

# **A Study of the Legal System of New Technologies in Iran**

**Sadegh Dehmardeh**

Master of Laws

**Corresponding author:** Sadegh Dehmardeh

**ABSTRACT:** New communication tools are a combination of several technologies including mass communication, informatics and telecommunications. This technology triangle helps humans capture, store, process, retrieve, transmit and receive information anytime, anywhere. New communication technologies complement the possibilities offered by the means of communication of the past. These technologies have unique features that distinguish them from the old means of communication. We take a look at the features and characteristics of new communication and information technologies in the present age. Given the rapid growth of computer technology and the evolution of the information age and the expansion of network communications, as well as the ease of committing crimes related to new technologies, the issue of updating and the need to enact laws is very necessary. Digital fraud is one of the oldest forms of cybercrime. Although the general measures against various types of fraudulent methods are almost the same, but with the differences in the various methods of fraud, it is necessary to use appropriate countermeasures. Some countermeasures require the creation of a culture of computer use. It is also important to inform individuals and organizations about the dangers of computer systems. It is also important for organizations to constantly monitor computer systems and take security measures such as physical protection, employee protection, communication protection, and information protection against digital fraud. It is special. Merely criminalizing a behavior is not enough to deal with it, but it is also necessary to apply the enforcement guarantee for the perpetrator, and it requires the detection of the crime and the prosecution and arrest of the perpetrator, but given that the commission of computer crimes requires presence. The perpetrator is not at the scene of the crime and also due to the cross-border aspect of cybercrime and the limited powers of legal authorities in the field of geographical borders in this regard, the need for international cooperation in detecting, prosecuting and extraditing criminals is emphasized.

**Keywords:** System, Legal, Technology, Modern, Iran.

## **INTRODUCTION**

Given the rapid growth of computer technology and the evolution of the information age and the expansion of network communications, as well as the ease of committing crimes related to new technologies, the issue of updating and the need to enact laws is very necessary. Digital fraud is one of the oldest forms of cybercrime. Although the general measures against various types of fraudulent methods are almost the same, but with the differences in the various methods of fraud, it is necessary to use appropriate countermeasures. Some countermeasures require the creation of a culture of computer use. And informing individuals and organizations about the dangers of computer systems. It is special. Merely criminalizing a behavior is not enough to deal with it, but it is also necessary to apply the enforcement guarantee for the perpetrator, and it requires the detection of the crime and the prosecution and arrest of the perpetrator, but given that the commission of computer crimes requires presence. The perpetrator is not at the scene of the crime and also due to the cross-border aspect of cybercrime and the limited powers of legal authorities in the field of geographical borders in this regard, the need for international cooperation in detecting, prosecuting and extraditing criminals is emphasized (Shariati, Ali, 1398).

### ***Examine the need to update the laws required for new technologies***

Experts say it is difficult to draft laws and regulations for the Web and the Internet, given the speed of change, and that all aspects of new technologies with democratic debate must be reviewed by the government and the people in order to legislate. The Internet, a very fluid world And it has put the secret ahead of the new man, and almost if we want to compare it with the historical, technological and cultural development of man, it is still in its infancy. The Internet is intangible, and the rate of change in it, according to sociologists of science, is several hundred times faster than human history, and this constant variability somehow hinders its legal formation. Technical experts know what the Internet is, but it is a matter of social experience, because the rights of experience Comes out social; So it is very difficult to talk about Internet rights, and we still can not make legal claims in this area. Data. The Internet space is complex and must be experienced in order to legislate for it, the speed of change and fluidity in this space is so great that it creates a paradox. It takes time for us to understand this phenomenon and have a legal understanding of it.

It has always been in the battle between science and ethics that science has won, and that ethics later legislated for science. Law speaks to the facts, and in the realm of 5G, the fear of reality is unknown. Until the government accepts this phenomenon, it will continue to retreat from it. On the one hand, technology is anti-power and anti-hegemonic, and on the other hand, it is impossible to regulate, and jurists must go in the direction of modeling this space (Gotting, Gray, 1390).

