

# An Analytical Study of the Concept of Reverse Consent in Cyberbullying Victims and Its Impact on Criminal Justice Proceedings

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## ABSTRACT

The phenomenon of cyberbullying has emerged, with the expansion of communication technologies, as one of the most serious psychological and reputational threats—particularly for adolescents and women. Among the newly arising challenges in addressing such offenses is the concept of “reverse consent”—a condition in which the victim, due to psychological, social, or coercive pressures, ostensibly refrains from pursuing criminal charges, although such withdrawal does not stem from free will.

This article, through an analytical-comparative approach and by drawing upon up-to-date academic sources and the legal experiences of Germany, Canada, and Norway, seeks to explore the legal consequences of reverse consent and propose mechanisms for reforming relevant legislation, judicial procedures, and victim protection frameworks.

The findings indicate that an absolute interpretation of victim consent may obstruct the realization of criminal justice. Consequently, it is essential to redefine the standards for identifying genuine consent and institutionalize proactive prosecutorial engagement in cybercrime cases within Iran’s legal system.

## **Introduction**

In recent decades, the rapid advancement of communication technologies and the growing dependence of societies on cyberspace have led to the emergence of new forms of violence and criminal behavior. Among the most significant and challenging of these is *cyberbullying*. Cyberbullying refers to deliberate and repetitive behavior carried out through digital means such as social networks, messaging applications, online gaming platforms, and other electronic communication tools, with the intent to cause psychological harm, threaten, humiliate, or damage the victim's dignity and reputation (Kowalski et al., 2023). The wide reach of digital audiences, the borderless nature of cyberspace, the anonymity of perpetrators, and the rapid dissemination of content have rendered the consequences of cyberbullying more complex and far-reaching than those of traditional bullying.

Within this context, one of the emerging issues that has significantly impacted criminal proceedings is the concept of *reverse consent*—a situation in which the victim, due to various reasons such as emotional dependency, fear of retaliation, social shame, or a sense of guilt, appears to give consent or refrains from pursuing legal action, even though such consent does not stem from free and informed will (Robinson & Kaunert, 2024). This form of consent, commonly observed among vulnerable victims such as adolescents, women, or individuals in power-imbalanced relationships, can distort the course of criminal proceedings and lead to premature dismissal of cases in favor of the offender.

In Iranian criminal law, the victim's consent is recognized in certain offenses as a condition for initiating, continuing, or enforcing criminal punishment. However, the legislator has rarely addressed the conditions or the quality of such consent and often accepts it in absolute terms. In practice, many declarations of consent occur under psychological or social pressure, rather than voluntary intent. Accordingly, this study seeks to answer the fundamental question: *Can a victim's consent in cyberbullying cases be considered legally invalid under criminal law?* If so, how should the criminal justice system respond to such forms of consent?

Using an analytical-comparative methodology, this research examines the conceptual and psychological dimensions of reverse consent and analyzes its legal status within the Iranian criminal justice system. It further engages in a comparative study of the approaches adopted by advanced legal systems such as Germany, Canada, and Norway, and offers policy recommendations for reforming procedural frameworks and enhancing protections for victims.

The significance of this subject lies in the fact that overlooking the psychological and social realities of victimhood can undermine criminal justice, result in repeated victimization, and reinforce the impunity of cyberbullies. Therefore, recognizing the concept of reverse consent and establishing legal mechanisms to distinguish it from genuine consent is an essential requirement in contemporary criminal policy.

## **2. Theoretical and Psychological Concepts of Reverse Consent**

### **2.1. Cyberbullying: Redefining a Modern Form of Violence**

Cyberbullying, as a modern manifestation of digital violence, encompasses behaviors whereby an individual or group repeatedly and deliberately uses online communication tools to threaten, humiliate, or harass others. Research shows that, contrary to popular belief, cyberbullying often exerts more intense and long-lasting effects than traditional bullying. This is primarily due to the anonymity of perpetrators, the absence of temporal and spatial boundaries, and the often-permanent and uncontrollable nature of online content dissemination (Patchin & Hinduja, 2022). Victims of cyberbullying frequently experience deep psychological consequences, including shame, anxiety, isolation, and even suicidal ideation (Livingstone & Smith, 2023).

