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## PERSON AND PERSONALITY IN CYBER SPACE: A LEGAL ANALYSIS OF VIRTUAL IDENTITY

by

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*The day by day expansion of the Internet in all of human's life put him or her between two worlds: real and virtual. The lifestyle of individuals has changed drastically in the challenge of these two worlds. Domination of virtual environments in all aspects of human personality, especially on the Identity, is clearly observable. The emergence of a virtual identity in cyberspace; beside the real identity of people is one of the challenges of the virtual environment of the Internet. The rise of some novel challenges about the question of identity in cyberspace may need appearing law on the issue of virtual identity. Freedom of identity, anonymity, irresponsibility, authenticity and identification in cyberspace are some of the legal issues, considered as challenges of virtual identity. Rule of cyberspace and protect the rights of cyber society, citizens (Netizens) are on the shoulder of law which makes constructing a legal framework as an irresistible matter of the future of the virtual society. For this, a correct understanding of the virtual environment and its related legal issues is needed. Virtual identity as a new topic may need a new legal approach and analysis.*

### KEY WORDS

*Person, Personality, Cyberspace, Virtual Identity, Virtual Identification*

### 1. INTRODUCTION

*On the Internet, nobody knows you're a dog.* This proverb which began as a cartoon caption by Peter Steiner symbolizes a conception, on which this paper is based on. Anonymity, as a most important issue of identity is one of the legal aspects of identity in cyberspace. Nowadays, it is accepted

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that individual's communication and in the virtual space of the Internet has been turned into a category which is beyond an electronic social communication.

The widespread expansion of the Internet is used both in quantity and quality has created tangible changes in the human life. The Internet has shrunk the real world and expanded the virtual world. This paper is based on the paradigm of Dual Speciation<sup>1</sup> which refers to emerging human lifestyle in real and virtual environments.<sup>2</sup> Today, the Internet has created another world with a different lifestyle for human beings, defined his lifestyle for both the worlds: one is physical and the other virtual. The first world is the real world where social life and flows, and the second world are the virtual world which is faced human with the virtual realities.<sup>3</sup> This virtual world is indeed the same as global Internet network, which plays an integral role in developing a virtual community or electronic society with contributing widespread application of information and communication technologies.

We can clearly understand dominating the cultural content of the virtual space on all the aspects of human personality.<sup>4</sup> From the tangible effects of the influence of the Internet on the human personality, we can point to altering his real and physical identity (Citizen) to a network identity (Netizen<sup>5</sup>), and the simultaneous coexistence of these two entities in both real world and the virtual world.<sup>6</sup> The real world citizen is becoming a networks world citizen (Netizen), and at the same way, his identity is also challenged.<sup>7</sup> Regarding to identity, Cyberspace provides us with the freedom to be anybody we want. It allows us to communicate

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<sup>1</sup> Ameli, S., 2013, Dual Spaciation Approach to the Electronic Publishing, *International Journal of Social Sciences*, Vol. 3, No. 2, pp. 27-48.

<sup>2</sup> Ameli, S., & Mirali, A., 2004, Dual Citizenship: British, Islamic or Both: Obligation, Recognition, Respect and Belonging, London, p. 19.

<sup>3</sup> Ameli, S., Dual Speciation: International Conference on Intercultural Relations and Iran-Turkey, Relations, University of Ataturk, 26<sup>th</sup> of May 2011.

<sup>4</sup> Rannenber, K., & Royer, D., 2009, *The Future of Identity in the Information Society: Challenges and Opportunities*, Springer, London, p. 159.

<sup>5</sup> Netizens mean citizens of the digital network or network citizens or net-citizens. The expression is invented by Michael Hauben in 1995 by combining two words Network and citizens. Available at: <http://www.columbia.edu/~hauben/>.

<sup>6</sup> Halperin, R., Backhouse, J., 2009, a road map for research on identity in the informationsociety. A paper research by the London school of economic and political science (LSE). London: Springer publication, p. 445.

<sup>7</sup> Hauben, M., 2008, Net and Netizen: the Impact of the Net has on People's Lives, *Columbia Education Press*, New York, p. 245.

almost with anybody in the world. Everybody chooses a mask of some appearance, a certain social role and comes in with a new identity.

From this perspective virtual identity is comparable with an accepted theory of Dialogicality of identity, a concept that indicates that it is the characteristics of genre which construct identity.<sup>8</sup> It means people create their identity by positioning themselves to others.<sup>9</sup> Therefore, virtual identity construction can be seen as something that takes place through discourse.<sup>10</sup> In result, we may claim that virtual context just sketches one aspect of the human psyche as I-for-the-other<sup>11</sup> and provides a good field for it.

Although there may be virtual identities which correspond to real persons in almost every aspect, but, most of people use the illusory anonymity of the cyberspace to enjoy the freedom to be anybody they want to be. Such people create various masks painted with false colors. The freedom to be anybody means a particular individual chooses a pseudonym and identifies him or herself with this pseudonym in the cyberspace. The possibility to make an identity or to change virtually our own identities can be done unlimitedly. From the point of law, it may create some problem, because the freedom to be anybody we want means to break the general principle of operation of law.

