

## Protecting Lebanese Children's right of privacy in the digital age

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### ABSTRACT

According to the UNICEF report 2017 titled "Children in the Digital Age" Digital technology transformed everything in the world, and it is rebuilding childhood as most of the children have become slaves in a way or another to it. These subjected children to many risks online or offline as a result of digital technology. Children who are ignorant about the pros and cons of this technology are at a higher risk of injury, especially when it comes to their right of privacy.

Just as the digital age affected all rights of children mentioned in the convention on child especially the right to privacy, when this technology is used without supervision from the family, school and government and without understanding the risks it poses to their different convictions and values. So dangerous crimes against our children which are done directly and sometimes indirectly which confirms the importance of cybersecurity and its role in protecting them and protecting their information by establishing laws that protects them and their privacy.

This study discusses the attitude of the Lebanese legislator (penal code and law number 81/2018 concerning Electronic Transactions and Personal Data and cybercrimes) on protecting our children from online tools and hackers by the legal protection of the right of privacy for children and the judicial protection of this right.

### Introduction

We all have children<sup>(1)</sup> and it's our responsibility to protect them from online predators especially in the digital age<sup>(2)</sup> that we are living in and is driving us all.

(1) Article 1 of the Convention on the Rights of the Child, "every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier". And this definition meets with what is stated in article 4 of the Lebanese civil code defines the age of majority is 18 Years old, in addition to this the Lebanese Penal code in its article 31 of Decree number 112 states that a juvenile is every male or female who are over 7 and under 12 years old, an adolescent is every person over 12 and under 15 years old and at last a young person in any male or female between 15 and 18 years old.

(2) Digital means "using a system of receiving and sending information as a series of the numbers one and zero, showing that an electronic signal is there or is not there",

[https://www.oxfordlearnersdictionaries.com/definition/english/digital\\_1](https://www.oxfordlearnersdictionaries.com/definition/english/digital_1), retrieved at 24 April 2022.

Millions of games, Applications, sites that are open to us and to our children without surveillance. Your child maybe playing a game or chatting with other persons that u don't even know, or having video call with a foreigner and then he will be subject to slander, or other new crimes that didn't exist before this digital age.

Depending on the internet as a tool for our children to study, make research, play, chat with friends spending most of their times on the computer or telephone especially during COVID 19, has open the door to new violations on children's right of privacy.

We can conclude from article 8 of the Lebanese constitution that Personal liberty is protected by law, and no one can be detained or imprisoned without a warrant.

At both the international and regional levels, the right to privacy is unmistakably acknowledged as a crucial human right. Despite widespread acknowledgement of the responsibility to preserve privacy, international institutions for human rights protection have yet to completely develop the content of this right..<sup>(3)</sup>

Privacy is a fundamental human right<sup>(4)</sup>. The right to privacy supports other fundamental rights and freedoms<sup>(5)</sup>, encompassing the freedoms of expression, religion, peaceful assembly, and association, as well as the right to equal participation in political and public affairs.

Roger Clarke's human-centered method to creating privacy categories is helpful in identifying which specific aspects of privacy are important and must be preserved. Privacy of the person, privacy of personal data, privacy of personal behavior, and privacy of personal communication are the four dimensions of privacy defined by Clarke in 1997.<sup>(6)</sup>

Privacy of the person, privacy of conduct and action, privacy of personal communication, privacy of data and image, privacy of thoughts and feelings, privacy of location and space, and privacy of association (including group privacy) are now seven separate types of privacy.

(3) OHCHR, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue, 17 April 2013, UN Doc. A/HRC/23/40, para. 21, available at <[http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/23/40](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/23/40)>.

(4) International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 ('ICCPR') Article 19.

(5) U.N. General Assembly, The Right to Privacy in the Digital Age, U.N. Doc. No. A/RES/73/179, 21 Jan. 2019, p. 2,

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/73/179](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/179) ("recognizing that the exercise of the right to privacy is important for the realization of the right to freedom of expression and to hold opinions without interference and the right to freedom of peaceful assembly and association, and is one of the foundations of a democratic society").

(6) Roger Clarke, "Introduction to Data surveillance and Information Privacy, and Definitions of Terms", Xamax Consultancy, Aug 1997. <http://www.rogerclarke.com/DV/Intro.html>

But what about children's right of privacy and to what extent we can protect our children from online predators?

We will divide our research into two parts:

Part one: Defining children's right of privacy and its components.

Part Two: Legal measures to protect children's right of privacy.

### **Part One: Defining children's right of privacy in the digital age and the crimes extending to it**

In this part we will discuss the definition of the right of privacy in Lebanon and its components and then the internet crimes against children.