## **2.2. Consent in Criminal Law: A Relative Concept Dependent on Free Will**

In the Iranian criminal justice system, the victim's consent plays a significant role in initiating, continuing, or terminating criminal proceedings. However, the essential condition for valid consent is the existence of informed and voluntary will, free from psychological or social coercion. In line with Islamic jurisprudential teachings, duress, threats, and coercion are recognized as factors that nullify valid consent. Although Article 103 of the Islamic Penal Code allows for cessation of prosecution based on the victim's consent, Iranian legislation provides no procedural framework or mechanism for assessing the authenticity, quality, or psychological validity of such consent (Ghazi-Zadeh, 2022).

## **2.3. Reverse Consent: Conceptualization and Victimological Foundations**

*Reverse consent* is a concept rooted in victimology and refers to a behavioral pattern in which a victim, despite having suffered harm, outwardly expresses consent due to factors such as emotional dependence, fear of public disgrace, or societal pressure (Walklate, 2022). Unlike genuine consent, reverse consent does not stem from free will and is legally invalid, especially in cases involving vulnerable victims.

From the perspective of legal psychology, reverse consent is typically the result of a combination of the following factors:

- **Emotional or psychological dependence** of the victim on the perpetrator (particularly in personal or familial relationships)
- **Fear of social stigma** or public shame resulting from the disclosure of facts
- **Implicit or indirect threats** that prevent the victim from filing formal complaints
- **Psychological defense mechanisms** such as denial, projection, or internalized guilt

Recent studies reveal that many adolescent victims of cyberbullying, even in cases involving serious threats, choose not to pursue legal action due to fear of confronting their family or community (Ybarra & Mitchell, 2023).

### **The Importance of Distinguishing Between Genuine and Reverse Consent in Criminal Proceedings**

Failure to distinguish between authentic and reverse consent may lead to serious miscarriages of justice. In cases where the victim appears to have given consent but has, in reality, done so under duress or dependency, premature case closure can:

- Undermine **public trust** in the criminal justice system
- Lead to **re-victimization** or further violence against the victim

- **Encourage impunity** by signaling to offenders that consent can be manipulated

Therefore, many advanced legal systems incorporate **psychological and social evaluation of consent** into the adjudication process—a dimension that remains largely absent in Iran's current legal framework.

### **3. Legal Analysis of the Impact of Reverse Consent on Criminal Proceedings in Iran**

#### **3.1. The Role of Victim Consent in Iran's Criminal Justice System**

In the Iranian criminal justice system, the victim's consent carries substantial legal significance. In *prosecutable-upon-complaint offenses* (جرائم قابل گذشت), the initiation, continuation, or execution of criminal proceedings is contingent upon the private complainant's submission of a formal complaint. As stated in Article 103 of the Islamic Penal Code: "*In offenses prosecutable upon complaint, prosecution, continuation of proceedings, and execution of punishment shall depend on the filing of a complaint by the private complainant.*" Furthermore, Article 104 stipulates that the complainant's withdrawal at any stage leads to the termination of prosecution or enforcement of the sentence.

However, the **unqualified acceptance of the victim's consent**, without regard to its **circumstances, psychological condition, or voluntariness**, can significantly undermine the goals of criminal justice. Iranian criminal law currently lacks any **procedural or legislative mechanism** for assessing the **validity or psychological authenticity** of the victim's consent.

#### **3.2. Absence of Free Will and Its Implications for the Validity of Consent**

One of the fundamental principles of law is the requirement of *free and informed will*. In civil law, any expression of will made under coercion, duress, or deception is considered null and void or subject to annulment. Similarly, in the realm of criminal law, if a victim's consent is obtained under psychological pressure or implicit threats, such consent lacks legal validity.

Islamic jurisprudence also firmly upholds this principle. The maxim "**La reḍā ma'a al-ikrāh**" (There is no valid consent under coercion) explicitly states that any consent given under duress is devoid of legal effect. Based on this principle, the consent of a cyberbullying victim—when expressed under conditions of fear, shame, or emotional dependence—should not constitute a legitimate basis for terminating criminal proceedings.

#### **3.3. Legislative Gaps in Identifying Reverse Consent**

At present, there is no independent legal provision within Iran's Code of Criminal Procedure that offers a mechanism for evaluating the genuine will of the victim. The absence of legal instruments to distinguish between authentic consent and reverse consent has resulted in the dismissal of numerous cyberbullying cases—despite the presence of compelling evidence of digital abuse—merely on the basis of the victim's apparent consent.

