

The Protected Status of Childhood and Implications for Judicial Practice in Cases of Online Child Sexual Exploitation and Abuse

Introduction

Unprecedented levels of access to the internet and digital technologies have dramatically increased protection risks for children, who face significant threats and dangers in the virtual sphere, including online child sexual exploitation and abuse (OCSEA). According to the National Center for Missing and Exploited Children (NCMEC) CyberTipline, which serves as a global clearinghouse for suspected cases of OCSEA, Iraq currently ranks 8th in the world for reported uploads of child sexual abuse materials (CSAM). Despite this, legal frameworks in Iraq and the Kurdistan Region do not explicitly address these crimes, and the variable interpretation and application of existing laws can lead to inconsistent outcomes, impeding access to justice. In some cases, children subjected to these violations may be criminalized and prosecuted for their perceived complicity in prohibited acts.¹ Others may be forced to marry their perpetrator.² Such outcomes not only compound harms against children, but can disincentivize reporting and foster impunity, creating an enabling environment for predatory behavior. In the absence of specific protections and protocols for OCSEA cases, advancing child-friendly justice is essential to defend the rights of children in contact with the legal system and uphold the protected status of childhood.

Protected Status of Childhood: A Conceptual Overview

Childhood has a protected legal status, which obligates States to exercise a heightened duty of care toward children. This status stems from the recognition of childhood as a key developmental phase that shapes the trajectory of a human life. During these critical formative years, children experience rapid and profound changes in their physical, cognitive, emotional, and social capacities. This is a delicate and complex process, and adverse experiences in childhood can compromise healthy development across all dimensions. Furthermore, due to their age and vulnerability, children are heavily reliant on others to create and maintain the conditions that are conducive to growth and well-being. It is therefore the responsibility of every society to safeguard children – affording them specific rights and protections in alignment with their unique needs – to support them in building a strong foundation for the future.

The protected status of childhood is enshrined within international law and the conventions to which Iraq is signatory – including, most notably, the United Nations Convention on the Rights of the Child (CRC), which it ratified in 1994.³ The CRC recognizes children as independent rights holders, separate from adults, who are entitled to special care and assistance to facilitate their growth and prepare them for constructive participation in society. In this framework, children’s inherent right to life extends beyond the notion of survival, and entails significant obligations for State parties to attend to children’s physical, mental, spiritual,

¹ Certain provisions within the Law of Combating Prostitution and Homosexuality No. 8 of 1988 in Iraq and the Law of Combating Prostitution No. 8 of 1988 in the KRI may be used to prosecute survivors of exploitation.

² Article 398 of the Iraqi Penal Code Iraqi No. 111 of 1969 stipulates that perpetrators of rape and sexual assault may marry their victims in order to discontinue investigation and prosecution procedures.

³ The UNCRC [General Comment No. 25](#) establishes the applicability of the convention and its provisions to the digital environment, and provides guidance to State parties on implementation in that context.

moral, and social development and to act, accordingly, in their best interests.⁴ As part of providing the necessary conditions to support their holistic development, States have a responsibility to protect children from all forms of violence, exploitation, abuse, and neglect, and to promote their recovery in the aftermath of harm.⁵ In situations where children are determined to be at risk or their environment is unsuitable, States are expected to intervene, providing assistance and connecting them to social programs or alternative care as needed.⁶ If a child comes into conflict with the law, State parties are obligated to provide differentiated and age-appropriate treatment that preserves the child's sense of dignity and worth, and is consistent with the aim of promoting an independent and responsible life in society.⁷

This concept is also reflected in Iraq's domestic legislation. The Iraqi Constitution, the preeminent and supreme law in the country, recognizes the State's responsibility to care for children and provide them with appropriate conditions for development,⁸ and prohibits all forms of violence and abuse against them.⁹ Assorted penal and criminal codes reinforce this prohibition, considering it an aggravating circumstance when offenses are committed against a minor, and imposing more severe penalties to deter perpetrators. In the absence of a specialized law on child rights or child protection, the Juvenile Welfare Law No. 76 of 1983 includes provisions designed to prevent the exploitation and abuse of children, facilitate early detection and intervention in situations where their welfare may be at risk, and initiate alternative care arrangements, if needed, to restore the proper social and environmental conditions for their education and good conduct. It also integrates principles for differentiated treatment and associated procedural guidelines to protect children in conflict with the law and secure their interests throughout the justice process.

The judiciary has a vital role to play in upholding the protected status of childhood and fulfilling the obligations set forth under international and national law. As public servants, justice actors have a responsibility to deliver on commitments to protect children from harm and support their recovery, provide assistance to those at risk, and safeguard those in conflict with the law. Moreover, they must consider the best interest of each child as the basis for any action taken during these processes, ensuring that procedures and outcomes alike are aligned with preserving children's safety, welfare, and continued development.

Implications for Judicial Practice

Children may come into contact with the justice system for many reasons. Some may seek recourse, redress, or support for recovery after an experience of harm, either as victims or witnesses. Some may find themselves in conflict with the law as a result of social, economic, or environmental challenges that have shaped their actions and behaviors, or because others have taken advantage of power imbalances to manipulate, exploit, or coerce them. At times, depending on the nature of the case, victims themselves may be taken into custody as offenders, rendering them vulnerable to prosecution. Regardless of the reason for entry, all children require special protection. A commitment to justice requires differentiated treatment that is responsive to

4 See Articles 27, 17, 6, 3, and 32 of the [UNCRC](#).

5 See Articles 19 and 39 of the [UNCRC](#).

6 See Articles 19 and 20 of the [UNCRC](#).

7 See Articles 37 and 40 of the [UNCRC](#), as well as the general comments relevant to these provisions, including [General Comment No. 8](#), [General Comment No. 10](#), and [General Comment No. 24](#). For more information on international standards for the differentiated treatment of child victims of OCSEA, specifically, see Article 8 of the [UNCRC Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#), to which Iraq is signatory, and associated [guidelines for implementation](#).