#### **I- Definition of the right of privacy**

The Lebanese law didn't define the right to privacy but Lebanon has enshrined this right in its constitution through article 14 that ensures the inviolability of the home:" The right to live in one's own home is unalienable. No one may enter there except under the conditions and in the methods set forth by law.

Furthermore, the Lebanese constitution's articles 8 and 13 implicitly protect the right to privacy, with the former ensuring individual liberty and the latter freedom of expression. These regulations have been interpreted to cover the secrecy of all forms of communication, including emails and phone calls.

Also the preface of the Lebanese Constitution states that: "Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception."

The international community acknowledged children's rights in the Convention on the Rights of the Child of 1989, ratified by the Lebanese Republic on May 14, 1991.

Article 16 of the UN Convention on the rights of child states that:" No child should be exposed to arbitrary or unlawful intrusions into his or her privacy, family, home, or correspondence, nor to unlawful attacks on his or her honor or reputation."

2. The child has a legal right to be protected from such interference or attacks."<sup>(7)</sup>

Many international and regional accords recognize the right to privacy and respect for one's home, family, correspondence, honour, and reputation, as well as other basic civil and political rights. Article 16 largely repeats the language

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(7) United Nation convention on the rights of child, General Assembly Resolution 44/25 of 20 November 1989 entry into force 2 September 1990, in accordance with Article 49, retrieved on 25 April 2022

[https://www.unicef.org.uk/wp-content/uploads/2010/05/UNCRC\\_united\\_nations\\_convention\\_on\\_the\\_rights\\_of\\_the\\_child.pdf](https://www.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_united_nations_convention_on_the_rights_of_the_child.pdf)

proposed in article 17 of the International Covenant on Civil and Political Rights (ICCPR), which is based on article 12 of the Universal Declaration of Human Rights (UDHR).

Children's agency, dignity, and safety, as well as the exercise of their rights, require privacy. Personal data about children is handled in order to provide them with educational, health, and other benefits. Data collection and processing by public institutions, businesses, and other organizations, as well as criminal actions like identity theft, can pose a threat to children's privacy. Children's own activities, as well as the activities of family members, friends, or others, can pose a threat, for example, when parents share images online or a stranger shares information about a child.<sup>(8)</sup>

Personal information on children should only be accessible to authorities, organizations, and individuals designated by law to process it in accordance with due process guarantees such as frequent audits and accountability procedures.<sup>(9)</sup>

#### **a- Dimensions of the right of privacy**

As a result, the right to privacy of children, which is the most comprehensive of the rights under article 16, has at least five distinct dimensions: bodily and mental integrity, decisional autonomy, personal identity, informational privacy, and physical/spatial privacy.<sup>(10)</sup>

1- Bodily and mental integrity: this is protected by article 19 of the Convention of the right of the child protect every child against all forms of violence, neglect, and abuse;<sup>(11)</sup> in addition to this It was stated in article 24(3) the protection for children that are subjected to any traditional practices that are harmful to a child's health<sup>(12)</sup>; and article 37 of the convention secure children against torture and cruel, inhuman, and degrading treatment.<sup>(13)</sup>

2- Decisional autonomy: Given their ability to develop, children's right to privacy creates a dilemma. It also increases the chances of a quarrel between the child and his parents. Article 5 gives parents the right to assist and guide their

(8) UN Committee on the Rights of the Child, General comment No. 25 (2021) on children's rights in relation to the digital environment, 2 March 2021, para.67. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/053/43/PDF/G2105343.pdf?OpenElement>

(9) UN Human Rights Committee (HRC), CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, 8 April 1988, available at: <https://www.refworld.org/docid/453883f922.html>, para.10. [accessed 6 May 2022]

(10) John Tobin Sarah M Field, Article 16. The right to Protection of Privacy, Family, Home, Correspondence, Honour, and Reputation, [https://www.ohchr.org/sites/default/files/Documents/Issues/Privacy/SR\\_Privacy/privacy-child/Other-Stakeholders/15-Tobin-J-and-Field-SM-Article-16.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Privacy/SR_Privacy/privacy-child/Other-Stakeholders/15-Tobin-J-and-Field-SM-Article-16.pdf)

(11) article 19 of the United nation convention of the right of child.

(12) Article 24 paragraph 3 of the United nation convention on the right of child.

(13) Article 37 of the UN convention of right of child.

children<sup>(14)</sup>, and article 12 gives children the right to express themselves in all subjects affecting them<sup>(15)</sup>. However, neither the parent's nor the child's opinions will always determine what is in the child's best interests.

3- Personal identity: Children have an express right to maintain their individuality under Article 8 of the Convention.

4- Informational privacy: is divided into two:

- Information created by a child must be protected, which means that information made for personal use by an individual may not be accessed or spread without that individual's consent unless such access and distribution is legal and indiscriminate.