This legislative gap stands in stark contrast to the practices of developed legal systems, where prosecutors are granted discretionary authority to continue investigations if the authenticity or integrity of the victim's consent is in doubt (UNODC, 2023). In Iran, although Article 7 of the

Code of Criminal Procedure explicitly states that the **public prosecutor is responsible for detecting crimes and prosecuting suspects**, prevailing judicial practice often favors closing the case upon the victim's declaration of consent, regardless of its underlying validity.

### **3.4. Jurisprudential and Legal Capacities for Advancing a Protective Approach**

Despite legislative shortcomings, there exist jurisprudential and legal foundations within Iran's legal system that support the recognition of the concept of *reverse consent*. Article 5 of the Code of Criminal Procedure emphasizes that **victims, particularly those belonging to vulnerable groups, must receive special protection** throughout the legal process.

Moreover, in the context of Shi'a Islamic jurisprudence (fiqh-e Imamiyyeh), although victim consent may, in certain cases, serve as a bar to prosecution, such consent is deemed invalid when it is given without full mental maturity or under conditions of coercion and psychological pressure.

Accordingly, these doctrinal principles provide a legitimate basis for expanding judicial interpretation in support of invalidating reverse consent in criminal proceedings—especially in cases involving cyberbullying victims from high-risk or marginalized populations.

### **3.5. The Necessity of Prosecutorial Engagement as Guardian of the Public Interest**

According to the principles of fair trial and due process, the public prosecutor must be committed to the pursuit of truth and the objective representation of reality—not merely reliant upon the victim's consent or the filing of a private complaint. In cases where there are clear indications of *reverse consent*, the prosecutor should:

- Initiate supplementary investigations,
- Seek expert opinions from psychologists or social workers,
- Where necessary, pursue the continuation of prosecution based on considerations of public interest.

Therefore, it is imperative that the legal culture surrounding the role of the prosecution office evolves from a **formalistic and absolutist understanding of consent** toward a more **analytical and human-centered interpretation**. Such a shift would better serve the aims of justice in cases involving vulnerable victims, particularly in the domain of cybercrime.

## **4. Comparative Analysis of Legal Systems on Reverse Consent in Cybercrime**

### **4.1. Germany: Active Protection of Vulnerable Victims**

In the German criminal justice system, **victim consent is treated as a relative and assessable matter**, not an absolute procedural bar. According to the German Code of Criminal Procedure (*Strafprozessordnung – StPO*), in offenses that require a formal complaint for prosecution, the public prosecutor retains the authority to pursue the case *if there is a public interest (öffentliches Interesse)*—even when the victim appears to have consented or withdrawn the complaint.

In many German states, prosecutors rely on the input of **social workers, psychological counselors**, and even **individual victim assessments** to evaluate the authenticity of consent

(Bock, 2022). In cases involving **female or adolescent victims**, reverse consent is explicitly recognized as a probable factor in judicial analysis and prosecutorial discretion.

#### **4.2. Canada: Involvement of Independent Victim Support Institutions**

In Canada, the *Prosecution Policy Guidelines* issued by the Department of Justice explicitly mandate that prosecutors, in cases involving **imbalanced power dynamics**—such as domestic violence, sexual assault, or cyberbullying—must seek guidance from **victim support agencies** to assess the validity of consent (Department of Justice Canada, 2023).

Institutions such as *Victim Services* and *Victim Advocates* conduct evaluations to determine whether the victim's consent was given under threat or psychological pressure. Where evidence of coercion or manipulation is found, prosecutors are authorized to file charges **even in the absence of a formal complaint** by the victim.

#### **4.3. Norway: Integration of Psychological Expertise and Judicial Discretion**

Norway is recognized as one of the most innovative criminal justice systems in terms of protecting victims of cybercrime. The country has implemented a structured framework known as the **Revictimization Risk Assessment**, developed by forensic psychologists, which is utilized by both prosecutors and courts to evaluate victims' mental and emotional states (Knutsson, 2023).

