

The Concept and the Application of the Best Interest of the Child in Iranian Legal System and Precedent

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Abstract

Although the Convention on the Rights of the Child (CRC) was ratified by Iranian parliament on March 1994, the notion of Best Interest of the Child (BIC) was not entered in Iranian legal system from then. As Iranian legal system is based on Imamiya jurisprudence, it is familiar with the notion by the name of Ghebta which was a golden key in related child's decisions. It seems that joining to the convention and assigning Article 3 to the best interest of the child has promoted its usage and applications in law and precedent. Principle 21 of the Constitution Law, Articles 1041, 1169, 1184 of Civil Law, Articles 88, 354 of Criminal Law and Articles 29, 41, 42, 43, 45 Protecting Family Act are notable samples of this application. Besides, Family judges decide based on BIC more than before. However the problem is the ambiguity of the notion and the criteria which the courts may consider in their interpretations. Here we are going to analyze the concept in different situations and its application in concerning cases.

Key Words: Best Interests of the Child, Criteria, Iranian Legal System, Judicial Cases.