The right to data protection applies to the protection of information about children created by various governmental and non-governmental persons and authorities. Even at school, these people have the power to collect and keep information about their children. Doctors, police, judges, social workers, banks, sports groups, telecommunications corporations, and social media providers are also involved.

5- Physical privacy: This refers to a child's ability to isolate himself and enjoy his physical surroundings.

What is the parent's responsibilities?

### **b- Parent's Responsibility for children's rights**

1- A New Theoretical Approach to Children's Rights: This reflects a delicate balancing act between the best interests of children and parental rights.

2- Parents as guardian of The rights of their child

Fiduciary duty is consistent with a decision-theoretic developmental approach to children's rights. Parents need to act as managers of the rights of their children until they have fully developed decision-making skills to make their own decisions..<sup>(16)</sup> A trust-based relationship has been suggested for parents and children in regards to medical care.<sup>(17)</sup>

3- Implications of Trustee Theory on Children's Privacy on Social Media

There are two trends concerning this theory one that considers sharenting<sup>(18)</sup> or oversharing<sup>(19)</sup> is a right of freedom of expression. By implementing a trust-based

(14) Article 5 of the UN convention of the right of child.

(15) Article 12 of the UN convention of the right of child.

(16) Shannon Sorensen, Protecting Children Right to Privacy in the Digital Age: Parents as Trustees of Children's Rights, Children's legal rights journal, volume 36, issue 3, article 2, 2016, p.16.

(17) Oullette, supra note 140, at 959 (suggesting a ".... trust-based construct of the parent-child relationship for medicine, in which the parent has trustee-like powers and responsibilities over a child's welfare and developing rights, as well as fiduciary-like duties to the child.").

(18) The habitual use of social media to share news, images, etc of one's children,  
<https://www.collinsdictionary.com/dictionary/english>

(19) to reveal an inappropriate amount of detail about one's private life,  
<https://www.collinsdictionary.com/dictionary/english/overshare>

approach to the rights of the child, protection of the right to privacy of the child is greatly enhanced. If parents are obliged to act as trustees, they are obliged to protect the trust in their children's rights, including self-definition. Self-defining rights can be considered legal trust, as it is almost certainly unnecessary to build an online social media presence as a child.<sup>(20)</sup>

So sharing children pictures on social networking sites constitute a violation of the child's right to establish and have his or her own privacy in the Hypothetical world where a child grows up to find his or her photographs filling the social media platforms without his consent. The second is the risks involved, including digital kidnapping<sup>(21)</sup> and cyberbullying<sup>(22)</sup>.

Researchers currently divide the various risks encountered online into three categories: content, contact, and conduct risks.

- Content risks: When a youngster is exposed to unwanted or unsuitable material. Sexual, pornographic, and violent imagery; some forms of advertising; racist, discriminatory, or hate-speech material; and websites supporting unhealthy or harmful behaviors including self-harm, suicide, and anorexia are examples of this.

- Contact risks: When a child engages in potentially harmful communication, such as with an adult seeking inappropriate contact or recruiting a child for sexual motives, or with those attempting to radicalize or encourage a youngster to engage in unhealthy or dangerous behaviors.

- Conduct risks: When a child's actions lead to the exposure of harmful content or interaction. Children may write or create hateful messages about other children, incite racism, or post or distribute sexual photos, including content they have created themselves.<sup>(23)</sup>

At last we should balance the best Interest of a Child with the Child's Right to privacy and their interest in future self-definition.<sup>(24)</sup> In addition to educating

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(20) *ibid.*, p.17.

(21) Digital kidnapping: The case of a stranger stealing images of a child from a social media site and posting them and claiming to be his child.

(22) "Cyberbullying is bullying with the use of digital technologies. It can take place on social media, messaging platforms, gaming platforms and mobile phones. It is repeated behaviour, aimed at scaring, angering or shaming those who are targeted. Examples include:

- spreading lies about or posting embarrassing photos or videos of someone on social media
- ending hurtful, abusive or threatening messages, images or videos via messaging platforms
- impersonating someone and sending mean messages to others on their behalf or through fake accounts."

<https://www.unicef.org/end-violence/how-to-stop-cyberbullying> retrieved on 25 April 2022.

(23) UNICEF, Children in the digital world, digital dangers: the harms of life online, 2017, p.80.<https://www.unicef.org/uzbekistan/media/711/file/SOWC:%20Children%20in%20a%20Digital%20World.pdf>

(24) *Ibid.*, p.18.

parents to Increase Awareness and Personal Responsibility their online posting which seems like a simple way to solve the problem.<sup>(25)</sup>

## II- Internet Crimes against children

As we figure out the sorts of computer crime that seem to occur most frequently, according to the most prevalent reports or complaints to Inter-GOV<sup>(26)</sup>, it is clear that child pornography, missing children, harassment threats to children are the most common. This implies that children are the most category that is affected by the cybercrimes.