In the traditional legal system, there is an omniscient and capable thinker who wants to solve everything by legislation, this is one of the serious problems of the Iranian legal system. The government should not enter into legislation in the field of technology, but should legislate for infrastructure, infrastructure management and the level of responsibility in infrastructure, and the rest should be left to custom to legislate for it; Because customary experience is based on collective reason, and society finds its way through collective reason. The government only has to introduce technology, and this technology is slowly finding its place in society. As messengers have taken their place. Internet law is a fluid, multidimensional debate that is constantly evolving. It has specific structures, complexities, and actors. Packaging does not come to mind. The fact is that part of the disadvantage of Internet law is due to the backwardness of our knowledge of the world in this area. Currently, the world has worked in the field of Internet law and in areas such as artificial intelligence, Internet and technology law However, for some areas, international treaties have been ratified and at the national level, these treaties have been consolidated and legislated (Foucalt, Michel, 1397).

When we talk about Internet law, we have to consider its universal nature. Some of the rules and regulations are formed in the international arena and some in the national arena, but it should be noted that there are three key words in this field from the legal point of view. It is a legislative term that parliament enters. The second is the term regulation, which is not a legislator but enters this field, and the third is the term governance, meaning that the government alone cannot legislate in that area, but the government and actors must legislate for it. In the case of the Internet at the international level, the IGF Assembly follows the governance debate, and other organizations legislate and pursue legislation as intended.

In the field of Internet law, there are questions that we need to know what the rules of the country give them answers to. The first question is whether the use of technology is allowed or in the hands of the government? At the international level, there are several treaties in this area, one of which is the International Economic and Social Law Treaty, to which Iran has acceded, stating in Article 15 that governments may not prohibit individuals from accessing useful technologies; They can restrict but they cannot forbid, which is the case in any technology.

The second question that arises is what are the conditions for using this technology? The answer is that the use of technology, both internationally and nationally, has principles that legitimize the use of technology.

The third question is how are these terms and conditions controlled? Do we allow everyone to use technology, and then if the principles of non-compliance are followed, and the last question is the extent of government interference in the use of technology? In this regard, the intervention of governments is different, some restrict their use and some are free and in technology law these questions are raised.

The Internet and its problems are the same all over the world, but the reaction of countries and their legal systems to these similar issues is different. It should be noted that the cultures of countries are different, and in general I believe It is a disorder and the reactions that are shown can be classified into two categories. The first category is governments that have extremely conservative reactions to technology that accept previous laws in this area, and this is due to inability. However, we can not apply all the laws of the past in this area.

One of the most important principles of technology is free access to information, and have we implemented it? Or the law on personal data protection, which was adopted in the world in 2016 and implemented in 2018, which is based on the previous laws of European countries. Now we want to implement the law of 2018 in the country, which

is a borrowed rule and has nothing to do with us, and in the end it does not work well, because it did not have democratic talks between people and officials to conclude that this is the case with 5G technology. It is true.

In order to formulate legal laws in the field of technology, we must consider criteria. The first criterion is whether that knowledge and technology will lead to discrimination and social divisions or not? Reports from some countries show that the use of the Internet has created generational discrimination, and no solution has been devised for people who cannot use the technology. Second, the class divide creates a class divide if the use of technology is such that only wealthy people can use it. Some countries have also considered this issue in the field of applications.

The third principle is that technology should not be harmful to human health, and the fourth principle refers to the influence of technology in the realm of human life. To what extent does technology collect data from people's private lives and to whom does it give the data? The fifth point concerns the question of whether technology employs human beings or whether human beings employ technology. The sixth point is the principle of technological security that governments have entered into, and the seventh principle is accountability and responsibility in the field of technology, which determines the source of accountability and complaint (Mohsenianrad, Mehdi, 2012).

