



The Journal of *News Science*

Vol. 14, No. 4, Ser.56, Winter 2025, P. 48- 52




Journal homepage: <https://www.mjourcom.ir/>

DOI : <http://doi.org/10.22034/lrsi.2025.540470.1416>

Open Access

ORIGINAL ARTICLE

The Admissibility of Electronic Messages in Family Law Disputes: Balancing Evidentiary Rules with Privacy Considerations

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Received: August 11, 2025

Accepted: October 22, 2025

EXTENDED ABSTRACT

Interdiction:

In recent years, social networking platforms have profoundly restructured communication patterns across all societies. These platforms offer users a space to share personal interests, thoughts, and activities while simultaneously enabling them to forge new relationships or sustain existing ones. Among the most widely utilized platforms internationally are messaging services such as Telegram, WhatsApp, and Instagram, alongside domestic platforms within Iran including Eitaa and Bale.

Beyond their conventional social and interpersonal applications, these platforms have increasingly assumed a critical function in family law disputes. In cases involving divorce, child custody, spousal and child support, or allegations of infidelity and domestic violence, litigants

frequently rely on messages, photographs, audio recordings, and other forms of digital content exchanged via these platforms to substantiate their legal claims. For instance, in divorce proceedings, a spouse may submit screenshots of WhatsApp conversations wherein the other party explicitly admits to concealing marital assets or refusing to provide child support.

Despite this growing dependence on digital evidence, the Iranian legal system lacks a coherent and comprehensive framework governing the admissibility and evidentiary weight of such materials. Although general statutes—namely the Criminal Procedure Code and the Computer Crimes Act—address issues such as surveillance, unauthorized access, and disclosure of personal information, they remain ambiguous with respect to the specific legal challenges arising in family law contexts. These ambiguities are most salient in three interrelated domains:

Legitimacy of Evidence Collection: The law should explicitly delineate the circumstances under which digital communications may be lawfully obtained and presented as evidence.

Proper Attribution of Messages to Identifiable Individuals: A principal challenge in employing electronic communications as evidence lies in reliably linking digital content to a specific individual. Legislation should therefore establish technical and legal criteria for attribution, potentially encompassing device identifiers, IP addresses, timestamps, and two-factor authentication logs.

Compatibility with Constitutional and Human Rights Principles of Privacy: The legal framework should articulate principles ensuring that the introduction of digital communications as evidence does not result in disproportionate intrusions into private life.

Accordingly, the central research question guiding this study is: What is the legal status of messages exchanged via online messaging platforms in proving family law claims under Iranian law?

Method:

This research employs an analytical and comparative legal methodology. On one hand, it examines Iranian statutory provisions—particularly the Electronic Commerce Act and the Computer Crimes Act—to assess the current legal treatment of electronic evidence. On the other hand, it undertakes a comparative review of foreign legal systems that have developed more explicit standards concerning the admissibility and reliability of electronic communications in family law disputes.

Furthermore, the study evaluates the extent to which the use of electronic communications as evidence aligns with internationally recognized principles, notably the right to privacy. The research also formulates legislative reform proposals aimed at addressing existing legal lacunae while promoting both evidentiary efficiency and the protection of fundamental rights.

Findings:

Pursuant to Article 12 of the Iranian Electronic Commerce Act, documents and evidence supporting a claim may be submitted in the form of data messages, and no court or governmental authority may dismiss their evidentiary value solely by reason of their digital form or format. Moreover, Clause (a) of Article 2 of the same law defines a "data message" as "any symbol of an event, information, or concept that is produced, sent, received, stored, or processed by electronic, optical, or new information technologies." Considering this broad and dynamic definition, it can be inferred that all instruments involved in the process of exchanging, transmitting, or processing information through modern technologies fall within the scope of a

"data message." Consequently, messages exchanged through online platforms qualify as "reliable data messages" and may, in principle, be admitted as evidence in judicial proceedings. Additionally, technical safeguards such as one-time passwords (OTPs), login alerts, IP addresses, and device-specific identifiers enhance the evidentiary value of these messages by supporting authentication and attribution. When accessed through lawful and legitimate means—for example, by one of the participants in the communication—the submission of such evidence does not constitute an unlawful intrusion into privacy. This reflects the inherent reality that electronic communications naturally entail a certain degree of diminished confidentiality. Nevertheless, the absence of clear procedural and substantive rules in this domain has engendered inconsistent judicial practice, leaving litigants uncertain regarding the admissibility and probative value of their digital evidence. This situation conflicts with the principle of a fair trial, and in the contemporary era—frequently designated as the digital age—it is imperative for the legal system to strive to maintain pace with technological advancements.

Conclusions:

The analysis suggests that electronic messages exchanged through platforms such as WhatsApp, Instagram, and Telegram possess significant potential as admissible evidence in Iranian family law disputes. However, the lack of specific legislation addressing issues of collection, attribution, and privacy creates practical challenges and risks inconsistent application by the courts.

To remedy these deficiencies, the study recommends targeted legislative reform. Clear statutory provisions should establish:

- Conditions of legitimacy for collecting and presenting such evidence;

- Standards of attribution, including technical and legal criteria for linking messages to specific individuals; and

- Privacy safeguards, ensuring that the evidentiary use of digital communications does not result in disproportionate intrusions into private life.

By articulating such rules, the Iranian legal system can strike an appropriate balance between the individual right to prove a claim in family disputes and the fundamental right to privacy. This, in turn, would enhance clarity, consistency, and fairness in judicial practice while ensuring that the law remains responsive to the technological realities of the digital age.

Data Availability Statement

Data available on request from the authors.

Acknowledgements

The authors would like to thank anonymous reviewers.

Ethical considerations

Not applicable.

Funding

Not applicable.

Conflict of interest

The authors declare no conflict of interest.

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Cite this article: Halimi, Z., & Shariati, N. S., (2025). The Admissibility of Electronic Messages in Family Law Disputes: Balancing Evidentiary Rules with Privacy Considerations, *News Science*, 14 (4), 48-52.

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