We have two kinds of Internet crimes:

- Crimes against people and money on the internet
- Crimes against intellectual property and informatics programs on the internet.<sup>(27)</sup>

Internet crimes against children is one of the crimes against people so what are these crimes?

Intended and completed sexual assaults, illegal use of the Internet to communicate sexual content, direct solicitation of minors, and the production, possession, and distribution of child pornography are all examples of Internet Crimes Against Children (ICAC). Colonel Joseph Musallam, Internal Security Public Relations Officer Forces in Lebanon, points out that the most prevalent cybercrimes- / are the following: electronic blackmail, slander, threats, fraud, hacking of electronic accounts.<sup>(28)</sup>

This is in addition to The Covid-19 pandemic has led in a massive surge in the use of technology. As a result of school closures and rigorous containment measures, more families are relying on technology and digital solutions to educate their children and connect with the outside world. Not all youngsters, however, have the knowledge, abilities, or means to keep themselves safe online.

According to a poll done in 2020, 30% of children used the Internet without being supervised by an adult. Sexual blackmail of young girls on social media increased significantly in 2020, according to the General Directorate of the Internal Security Forces (ISF). In 2019 and 2020, the number of sexual extortion reports received by its Information Division doubled.

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(25) *ibid.*, p.19

(26) "The National Information Infrastructure Protection Act of 1996 Legislative Analysis. "Department of Justice Computer Crime and Intellectual Property Section. Internet. URL: [http://www.usdoj.gov/criminal/cybercrime/1030\\_anal.html](http://www.usdoj.gov/criminal/cybercrime/1030_anal.html) from Tania Nehme, Cybercrime and cyber laws: International Dimension, Lebanese national defense, Issue Number 104 - April 2018, <https://www.lebarmy.gov.lb/en/content/cybercrime-and-cyber-laws-international-dimension> retrieved on 25 April 2022.

(27) Hussein el Gol, Internet crimes and its criminal responsibility (comparative study), Badran library, Saida, p. 149.

(28) Jean Dark Abi yaghi, Cybercrime: sexual exploitation and harassment of children at the top of the list, Military Journal, 430-431, May 2021, <https://www.lebarmy.gov.lb/ar/>

Despite the increase in reporting rates, this is still considered low because many victims comply with the extortionist's demands without reporting the incidents, either because they lack confidence in the security services' ability to act quickly, or because they are ashamed of disclosing the matter to the security forces or their families, or because they are illegally present or fear the ISF will expose them. In a survey conducted in 2021, children, caregivers, teachers, and social workers stated that children are increasingly using digital technology, exposing them to exploitation and abuse on these platforms. This has had an impact on both physical and emotional health, with an increase in eye ailments and reduced physical activity.<sup>(29)</sup>

Now we will discuss the most dangerous crimes that affects children which are moral crimes and crimes against privacy:

- Moral crimes
- Crimes against privacy

#### **a- Moral crimes on the internet**

Moral crime is a crime that has a very negative impact on the human person. It is a crime against honor. With regard to public vilification that is damaging to the honor or reputation of an adult or a child, the Criminal Code prohibits slander, and denigration of persons (arts. 358 - 367).

#### **1- Slander crime against child**

Definition of slander according to the Lebanese law

Article 384 concerning the head of the state<sup>(30)</sup> and 385 of the Lebanese Penal Code<sup>(31)</sup> has defined slander as “ascribing to a person, even in doubt, something offensive to his honor or dignity”.

Article 385 of the Lebanese Penal code stated that libel as “any word, disrespect or insult and any expression or drawing indicating an offense shall be considered libel in the event it does not involve the ascription of a certain act”. in addition to the criminalization of such acts within the framework of offences against public authority (in articles 385 to 389 Lebanese penal code).

(29) Sexual blackmail increases and targets teenagers. Article published in the Legal Agenda Magazine on 26/03/2021. Available from:

<https://legal-agenda.com/%d8%a7%d9%84%d8%a7%d8%a8%d8%aa%d8%b2%d8%a7%d8%b2-%d8%a7%d9%84%d8%ac%d9%86%d8%b3%d9%8a-%d9%8a%d8%aa%d9%81%d8%b4%d9%91%d9%89-%d8%a7%d9%84%d9%85%d8%b1%d8%a7%d9%87%d9%82%d8%a7%d8%aa-%d8%a3%d8%a8%d8%b1/>

(30) Article 384 of the Penal Code: “Whoever insults the head of state shall be punished by imprisonment from six months to two years. The same penalty shall be imposed on those who insult the flag or national emblem publicly by one of the means mentioned in Article 209”.