Applications of these technologies include a variety of everyday computing and processing, business, information, scientific issues, management, direct telecommunications, and more. The various experiences of different organizations around the world show that information technology easily solves many problems of information systems. Information technology has many capabilities in solving the problems of organizations, including the capabilities and benefits of increasing accuracy; Because in human-based jobs, the accuracy of the work varies, while information technology provides and guarantees high and consistent accuracy. In a variety of processing and computing activities, computers are far more accurate than humans. Speeding up is another benefit of information technology; Fast calculation and processing of information and its immediate transfer also provide time for searching and fast access to information. Another advantage of information technology is the reduction of the physical size of information repositories, because with the development of information technology and its use, it is no longer necessary to carry and maintain a large volume of specialized reference books. It is easy to store the information of several books on each CD. Qom Islamic Sciences Computer Research Center is one of the centers that performs this task. The use of information technology increases transparency in doing things and eliminates many intermediaries. These two key benefits lead to the elimination of some corruption, especially at low levels. With the help of information technology, many inquiries, referrals of people, etc. are done through computer networks and automatically. Therefore, it can be used 24 hours a day, seven days a week. Telecommunications, telephony, teleconferencing, videoconferencing, as well as EDI collaboration systems, etc. are examples of applications of information technology in this field. In view of the above, especially the increase in speed, which leads to more work and full-time work, the productivity of the system increases and thus reduces a large amount of costs.

### ***Legal field of new communication technologies***

Privacy as a legal and moral principle is very important and important, because as a human rights right is closely related to the inherent dignity of human beings. The term privacy has been a term widely used in political and philosophical legal discussions. However, with all the value that societies attach to this issue, a single definition and interpretation has not been provided yet, the reason for which can be considered in the different culture and historical and social course of societies.

### ***Communication privacy***

It is clear that with the advent of new communication technologies and the ability of individuals in the field of correspondence and electronic exchanges, the issue of the right to privacy has become doubly important. In fact, new conflicts following the advancement of technology and new capabilities known for computer systems have confronted and necessitated the term "communication privacy", which means maintaining the security and safety of all types of communications, including correspondence, Internet correspondence of individuals. . Sending private messages to individuals in the form of various forms of e-mail, post, telephone, fax, is done through technical or human intermediaries, and the contents of the messages are always at risk of disclosure. Hence, the protection of the privacy of individuals has found a wider scope than before, and as a result, we have witnessed serious international support in this regard (same source).

### ***Privacy protection in legal documents***

Among the international instruments on the right to privacy, the Universal Declaration of Human Rights 1948, the Cairo Declaration of Islamic Human Rights in 1990, the European Convention on Human Rights and the Covenant

on Civil and Political Rights, the European Union Data Protection Directive (GDPR) as a The right has been accepted and recognized. In the case law of the Islamic Republic of Iran, although this term is not explicitly mentioned, Articles 22, 23 and 25 of the Constitution indirectly protect the privacy of individuals and declare the privacy of individuals inviolable except in exceptional and legal cases. Has been. Also, in the law "Dissemination and free access to information" approved in 2009, "private information of individuals" is clearly defined for the first time and the bylaws of this law, which was approved in 1392 with a comprehensive approach to the personal information of individuals that should be supported In the Charter of Citizenship Rights in the field of protection of privacy in the field of communication technology, we see "the obligation to use information consciously and with the consent of the person" in the use of information. But besides these laws, the most important law regarding violation Privacy is the "Computer Crime Law" approved in 2009. But is protecting the private information of individuals an absolute protection? Despite the importance of protecting the privacy of individuals, this right does not appear to be fully protected. Restrictions and interventions by governments and public powers in the area of privacy to establish public order and security have been justified. The security of the country, the order of judicial officers to detect crime and the existence of ordinary laws such as the Anti-Scandal Law are among the cases that allocate the right to privacy of individuals. Especially in the challenging field of new communication technologies, the involvement of governments and public powers in the allocation of this support seems to be acceptable to the extent that to protect the rights of citizens, non-conflict of rights of individuals and provide services and proper social management It should be precise and defined, not to the extent that the freedoms of individuals fall victim to the power of governments (Mohsenianrad, Mehdi, 1397).