8 Appropriate conditions for children's development (including social care, health, and education), as reflected in the Constitution, are also set forth in supplemental frameworks, such as the Minor Care Law No. 78 of 1980 and the Social Welfare Law No. 126 of 1980.

9 See the [Constitution of the Republic of Iraq](#) (2005), Article 29.

the realities of childhood.

Judges bear the crucial duty of protecting children during legal proceedings and determining appropriate outcomes. The following principles are designed to guide the application of law in a manner that upholds child-friendly justice.

Contextualized Understanding

An individual's status as a child should be a primary consideration in the treatment of any children in contact with the justice system. Procedures and judgments alike should therefore not only take into account the precise nature of the case, but also a child's age, evolving capacities, background, and previous experiences, as well as any intersecting vulnerabilities (such as sex, ethnicity, race, disability,¹⁰ nationality, or socio-economic condition).

Adaptive Approaches

If formal court processes cannot be avoided, judicial procedures should be adapted to be suitable for children. Specialist courts or chambers should be used, if available, and child-friendly environments provided for interviews and waiting periods. Court sessions should be adapted to a child's pace and attention span, and procedures should be explained in accessible language that is appropriate to the child's age and level of development. Special accommodations should be made to ensure the comfort and safety of children, such as permitting accompaniment by their parents or a trusted adult of their choice, or allowing remote or pre-recorded testimony. Where appropriate, reasonable alternatives to traditional judicial proceedings – such as diversion, counselling, supervision, or other mechanisms – should be considered for children in conflict with the law.

Sufficient Safeguards

All children in contact with the justice system should be protected from harm through the application of substantive and procedural safeguards. Children should have the right to competent legal counsel and representation, the right to be heard, and the right to meaningful participation in proceedings that concern them. Strong privacy and confidentiality measures, as well as data management protocols, should be utilized to protect their identity, avoid publicity, mitigate stigma, and reduce the risk of re-victimization or reprisal.

Specialized Capacity

All professionals working with children in the context of the justice system – including judges, judicial investigators, public prosecutors, and lawyers – should be trained on child rights, child development, and procedures that are adapted to their particular needs and vulnerabilities. Regular vetting should be conducted to ensure that relevant actors are suitable, safe, and appropriately capacitated to support children. Where available, the use of a child-friendly justice system, with specialized courts, trained judges, and child welfare professionals, can help to protect children during legal proceedings and improve outcomes.

Balanced Judgements

The issuance of decisions related to children should be informed by several key considerations. The best interests of the child – an evaluation of what outcome will preserve a child's safety, security, well-being, and continued development – should take precedence in all judicial decision-making. Children whose rights

¹⁰ Children with disabilities tend to be overrepresented within the legal system and may face disproportionate barriers in navigating that system and accessing justice. All children with disabilities warrant special attention and support throughout this process, bearing in mind that those with developmental delays or neurodevelopment disorders or disabilities should be excluded from criminal responsibility altogether, as per [General Comment No. 24](#) on the UNCRC, Section 28.

have been violated should be recognized, first and foremost, as victims, including in instances of potential liability. In the event that culpability is established, rehabilitation and reintegration should be prioritized over retribution, with the aim of addressing root causes to facilitate constructive participation in society. If justice measures are determined to be necessary, they should be proportional to the child's age, maturity, and circumstances. Harsh sentences, including any deprivation of liberty, should be a matter of last resort, for the shortest possible time, and in a safe and humane setting that is suitable for children's needs.

Toward Better Futures

An experience with the justice system can have long-term implications for a child's future. Judges have the privilege and responsibility to safeguard children and uphold their rights throughout this process, ensuring that legal proceedings and outcomes are reflective of their unique needs and vulnerabilities, and aligned with the protected status of childhood. Adherence to the guiding principles contained in this brief can advance child-friendly justice within the confines of the current legal framework, ensuring that children are treated in a manner consistent with their inherent dignity and worth. This is especially critical in the digital age, as rapidly evolving forms of harm and gaps in available legislation pose serious threats to children's safety and well-being. Protecting the nation's children is not only a matter of legal obligation and judicial integrity, but a pivotal investment in building strong, resilient, and thriving communities.

The child is the future of the nation, and to protect and care for children is a national duty and a fundamental right.

The Social Welfare Law No. 126 of 1980, Article 6

In the absence of specific, comprehensive legislation on online child sexual exploitation and abuse (OCSEA) in Iraq and the Kurdistan Region, this brief examines the protected status of childhood and its implications for judicial practice. By consolidating key principles of child-friendly justice, it aims to promote reflection, dialogue, and action among judicial practitioners – strengthening the interpretation and application of law to better protect all children with justice system involvement in cases of OCSEA.

Author: Kristin Perry, Senior Policy and Advocacy Advisor at SEED

Date of Publication: May 2026

SEED is a women-led, local organization in the Kurdistan Region of Iraq **creating a future where everyone can thrive**. We promote gender equality, protect children, combat human trafficking, and support mental health and well-being. Through services, partnerships, and system reform, we work alongside communities and institutions to create lasting change.

This brief is the property of SEED. Any reproduction, or any use, in part or in full, is prohibited without documented permission from SEED. Copyright © 2026 SEED. All rights reserved.

This brief has been produced with financial support from Safe Online. However, the opinions, findings, conclusions, and recommendations expressed herein are those of the author and do not necessarily reflect those of Safe Online.