(31) Legislative decree no. 340 of march 1, 1943, on the criminal code, world intellectual property organization. retrieved april 25, 2022, from <http://www.wipo.int/wipolex/en/details.jsp?id=6653>



Article 582 of the Lebanese Penal code penalizes a person commits a crime using one of the methods described in the article 209 with a three month of imprisonment and a fine up to 200,000 Lebanese lire.

This crime of slander is composed of two elements

1- The material element

This element is achieved by these conditions:

- The act of imputation

Imputation is achieved by attributing something or a fact to a person in any means of expression. Expression by words, writing or reference. It is equated with certainty, suspicion or questioning, whether it comes from the perpetrator's personal information or from the third party.<sup>(32)</sup> F

- The content of imputation

It is represented in the specific incident that, if true, would entail the contempt of the person to whom it is attributed among the people of his country and undermining his honor and dignity. It is stipulated in the incident that is the subject of the attribution that it be a specific fact and have a specific description.<sup>(33)</sup>

So, in order to achieve the crime of slander, the attribution should be based on a specific subject, which is for the offender to attribute to the victim a specific fact, which, if true, would have necessitated criminal punishment or contempt for the people of his country.

- Public attribution

Publicity plays an important role in the lives of individuals and society and produces socially or legally significant effects<sup>(34)</sup>, it can take multiple forms and be a crime in itself or be an element of the offence, or be an aggravating circumstance, or a punishment.<sup>(35)</sup> And attribution is public if it is done by the public means stated by article 209 of the Lebanese Penal code:” Means of dissemination:

1. Actions and movements if they occur in a public place or a place that is open to the public or seen. because of the perpetrator’s fault who is not involved in the action...

2. Speech and cries made directly by the offender or through devices and heard by an individual not involved in such speech

(32) Ali Kahwaji, Penal Code, Special Section, Offenses against the public interest, human beings, and money, Halabi Publications, Beirut – Lebanon, second edition, 2002, P. 559.

(33) Ali Kahwaji, Penal Code, Special Section, Offenses against the public interest, human beings, and money, Halabi Publications, Beirut – Lebanon, second edition, 2002, P. 566.

(34) Ahmad Afifi, General provisions of the Penal Code, Dar Al Nahda Al-Arabia, 1st edition, Egypt, 2002, p. 1.

(35) Ibid., p.67.

3. Writing, drawings, manual and images, films, badges and photographs in all their diversity if it is disseminated in a public place or place that is open to the public, sold or offered for sale, or distributed for one person or more.”

## **2- Moral element of the crime**

This is a premeditated crime with a moral component in the form of criminal intent, it is sufficient for the general intent<sup>(36)</sup> required by intentional crimes, based primarily on the elements of will and knowledge.

So these articles are applicable on these crimes if they are committed on the social media platforms like Facebook, twitter, and others.<sup>(37)</sup>

### **b- Crimes against privacy**

Which is composed of three parts:

- Offence of unlawful access to personal data

This occurs when a criminal gains access to personal data such as a person's bank account, credit cards, Social Security number, debit card, and other sensitive information and assumes that person's identity.<sup>(38)</sup> Furthermore, the criminal can take the victim's identity by creating social media profiles or emails in their names in order to hurt or imitate them.

- Offence of unlawful disclosure of data

On the internet, privacy is violated not just by gaining access to personal data, but also by unlawfully exposing and exploiting personal data.<sup>(39)</sup>

- Offence of collecting or storing valid personal data

Individuals' privacy and personal rights can be violated using incorrect personal data, the same result can be reached by the collection or storage of valid personal data, and wrongfulness of acts of collection or storage may come from methods of obtaining data or its content.<sup>(40)</sup>

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(36) Ali Kahwaji, *ibid.*, p.584.

(37) In this case the judge considered that slander crime is composed of these elements: 1- material element achieved by attributing something or a fact to a person undermining his honor and dignity using the email. 2- appointing the addressee, president of the country and 3- publicity stated in article 209 of the Lebanese penal code as tools of expressions and the email sent by the internet to many persons is one of the means mentioned in this article. 4- criminal intention which was also achieved according to article 386 paragraph 1 of the Lebanese penal code. Criminal Judge in Beirut, Decision issued on 29 March 2007, President Ziad Mkanah, Justice journal, fourth edition, year 41, 2007, p. 1940.

(38) Tony Issa, legal regulations of the internet (comparative study in the light of local laws and international conventions), first edition, 2000, p.157.

(39) Ghanam Ghanam, Criminal protection of individuals' secrets by a public official, Dar alnahda Al Arabiya, Egypt, 1988, p.52.

(40) Hisham Farid, the penal law and information technology dangers, Alalat Alhadesa Library, 1994, p.190.

