

Table of Contents

CHAPTER 1: INTRODUCTION.....	1
1-1. Objective of the Study	2
1-2. Research Questions.....	4
1-3. Comparative Legal Analysis.....	5
1-4. Organization of the Study and Its Limitations.....	5
1-5. Methodology.....	8
1-6. Definition of Terms	9
CHAPTER 2: HISTORICAL BACKGROUND OF CHILD PROTECTIONLAWS	11
2-1. Historical Background of the Child Protection Act in Iran	12
2-2. Historical Background of the Child Protection Act in Germany.....	14
2-3. The International Framework	16
2-3-1. General International Instruments.....	17
2-3-1-1. Universal Declaration of Human Rights.....	17
2-3-1-2. International Covenant on Civil and Political Rights	18
2-3-1-3. The International Covenant on Economic, Social and Cultural Rights	20
2-3-2. Special International Instrument.....	22
2-3-2-1. The Declaration on the Rights of the Child (1924).....	22
2-3-2-2. The Declaration on the Rights of the Child (1959).....	23
2-3-2-3. The United Nations Convention on the Rights of the Child (1989)	24
2-3-2-3-1. The Optional Protocols to the UN Convention on the Rights of the Child on Sex Trafficking	28
2-3-2-3-2. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts.....	29
2-3-2-4. The Hague Convention on Adoption	30
2-4. Summary	31
CHAPTER 3: THE ROOTS OF CHILD ABUSE	35
3-1. Child Factors.....	36
3-1-1. Age	37
3-1-2. Gender	40
3-1-3. Children with Disability.....	41
3-1-4. Street Children	43
3-2. Family Factors	47

3-2-1. Poverty and Violence against Children.....	48
3-2-2. Divorce, Separation, and Child Custody.....	49
3-2-3. Large Families.....	50
3-2-4. Drugs and Alcohol	50
3-3. Cultural and Social Factors.....	53
3-4. Religious Factors	54
3-4-1. Beliefs about Corporal Punishment in Islam	54
3-4-2. Circumcision of Children in Islam.....	55
3-5. Summary	56

CHAPTER 4: LEGAL STATUTES OF CHILD ABUSE IN IRAN..... 59

4-1. Constitutional Principles of Iran	60
4-2. Civil Code of Iran	62
4-2-1. Custodianship (Hizanat).....	63
4-2-1-1. Definition of Hizanat.....	64
4-2-1-2. Hizanat: Rights and Liabilities.....	64
4-2-1-3. Hizanat Following Separation or Divorce of Parents	65
4-2-1-4. Birth Registration	67
4-2-1-4-1. Application for Birth Certificate.....	69
4-2-1-4-2. Children Born out of Wedlock.....	70
4-2-1-5. Child Support and Custody Expenses.....	70
4-2-1-6. Relinquishment of Custody Expenses.....	72
4-2-1-7. Period of Custody.....	73
4-2-1-8. Withdrawal of Custody	74
4-2-1-8-1. Insanity	74
4-2-1-8-2. Remarriage of Mother	75
4-2-1-8-3. Apostasy (Kofr).....	75
4-2-1-8-4. Parent’s Disqualification.....	76
4-2-2. Illegitimate Children	77
4-2-2-1. Effects of Illegitimacy.....	78
4-2-2-1-1. Sacredness of Marriage	78
4-2-2-1-2. Rights to Custody and Guardianship (Vilayat).....	78
4-2-2-1-3. Custody Expenses	79
4-2-2-1-4. Inheritance	79
4-2-3. Unsupervised Children.....	79
4-2-3-1. Adoption.....	80
4-2-3-1-1. Requirements for Adoption.....	81
4-2-3-1-1-1. Requirements for Adopting Couples.....	82
4-2-3-1-1-2. Qualification of the Child.....	83
4-2-3-1-2. Effects of Adoption Order.....	83
4-2-3-1-2-1. Probation Period	84
4-2-3-1-2-2. Rights of Custody and Guardianship.....	84

4-2-3-1-2-3. Inheritance	85
4-2-3-1-2-4. Prohibition of Marriage	86
4-2-3-1-3. Cancellation of Adoption Order	87
4-2-4. Child Rearing	88
4-2-4-1. Parental Rights and Obligations.....	88
4-2-4-2. Corporal Punishment.....	89
4-3. Criminal Code of Iran	90
4-3-1. Sexual Abuse.....	91
4-3-1-1. Adultery (zina)	92
4-3-1-2. Sodomy.....	93
4-3-1-3. Lesbianism	94
4-3-1-4. Foreplay.....	94
4-3-1-5. Incest	95
4-3-1-6. Forced Marriage	96
4-3-1-7. Pornography	99
4-3-1-8. Prostitution	104
4-3-1-9. Pedophilia.....	105
4-3-2. Physical Abuse	106
4-3-2-1. Corporal Punishment.....	107
4-3-2-2. Assault and Dismemberment	110
4-3-2-3. Murder.....	111
4-3-3. Child Neglect	113
4-3-3-1. Physical Neglect.....	114
4-3-3-2. Emotional Neglect.....	115
4-3-3-2-1. Insult	117
4-3-3-2-2. Discrimination	118
4-3-3-3. Medical Neglect	119
4-3-3-3-1. Lack of Knowledge about Child Care	119
4-3-3-3-2. Lack of Access to Health Care.....	119
4-3-3-4. Educational Neglect	120
4-3-4. Child Labor	123
4-3-4-1. Child Labor in Iran.....	125
4-3-4-1-1. Age Patterns.....	127
4-3-4-1-2. Health Status.....	129
4-3-4-1-3. Working Hours.....	130
4-3-4-1-4. Overtime Pay and Work at Night	130
4-3-4-1-5. Difficult and Hazardous Occupation	131
4-3-5. Exploitation of Children in Illegal Activities.....	131
4-3-5-1. Beggary	132
4-3-5-2. Forcing Children to Production, Consumption and Drug Trafficking.....	134
4-3-5-2-1. Conditions of Drugs in Iran	134

