashahr.blogfa.com](http://www.amuzeshbendashahr.blogfa.com)

Children bullying and social isolation, in addition to psychological problems, will increase the likelihood of low scores, and expelled from school and drug abuse. (Child abuse and negligence, p.18)

Imam Ali (AS) said about interacting with people: the top of wisdom after faith is friendship and interacting with people and having the best for all human beings. (Kashani, Feiz Mohammad, "AlWafi", Vol. 26, P. 236)

Children must have social disciplines. It means they must be disciplined according to social etiquettes and then according to moral and mental virtues, their presence in the society is appreciated. They must have

an opportunity to interact with other people (mental mutual right of children in Islam, p.214)

### 3. Training negligence

Training science and gaining knowledge is a right for every child because they must reach to a level of wisdom to accept responsibilities. This is due to parents to prepare them for learning key points of religion, culture and civilization to reach upper levels.

The Prophet of Islam (PBUH) said: fathers must to teach writing and shooting to their children and this is a right to the children (Nahj-al-fesahe, p. 448)

Article 1178 of the Civil Code states: fathers must prepare a suitable bed for education of their children according to their abilities. The children must not waste their time and abilities, so, parents must try to help their children in accordance to their mental and economical capabilities in learning any morality and religious traditions and social relations and values. They have to acquire any facilities for their children in accordance to his/her abilities and talents.

Types of educational negligence:

Educational negligence is divided into 3 types as follows:

1. Absence from school: if this becomes a habit, for example 5 times a month, and the parents know about this and do not try to solve this problem.

2. The child is not enrolled in school or late enrollment; it means child's absence from school reaches one educational month without any reasonable proof

3. Inattention to educational needs of the child or ignoring learning disorders or not preparing training services for him/her. (Derakhshanpur, Firooze, "child abuse and negligence" p.18)

Article 4 of Child Protection Act says: any child injury or abuse ... and deliberate ignorance the mental or physical health or preventing the child from school will be punished by 3 months and one day prison or paying 10 million Rials fines.

Child abuse by prevention them from education is only one of the instances of child abuse therefore other examples of this type of child abuse is not covered by this article.

The definition of law-maker is not clear by preventing from education. It is not clear that they mean onset the education or continuing it or both. It seems that law-maker is pointing to both.

The basic strategies in the prevention of psychological child abuse:

1. Taking measures to increase awareness of parents about child rights

2. Prohibition of using verbal violence for educational purposes in families and schools

3. Effective action to eliminate traditional methods of training that are harmful for mental health of the child

4. Elimination of all forms of inequality and discrimination on children

5. Increasing the educational level of entertainment facilities for children

6. No violent images allowed through the media

7. Children's access to counseling centers by telephone or personal visit or by letters

8. Prevention programs with the aim of encouraging children to protect themselves against violence

9. Efforts to reduce poverty, addiction, unemployment, please, study causes of child abuse before presenting essential solutions

Causes of child abuse in Iran

There are several factors involving in child abuse in Iran.

These factors are examined in three groups.

1-factors related to the physical and mental condition of the child. Sometimes these problems exhausted parents and they punish their children wanted or unwanted. In these situations, the child has no role in creating such weakness.

2-Factors related to social problems, including poverty, economic and cultural problems or legal defects or ambiguities. The legal ambiguities means defects in some articles for protecting children. For example, in article 1179 of the Civil Code, punishment of children by parents or guardians or legal supervisors of minors is accepted under some conditions. Then it is said that punishment must not be out of some regular limits. But this regular limit is not described and we don't know what a fair punishment is.

3. Factors that are related to educational environments: the most important educational environment for students is school. So, all problems in school for children including extreme visions for better scores in exams, extreme anxiety from drastic competition, discrimination, physical punishment, humiliation and insult will cause psychological and physical child abuse.

[http // raha.odvv.org 77/8/28](http://raha.odvv.org/77/8/28)

4-factors related to the parents

Sometimes the parents have weaknesses that can cause mental or physical damage to the child, including the lack of parenting skills, maternal employment, financial pressures, addiction, mental or physical illnesses, divorce or family problems.

**Corresponding Author:**

Mojtaba Nikdosti (PhD)

Department of Religious Jurisprudence and Islamic law, Isfahan (Khorasgan) Branch Islamic Azad University, Isfahan, Iran

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