Advances in aerospace technology, especially in the twentieth century, have unveiled another type of remote-controlled aircraft that is used in military and civilian applications. In recent years, the national application of these aircraft has been increasingly developed. With the invention and expansion of the use of this new technology and due to its capabilities, the airspace has become a serious concern and threat to the violation of civil rights, and all countries face similar challenges in the use of remotely controlled aircraft. It has an impact on people's right to privacy.

Advances in aeronautical technology, especially in the twentieth century, have unveiled another type of aeronautical aircraft called the remote-controlled aircraft, and like many other technologies, it has advanced technically faster than legally. According to a recent analysis by BI Intelligence, investment in the aircraft will exceed \$ 12 billion by 2021. Although the Chicago Convention stipulates the requirements for its use, a complete and integrated legal framework in line with the technical characteristics of these aircraft has not yet been developed.

The increasing demand for the use of this aircraft in national applications has caused some challenges, including creating conflicts for some people's rights; Therefore, it is necessary to strike a balance between the economic and social benefits of using this technology and the need to respect the right to privacy of individuals, because the observance of this right is one of the recognized rights of citizens.

According to the provisions of the preamble to the Chicago Convention, which states: The sole purpose of the Convention is to regulate the activities of national aviation, only domestic aircraft is subject to the said Convention. Article 1 of the Chicago Convention deals with the use of controllable aircraft. This article stipulates that if a remotely controlled aircraft wishes to enter the airspace of another Contracting State, it must apply for an entry permit in accordance with the principle of air sovereignty recognized in this Convention. A comparison of the provisions of Articles 8 and 1 of the Chicago Convention indicates that, in accordance with the principle of air sovereignty set forth in Article 8 of the Convention, the provisions of Article 1 of the Convention emphasize the need for users of remotely controlled aircraft to comply with the principle of air sovereignty.

Dr. Masoumeh Ebrahimi in the article "Use of remotely controlled aircraft and the need to respect the right to privacy" believes that in the Iranian legal system, there are regulations on the need to respect the privacy of individuals that can be applied to the general provisions of these regulations. Used to impose restrictions or prohibitions and, as the case may be, to fly remotely controlled aircraft, which violates the privacy of citizens; For example, the Constitution of the Islamic Republic of Iran stipulates that the dignity, life, property, rights and housing of individuals are inviolable. Unless prescribed by law. Also, searching for opinions, inspecting, etc., and eavesdropping on any kind of spying, except by law, are prohibited. The Charter of Citizenship Rights, as part of the Soft Rights Act, unveiled in 2007, provides for the following:

A) Every citizen has the right to enjoy life, financial, prestige, legal, judicial, social, occupational and similar security. Illegal actions in the name of ensuring public safety, especially invading people's privacy, are prohibited (Smart, Barry, 2016.)

B) It is the right of citizens to enjoy cyber security and communication technologies and information protection of personal data and privacy, every citizen has the right to have his privacy respected. Address. Private premises, private vehicles are immune from search and inspection except by law

The Law on Dissemination and Free Access to Information stipulates that "every Iranian person has the right to access public information unless prohibited by law." Public disclosure of information has exceptions, one of which is the protection of the privacy of individuals. It should be noted that the disclosure of such information is permitted with the consent of a person whose privacy has been compromised.

In the regulations for the management and organization of civilian ultralight aircraft, there are relatively detailed regulations regarding the conditions and manner of using various types of civilian ultralight aircraft, including controllable drones, and executive instructions related to the various provisions of this regulation. The letter was mainly sent to the Civil Aviation Organization, which has so far taken action to formulate and implement some of the above-mentioned instructions, and one of these cases is the executive instructions for ultra-light civilian remote-controlled aircraft, which was mentioned by the organization. It's been published. The guidelines contain various regulations, including how to report violations of remotely controlled aircraft, one of which could be a violation of privacy.