4-3-5-2-2. Legal Protections of Children against Narcotics.....	135
4-3-5-3. Child Trafficking.....	137
4-3-5-3-1. Situation of Child Trafficking in Iran.....	138
4-3-5-3-2. Definition.....	139
4-3-5-3-3. Purposes of Trafficking.....	140
4-3-5-3-3-1. Forced Prostitution.....	140
4-3-5-3-3-2. Forced Marriage.....	142
4-3-5-3-3-3. Forced Labor.....	143
4-3-5-3-3-4. Forced Removal of Organs.....	144
4-3-5-3-4. International legislative Acts.....	144
4-3-5-3-5. Internal Legislative Acts.....	146
4-3-5-4. Using Children in Armed Conflicts.....	148
4-3-5-4-1. Legal Instrument Protecting Children.....	149
4-3-5-4-2. Special Considerations on Gender.....	150
4-3-5-4-3. Schools and Armed Conflict.....	151
4-4. Summary.....	152

CHAPTER 5: LEGAL STATUTES OF CHILD ABUSE IN GERMANY..... 157

5-1. Constitutional Principles of Germany.....	158
5-2. Civil Code of Germany.....	159
5-2-1. Custodianship.....	160
5-2-1-1. Child Support and Custody Expenses.....	160
5-2-1-2. Period of Custody.....	161
5-2-1-3. Withdrawal of Custody.....	161
5-2-1-4. Custodianship Following Separation or Divorce of Parents.....	162
5-2-2. Child Rearing.....	163
5-2-2-1. Corporal Punishment.....	164
5-2-3. Illegitimate Children German law.....	165
5-2-4. Adoption.....	165
5-2-4-1. Requirements for Adoption by Families.....	167
5-2-4-2. Requirements for Adopting Couples.....	167
5-2-4-3. Probation Period.....	167
5-2-4-4. Rights of Custody and Guardianship.....	167
5-2-4-5. Prohibition of Marriage.....	168
5-2-4-6. Cancellation of Adoption Order.....	168
5-3. Criminal Code of Germany.....	168
5-3-1. Sexual Abuse.....	169
5-3-1-1. Incest.....	170
5-3-1-2. Prostitution.....	170
5-3-1-3. Pornography.....	171
5-3-1-4. Pedophilia.....	172
5-3-1-5. Forced Marriage.....	172

5-3-1-6. Tourist Industry.....	173
5-3-2. Physical Abuse.....	174
5-3-2-1. Murder.....	174
5-3-2-2. Assault.....	175
5-3-2-3. Corporal Punishment.....	175
5-3-3. Emotional Abuse.....	177
5-3-3-1. Insult.....	177
5-3-3-2. Discrimination.....	177
5-3-4. Medical Neglect.....	178
5-3-4-1. Lack of Knowledge about Child Care.....	178
5-3-4-2. Lack of Access to Health Care.....	179
5-3-5. Educational Neglect.....	180
5-3-6. Child Labor in Germany.....	181
5-3-6-1. Age Patterns.....	183
5-3-6-2. Health Status.....	184
5-3-6-3. Working Hours.....	184
5-3-6-4. Difficult and Hazardous Occupation.....	185
5-3-7. Exploitation of Children in Illegal Activities.....	185
5-3-7-1. Condition of Drugs in Germany.....	186
5-3-7-2. Legal Protections of Children against Narcotics.....	187
5-3-8. Situation of Child Trafficking in Germany.....	188
5-3-8-1. Internal Legislative.....	189
5-3-8-1-1. Forced Prostitution.....	190
5-3-8-1-2. Forced Labor.....	191
5-4. Administrative Law of Germany.....	191
5-4-1. Working Group for Family Court Actions in Protection of Child Welfare.....	192
5-4-1-1. Eliminating barriers that hinder detection of violations and referral of a case to family courts: eliminating “parental negligence in child rearing” as the default cause.....	193
5-4-1-1-1. Current Version of § 1666(1) of German Civil Law.....	194
5-4-1-1-2. The Provisions Suggested by the Working Group for Article 1666(1).....	194
5-4-1-1-3. Legal Implications of Article 1666.....	194
5-4-1-1-4. The New Version of Article 1666(2-a).....	195
5-4-1-2. Description of Risk to Child Welfare.....	195
5-4-1-2-1. Article 165(a) of Family Law and Family Court Act: Description of Risks Faced by Children.....	196
5-4-1-3. Abandonment of Court Actions.....	196
5-4-1-3-1. The New Version of Article 1696.....	196
5-4-1-4. Expedited Process.....	197
5-4-1-4-1. Article 165 of Family Law and Family Courts Act.....	197