When the nature of the victim's consent aligns with **clinical patterns of psychological trauma**, the judicial system is empowered to **automatically initiate or continue prosecution**, regardless of the victim's apparent willingness to pursue legal action. This integrated and trauma-informed approach serves as a vital pillar for both **restorative justice** and **victim-centered criminal policy**.

#### **4.4. Lessons for Iranian Criminal Law**

The comparative study of the aforementioned jurisdictions reveals several key insights:

- **Victim consent in cybercrime cases is not treated as absolute**, but rather as a factor requiring qualitative and psychological evaluation.
- **Leading legal systems employ specialized tools**, including psychological assessments, social work input, and therapeutic evaluations, in conjunction with judicial discretion, to identify instances of reverse consent.
- In these systems, **prosecutors play an active role** and are authorized to pursue legal proceedings independently of the victim's formal complaint—either to serve public interest or to protect silent and vulnerable victims.

Iranian criminal law can also move toward **recognizing criminal responsibility irrespective of reverse consent** by leveraging existing legal capacities—such as:

- **Article 5 of the Code of Criminal Procedure** (which mandates special protection for vulnerable victims),
- **Islamic jurisprudential principles** (which invalidate consent under coercion), and
- A **supportive interpretive approach** grounded in restorative and victim-centered justice.

## **5. Conclusion, Policy Recommendations, and Strategic Solutions**

### **5.1. Summary of Findings**

This study, focusing on the concept of *reverse consent* among victims of cyberbullying, aimed to explore the **psychological, legal, and comparative dimensions** of this emerging phenomenon. The findings demonstrate that in many cybercrime cases, the victim's apparent consent **does not stem from free will**. Rather, in numerous instances, victims **withdraw from legal proceedings** due to factors such as **fear, emotional dependency, implicit threats, or social pressure**.

Although the Iranian legal system acknowledges victim consent as a significant element in initiating or continuing criminal prosecution, the **lack of structured mechanisms** to assess the **quality of consent** and the **neglect of victims' psychological circumstances** have undermined the effectiveness of criminal justice outcomes.

In contrast, **advanced legal systems** have established specialized institutions and multi-layered evaluation frameworks that **enable prosecution to proceed**—even when the victim has apparently consented—**provided that such consent is proven to be inauthentic**.

### **5.2. Policy Recommendations for Iran**

#### **A) Legal and Procedural Reforms**

- **Amending Article 103 of the Islamic Penal Code and Article 5 of the Criminal Procedure Code** to include a specific clause invalidating victim consent given under psychological pressure or coercion.
- **Mandating psychological evaluations** in cases involving highly vulnerable victims (e.g., minors, women, or socially dependent individuals).
- **Establishing interdisciplinary review committees** (comprising legal, psychological, and social work professionals) within specialized prosecution offices to assess the authenticity of consent.

#### **B) Empowering Prosecutorial and Victim Support Institutions**

- **Obligating public prosecutors to pursue cybercrime cases involving silent victims**, even if the complainant withdraws their complaint.
- **Creating a “Victim Advisor” institution**, responsible for assessing consent and providing psychological accompaniment during criminal proceedings.
- **Drafting procedural bylaws** to regulate the management and evaluation of reverse consent cases.

### C) Education and Awareness-Raising

- Organizing **training workshops for judges, law enforcement officers, legal counselors, and judiciary personnel** on emerging concepts in victimology, including reverse consent.
- Designing **public education materials for adolescents and families** on the right to file complaints, available legal protections, and the consequences of silence in the face of cyber violence.

### 5.3. Recommendations for Future Research

- **Case studies** of closed cyberbullying files in which victims' apparent consent led to the termination of proceedings, with analysis of the underlying causes of withdrawal.
- **A comparative analysis of preventive policies** in EU member states regarding reverse consent in digital abuse cases.
- **Empirical research** on Iranian cyberbullying victims to identify behavioral patterns and psychological dynamics associated with reverse consent.

### 5.4. Final Conclusion

*Reverse consent* is not merely an individual psychological condition—it reflects **structural deficiencies** in the criminal justice process. In order to effectively respond to cyber-related offenses, the Iranian criminal justice system must **redefine the role of victim consent, design specialized support mechanisms, and reconsider its traditional procedural approaches**.

Only by institutionalizing a **victim-centered and protective legal framework** can the rights of *silent victims* in cyberspace be defended and the **true essence of criminal justice** be fulfilled.

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