### c- Child soliciting and Abuse<sup>(41)</sup>:

This happens when criminals utilize chat rooms to recruit and influence youngsters in order to gain media files that can subsequently be exploited for pornographic purposes. This is referred to as child pornography.<sup>(42)</sup> Criminals sometimes acquire the trust of young children by asking to meet them in person, and once they do, they abduct them.

This crime has these features:

- Repeated, long-term victimization can happen without the victim's knowledge, even if there is no physical contact between the kid and the perpetrator. For example, once in the hands of child pornographers, sexually graphic photos of minors frequently circulate indefinitely on the Internet.
- Internet crimes exceed jurisdictional borders.<sup>(43)</sup>
- It's possible that children are unaware that they have been victimized. Even if they do, they are unlikely to reveal what occurred.

### Part Two: Legal measures to protect children's right of privacy.

The Lebanese legislator took many measures to protect online activities in general and other laws and measures that protect the right of privacy of the child in the digital age.

#### a- The Lebanese legislator laws concerning the right of privacy

##### 1- Lebanese Penal code

Article 281, 282 and 283 of the Lebanese Penal code concerning the crime of stealing information and disseminating them if it was recorded on CDs on computer

Many cybercrime offenses obtained by publishing materials, photographs, or sending electronic messages on the Internet would be prosecuted under the Penal Code's provisions for example, weaken national sentiment and incitement to racial or religious hatred during war can also be punished according to articles 295 et seq.....or the threat of a felony or misdemeanor (articles 574 to 578) or is

(41) Tania Nehme, Cybercrime and cyber laws: International Dimension, Lebanese national defense, Issue Number 104 - April 2018, <https://www.lebarmy.gov.lb/en/content/cybercrime-and-cyber-laws-international-dimension> retrieved on 25 April 2022.

(42) Tarteel Darwish, the crimes of child pornography in light of sustainable development "Lebanon as a model", BAU Journal, Creative sustainable development, v6+3olume 1 issue 1, article 10, 2019, <https://digitalcommons.bau.edu.lb/csdjournal/vol1/iss1/10/>

(43) the transnational character of cyber-crimes makes jurisdictional issues an important area of concern. The players are multiple states and it is imperative that agreements on jurisdiction and enforcement need to be strongly enforced as the law enforcement agency of one state may require the mutual assistance of another state for the purposes of extraditing a criminal to its own territory in order to enable effective prosecution. Therefore, international cooperation is imperative for any fight against cyber-crime to be effective., Mrinalini Singh & Shivam Singh, Cyber-crime convention and trans border criminality, <https://core.ac.uk/download/pdf/230602298.pdf>, retrieved on 29 April 2022.

considered disclosure of secrets (articles 579 et seq..) or prejudicial to religious feeling (articles 473 and 474) or constitute exposure to public morals or decency.

In addition, the text of Article 635 et seq criminalizes the theft crime and can be applied on stealing laptop, hardware's and other tools.

Furthermore, Lebanon has passed the Law No. 81/2018 on Electronic Transactions and Personal Data.

The following are some of the cybercrime provisions:

This law mentioned the illegal interception in article 17 of the law number 140/1990, also the illegal access was mentioned in article 110 of the law Number 81/2018. In addition to this the law also mentioned Data and System Interference in article 112 and the Device misuse in article 114 of the same law. Computer Forgery also was stated in article 121 of the same law and at last child pornography in article 120. Article 115 of this law stated the attempt and aiding or abetting in addition to corporate liability in its article 3.

Article 94 of the law 81/2018 does not require submitting “a permit or requesting any license to process data of a personal nature” from parties such as “students and pupils by educational institutions” or “members of institutions, commercial companies, unions, associations and the self-employed.” Thus, individuals who fall into this category do not enjoy the protection of weak safeguards already in this law, and the latter does not compel the exempt institutions to inform individuals of their data collection or to seek consent.<sup>(44)</sup> and this article violates the right of privacy for children.

## **2- Procedural law**

The framework for all cybercrime investigations is the Criminal Procedural Code.

In Article 33 of the Code of Criminal Procedure enables search and seizure of physical objects and may enable seizure of computer systems and physical storage mediums. Whereas Article 41 of the Code of Criminal Procedure enables preservation of any traces, signs and evidence that may be lost and may apply in relation to computer data vulnerable to loss or modification. And at last a special procedure for cybercrime was added in the Law no 81/2018 articles 72-74 and 124.

## **3- Other laws**

We have also many laws concerning wiretapping which is stated in Law (number140/1999) and the subject of computer security, particularly piracy programs was mentioned in articles 83 to 89 of the law number 75/ 1999. Communication was mentioned in Law number 431 /2000

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(44) -SMEX, The new data protection law in Lebanon ... “incomplete”, 11 October 2018, <https://smex.org/ar/%D8%A7%D9%84%D9>

Furthermore we have article 240 related to patent which is mentioned in the Patent law (2000), and Electronic transaction draft law At the final approval stage.