5-4-1-4-2. Article 1631(b) and “Close” Residence.....	197
5-4-1-4-3. Current Version of Article 1631 (b) of the Civil Code	197
5-4-1-4-4. Proposed Version of Article 1631 (b) by the Working Group ..	198
5-4-1-5. Expert Evaluation of the Issue of Residence	198
5-4-1-5-1. Expired Version of Article 70 (1) of FLFCA.....	198
5-4-1-5-2. Proposed Version for Article 70 (1) of FLFCA by the Working Group.....	199
5-4-1-6. Collaboration of Family Courts with Jugendamts and other institutions	199
5-4-1-6-1. New Version of Article 81 (a) of Section 8, German Social Code.....	200
5-4-1-7. Schools’ Invocation of Family Court.....	200
5-4-1-8. Continuous Training for Family Court Judges	200
5-4-1-9. Focus on Workload Distribution.....	200
5-4-1-10. Data Exchange/Dissemination of Information.....	201
5-4-2. Federal Statistical Office.....	201
5-4-2-1. Notices and Warnings	202
5-4-3. The New Federal Law for Protecting Children and its Impact on Child/Juvenile Assistance	203
5-4-3-1. Amendment to Book VIII of German Social Code.....	204
5-4-3-2. New Statistics on Child Endangerment.....	207
5-4-3-3. Changes in Assessment of Educational Assistance and Temporary Protection.....	212
5-4-3-4. Permits for Childcare, Guardianship, Custodianship, and Keeping Children	212
5-4-3-5. Changes in Statistics on Child Daycare	213
5-5. Summary	214

**CHAPTER 6: EVALUATION OF LEGAL STATUTES BETWEEN
IRAN AND GERMANY 217**

6-1. Similarities and Differences of Constitutional Law of Iran and Germany....	218
6-1-1. Similarities between the Iranian and German Constitution	218
6-1-1-1. No discrimination.....	218
6-1-1-2. Basic Needs.....	219
6-1-1-3. Education.....	220
6-1-2. Differences between the Iranian and German Constitution.....	221
6-1-2-1. Independent Act	221
6-1-2-2. Children with Special Needs.....	222
6-1-2-3. Religion	222
6-2. Similarities and Differences between the Iranian and German Civil Code... 223	
6-2-1. Similarities between the Iranian and German Civil Code	224
6-2-1-1. Custodian.....	224

6-2-1-2. Unsupervised Children.....	225
6-2-2. Differences between the Iranian and German Civil Code.....	225
6-2-2-1. Illegitimate Children	226
6-2-2-2. Adoption.....	227
6-2-2-3. Forced Marriage	228
6-3. Similarities and Differences between the Iranian and German Criminal Codes.....	228
6-3-1. Similarities between the Iranian and German Criminal Codes.....	229
6-3-1-1. Emotional Neglect.....	229
6-3-1-2. Medical Neglect	230
6-3-2. Differences between the Iranian and German Criminal Codes	230
6-3-2-1. Physical Abuse	230
6-3-2-1-1. Corporal Punishment.....	231
6-3-2-1-2. Murder	231
6-3-2-2. Sexual Abuse.....	232
6-3-2-3. Educational Neglect	233
6-4. Summary	235

CHAPTER 7: PROTECTION OF CHILDREN IN LEGAL PROCEEDINGS AND ISSUANCE AND ENFORCEMENT OF COURT ORDERS.....

239

7-1. Investigation and Prosecution.....	242
7-2. Legal Proceedings for Child Abuse.....	243
7-3. Orders Issued in Cases of Child Abuse	244
7-4. Child Protection during the Enforcement of Court Order	245
7-5. Summary	246

CHAPTER 8: STRATEGIES FOR PREVENTING CHILD ABUSE

247

8-1. Criminal Prevention	252
8-1-1. Differential Criminalization	253
8-1-2. Differential Intensification of Punishments	254
8-2. Non-Criminal Prevention.....	256
8-2-1. Identify Children at Risk of Child Abuse	257
8-2-1-1. Mandatory Reporting	259
8-2-1-2. Child Participation	261
8-2-1-3. Schools	263
8-2-1-4. Media.....	264
8-2-1-5. Telephone Helplines for Children.....	265
8-2-2. Supporting Children at Risk of Child Abuse	267
8-2-2-1. Precautionary Strategy	269
8-2-2-2. Non- Governmental Organizations (NGOs)	271
8-3. Summary	273

CHAPTER 9: EMPIRICAL ANALYSIS OF DATA SURVEY..... 277
CONCLUSION 299
REFERENCES 305
APPENDIXES 321
 Appendix A) Questionnaire..... 322
 Appendix B) SPSS Outputs..... 324