Despite the fact that in the Iranian legal system, an incomplete regulation on the use of remotely controlled aircraft and the need to respect the privacy of the people has been approved, it must be acknowledged that Iran now, like many countries in the world, has A legal regime applicable to all types of controllable aircraft, whether light or heavy, does not include provisions on the need for privacy by operators and other stakeholders and activists in the field of remote-controlled aircraft technology.

Nowadays, protecting people against their privacy violations through the use of new technologies such as remotely controlled aircraft has attracted a lot of attention and the increasing use of the developing capabilities of this technology has become a serious concern for citizens. . Studies of the use of these aircraft in the national market show that in the future, the challenge of the conflict between the use of these aircraft and the violation of public privacy will deepen. Given the ambiguities of the issue and taking into account the benefits and advantages of using this technology, such as: creating employment and income and public welfare and their low costs, and given that the national use of these aircraft is still in its infancy. Therefore, legislators and courts should not rush to restrict their irrational use, and the following should be considered.

A. Given the inevitability of technological advances, the use of remotely controllable aircraft for a variety of applications is obvious and rational.

B. Enacting regulations prohibiting or restricting the use of remotely controlled aircraft due to threats to public privacy requires the application of a combination of technical, technical, and social standards that must be taken into account by those in charge.

Acceptance of harm reduction strategies related to the use of a country's remotely controlled aircraft, depending on its benefits and benefits, depends on the coordination and cooperation of government officials, commercial institutions and the public, and the role of government officials in developing and enforcing relevant regulations. They are responsible, it is very important (Heidegger, Martin and others, 1397).

P. Remotely controlled aircraft should be allowed to use the camera as long as they do not violate the privacy of individuals.

The arguments of both stakeholders, namely citizens and users of the technology, are largely plausible. On the one hand, the possibility of exercising visual surveillance and obtaining personal information of individuals and the inadequacy of official regulations protecting the right to privacy in most countries of the world, this fundamental right of the people is severely threatened, because remotely controlled aircraft, territory Expands oversight and gives others access to information about individuals' privacy. On the other hand, the economic and social benefits of using these aircraft are undeniable. Therefore, the most important step in this regard is to establish a balanced legal regime that guarantees the rights of both parties. will be. Given that the primary and primary purpose of the Chicago-ICAO Convention is to facilitate safe, secure and efficient air transport, aviation laws and regulations usually do not contain provisions on the effect of the use of remotely controlled aircraft on the privacy of individuals. ICAO, on the other hand, has entrusted this task to the domestic legal system; Therefore, it is necessary for countries to accelerate the process of their actions in this field in order to avoid challenges related to its rights and interests (same source).

### **Conclusion:**

Given the rapid growth of computer technology and the evolution of the information age and the expansion of network communications, as well as the ease of committing crimes related to new technologies, the issue of updating and the need to enact laws is very necessary. Digital fraud is one of the oldest forms of cybercrime. Although the general measures against various types of fraudulent methods are almost the same, but with the differences in the various methods of fraud, it is necessary to use appropriate countermeasures. Some countermeasures require the creation of a culture of computer use. And informing individuals and organizations about the dangers of computer systems. It is special. Merely criminalizing a behavior is not enough to deal with it, but it is also necessary to apply the enforcement guarantee for the perpetrator, and it requires the detection of the crime and the prosecution and arrest of the perpetrator, but given that the commission of computer crimes requires presence. The perpetrator is not at the scene of the crime and also due to the cross-border aspect of cybercrime and the limited powers of legal authorities in the field of geographical borders in this regard, the need for international cooperation in detecting, prosecuting and extraditing criminals is emphasized.

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