At last The Lebanon Central Bank's decisions (March 2000) and rules (July 2000) on information technology security to manage electronic banking regulations.

#### 4- Specialized institutions

The Internal Security Forces have established the Office of Cybercrime and Intellectual Property (ISF). It is in charge of detecting and tracing the authors of crimes committed on the Internet under the Lebanese Criminal Code (tax evasion, theft of title). Slander and other offenses involving information, which were formerly sanctioned by the Criminal Code, are now included in the office's prerogatives.

Concerning **children right of privacy** the Lebanese government have took measure for the safety of children online:

- The TRA intends to encourage awareness as a crucial feature of establishing a knowledge society to protect children online, as part of its duty to protect telecoms consumers under the Telecommunications Law 431/2002.

In keeping with its objective to protect telecommunications customers, the TRA has taken a number of steps to protect children in cyberspace, including: providing parents with monitoring tools to protect their children when surfing the Internet:

- in certain schools, contractual contracts between parents and children
- dedicated parents who educate their children through schools
- A COP<sup>(45)</sup> section dedicated to parents on the TRA website, <http://www.tra.gov.lb/Children-Protection-> dedicated to parents<sup>(46)</sup> informative section on the TRA website <http://www.tra.gov.lb/Children-protection>
- Conducting a study within its prerogative as a member of AREGNET amongst all Arab countries on their efforts on COP nationally.<sup>(47)</sup>

(45) The International Telecommunication Union (ITU) developed the Child Online Protection (COP) Initiative as a multi-stakeholder network to raise awareness of child safety online and develop practical solutions to aid governments, industry, and educators. In 2009, the ITU developed a set of COP Guidelines for four groups: children, parents, guardians, and educators, industry, and policymakers, as part of the program.

(46) in addition to making various contributions to local, regional, and international conferences (ITU, Arab IGF, Escwa, MOT, Isoc, Unesco...), workshops/roundtables dedicated to all aspects of online child protection in Lebanon (Grand Lycee Franco-Libanais, Saint Charles School), and workshops/roundtables dedicated to all aspects of online child protection in Lebanon, discussing COP topics revolving around legislative, technical, and regulatory issues with concerned stakeholders (Ministry of Social

Participating in the preparation of a dedicated book on internet safety for grades 5 to 9 in all public and private schools, which will be formally launched by the Ministry of Education and Higher Education's Center of Educational Research and Development (CERD) on February 5th, 2013.

(47) Lebanon's efforts to ensure Child Online Protection at the national level, Contribution from Lebanon to the Council Working Group on Child Online Protection, 6th Meeting – Geneva, 1 February 2013,

Since 2008, various NGO's have been actively participating in all "Safe Internet Day" activities and programs, and in 2012, involvement included:

- The TRA created a dedicated Facebook page <https://www.facebook.com/SaferInternetDayLebanon>, which is updated daily.
- establishing a separate Twitter and Hash account for SID Lebanon: @SIDLebanon #SIDLB13 hashtag
- launching an extensive media campaign using numerous vehicles
- Sending a mass SMS with a specialized COP message to the whole Lebanese public
- Participating actively in the August 2012 introduction of a dedicated e-helpline for all Lebanese children to utilize as a source of information or to file e-complaints <https://www.himaya.org/content/learn-more-about-e-helpline-1>
- Creating [www.e-aman.com](http://www.e-aman.com), a national safety website aimed at the entire Lebanese community, including parents, youths, and teachers. As a result, the TRA created a dedicated national website with extensive suggestions and information for parents, children, and teachers to assist them avoid Internet risks.
- Raising consumer awareness and supporting consumer rights against telecom service providers by airing a message on consumer rights in the telecom business that it judged significant for the public through a one-page spot broadcast on numerous Lebanese television stations in October 2012. SMEX<sup>(48)</sup> is a registered Lebanese NGO that works to advance self-regulating information societies in the Middle East and North Africa (MENA).

#### **b- Judicial cases concerning children's right of privacy**

On the year 2000 Lebanon's judiciary faced cases that has serious exposure to public morals and decency, and it was solved despite it was done on the internet, where the Lebanese security authorities with cooperation with the Interpol have arrested a Lebanese person who was broadcasting and publishing pornographic pictures for children by an order from the public prosecutor's office and was brought before the investigating judge in Beirut. he was suspected in accordance with article 531, 532, 533 of the Lebanese Penal Code, according to the report of the Public Prosecutor's Office. Whereas the criminal appeal court annulled the verdict partly where it considered that the elements of the crime stated in articles 531 and 532 not applicable depending on the unavailability of the public condition mentioned in article 209 but he was convicted according to article 533 of the Lebanese penal code.

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(48) Social Media Exchange (SMEX) Its work encompasses media development programmes as well as internet policy research and digital rights advocacy in support of more accessible, participatory and just enabling environments for civil society across the MENA region. While it engages globally, Lebanon is its home, making Arab society and culture its primary context for action.

Judge Fawzi Khamis considered that publishing of photographs and pornographs on the internet vulnerable to capture from millions of subscribers so that the requirement of publicity is fulfilled.<sup>(49)</sup>

The security forces arrested four students pursuing their studies at St. Joseph's University in Zahle for electronic slander for their friend. One of the students filed a suitcase against 4 of her colleagues in the university after recognizing that the latter have opened a group on Facebook stealing pictures for her without her consent and bullying her. They were sentenced according to articles 531 and 582 of the Lebanese Penal code with the crime of slander without determining the tool of dissemination.<sup>(50)</sup>

So the Lebanese penal code is applied on these crimes especially due to the absence of any private law concerning these matters.

In addition to this the optional protocol to the convention on the rights of the child on the sale of children, child prostitution and child pornography stated in its article 8<sup>(51)</sup> and 9<sup>(52)</sup> how to protect the best interests of a child after being subjected to a crime<sup>(53)</sup>, because the victims of these crimes need special protection after the crime on the psychological and mental level to overcome this case.

### Conclusion

The right to privacy is one of the most essential human rights recognized by international treaties such as the ICCPR. It is also referenced in the preamble of the Lebanese constitution, as well as in articles 8 and 13 of the constitution. Furthermore, Lebanon has ratified the Convention on the Rights of the Child of 1989, which stipulates the right to privacy for children.

In the digital age, children's privacy rights revolve around two concepts: protecting children from online hunters and the right of children to communicate online without being tracked, both of which require protection from parents, institutions, governments, and the international community.

The legal research focused on protecting the child right of privacy in the digital age. The main purpose of it is to highlight the risks that are facing our children and affecting their culture, life, traditions and their behavior as well.

The risks of the internet crimes against child are of three categories risk of conduct, content and contact. It is recognized that most of the internet crimes are

(49) Fawzi Khamis, Informatics crimes in the light of Lebanese law and jurisprudence, Intervention at the Conference on the Treatment of Legal Information and its Challenges, Beirut 7-9 October 2001.

(50) <http://www.menassat.com/?q=ar/news-articles/2748> retrieved at 19-2-2010

(51) article 8 of the optional protocol on the rights of the child on the sale of children, child prostitution and child pornography.

(52) article 9 of the optional protocol on the rights of the child on the sale of children, child prostitution and child pornography.

(53) Ghassan Rabah, Juveniles crimes in national and international law (comparative study), Librairie zein juridique, 2010, p. 483 et seq.

directed to children who are the future generations in the whole world not only in Lebanon. Since the beginning of the usage of this technology many children has been subjected to crimes against their privacy sometimes and other moral crimes like slander, pornography ....

These crimes have been increasing especially during the COVID 19 pandemic where children became slaves to internet. Some of the children were subject to electronic blackmail where 4 teenagers committed suicide in Lebanon.

Electronic Blackmail, slander, child pornographic are all crimes that are punishable according to the Lebanese penal code. In addition to this Lebanon has enacted law 81/2018 concerning Electronic Transactions and Personal Data and cybercrimes for the risks that these crimes impose on all society.

According to the Lebanese penal law 384, 385 and 209 describes crimes of slander and its punishment.

The TRA was created by the Lebanese legislator to safeguard children online, in keeping with its goal to protect telecommunications consumers as defined by the telecommunications law 431/2002 and to raise awareness as a crucial component of establishing a knowledge society to protect children online. On the internet, there is surveillance of users, service providers, and investors.

In my opinion, the digital age is a challenge we are the first parents raising digital children who needs protection on all sides to help them benefit from the internet and simultaneously establish a harmless environment for them without being harmed from online predators.

To prevent these crimes and protect children's online activities, we as parents, government agencies, and states must create or enhance, implement, and disseminate laws, administrative measures, social policies, and programs. We are obliged to raise public awareness, including among children, through all appropriate means of information, education, and trainings workshops about the protective measures and dangerous effects of the offenses, with a particular focus on children and child victims, who are in sufficient need for these to be secured and safe. These measures have to be done with cooperation from the national, regional and international level since the crimes facing the right of privacy of children on the internet are exceeding jurisdictional boundaries.

At last it our duty to save our children from online hackers and to protect their right of privacy but the question is: Did these laws and measures protected our children's right of privacy or no?