Emerging a phenomenon about identity called virtual identity was the beginning of much debate among scholars of the subject related to identity, and everyone has agreed on that identity has been challenged in the age of information technology. Transformation and developments of the human lifestyle, personality, and identity because of Internet have been led to emerging issues which made the entry of the law into the information technology environment unavoidable.

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<sup>8</sup> Bakhtin, M., 1981, *The Dialogic Imagination: Four essays* by M. M. Bakhtin (C. Emerson & M. Holquist, Trans.). Austin: University Of Texas Press. And (1986) *Speech genres and other late essays*. C. Emerson and M. Holquist (Eds., V. W. McGee, Trans.), Austin, TX: University of Texas Press.

<sup>9</sup> Fairclough, N., 2003 *Analyzing Discourse: Textual Analysis for Social Research*, London/New York: Rutledge.

<sup>10</sup> Hodgson, V., 2002, *Issues for Democracy and Social Identity in CMC and Networked Learning*, in *Networked Learning: Perspectives and Issues*, (eds) Steeples C, Jones C, Springer Verlag, London, pp. 229-242.

<sup>11</sup> Bakhtin introduces an architectonic or schematic model of the human psyche which consists of three components: I-for-myself, I-for-the-other, and other-for-me. Bakhtin argues that it is the I-for-the-other through which human beings develop a sense of identity because it serves as an amalgamation of the way in which others view me.

## 2. IDENTITY AND ITS CHALLENGES IN CYBERSPACE

### 2.1 IDENTITY AND ITS PLACE IN LAW

Identify is a set of characteristics, and behavioral, social, and personality features of an individual, which could distinguish and identify him from other people.<sup>12</sup> Therefore, identity is similar to personal social birth certificate of each person that distinguishes him from others. Identity is not commonly known terms in the legal sense. In other words, identity cannot be found neither in the language of the lawyers, nor in any law books as an independent subject. Although, this does not mean the issue of identity has no place in the legal science; it must be said the legal concept of identity isn't something apart from the lexical and usual meaning of words. The subject of law is person and protection of his rights, and identity is also an integral part of every person's existence. In legal science, person is a term used for an individual who is provided with rights and duties.

*Legal identity* - the identity which has been granted officially by government - *is important for legal empowerment*. If you are not legally recognized as a person, it is difficult to make the law work for you. That is Legal identity plays an important role in an individual's capacity to claim their legal rights. According to Haki Network, Legal Identity is a cornerstone for access to justice.<sup>13</sup> So the main work and application of the identity in law is identifying and distinguishing one person from others, to grant his rights or impose his duties. This takes place in all legal systems through an identity card (if not in all cases, but in specific) which contains specifications and characteristics of the person.<sup>14</sup>

Basically, both legal and social life of the person (such as legal and trade relations) and enforcement of law (such as the capacity of the police to chase

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<sup>12</sup> It should be mentioned that there is difference between identity and personality. Personality would be qualities or traits of a person's character. Physical and Emotional but Identity would merely be how you define the person. So, personality is descriptive i.e. it is what you are like; whilst the Identity is defining i.e. it is who you are.

<sup>13</sup> Haki Network's Legal Empowerment Knowledge, Attitudes and Perceptions (KAP), Survey Submitted by Brianne Hellrung on Wed, 2011, pp. 8-31.

<sup>14</sup> In Iran law, identification cards are known as Identity Sheet, birth document or birth certificate. For example, the term identification plate is used as birth certificate or birth document in the registration law requirements. The birth certificate is a document or a booklet in which they recorded four major life events of each person including births, marriages, divorces, and deaths in it. The necessity of identifying someone from others is determining his rights and duties and the amount of responsibilities he have towards society and government.

and arrest criminals) depend on identifying people in the community, which is carried out through using identification card or identity card.

## 2.2 VIRTUAL IDENTITY AS A CHALLENGE

Humanistic scholars were speaking about the identity crisis or challenging the identity in the cyberspace; consider a new identity or a second life for human.<sup>15</sup> In their belief Cyberspace poses a challenge to traditional notions of identity. To accept this issue could involve all the sciences which related to the person and personality, including jurists of about cyberspace.<sup>16</sup>

The term virtual identity which is included in many manuscripts of the information technology field with the titles like network identity, Internet identity electronic identity, digital identity, on-line identity and cyber identity is the origin of emerging issues called identity challenges.<sup>17</sup> Therefore, it can be said the main challenge of identity is the new phenomenon of virtual identity that many sciences were interested in it, and it's necessary to be analyzed from the legal perspective as well.

The word Virtual means a feature, or operation that does not exist, but appears to be so<sup>18</sup>. But about cyberspace; it has a concept of its own. Some authors in the conceptualization of the word virtual defined it as an extension of reality<sup>19</sup> or substitute for reality<sup>20</sup>. In other words, the word virtual embrace everyday understandings of the term, as that which is so in essence, but not actually so, implying a reality, but not one that is concrete. But it seems better to consider it as a process which implies a material embodiment that exists as an entity.<sup>21</sup> So, it means, the word virtual refers to a subjective reality with a social construction

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<sup>15</sup> Nagy, P., 2010, *Second Life, Second Choice? The Effects of Virtual Identity on Consumer Behavior*, Hungary, Óbuda University, p. 324.

<sup>16</sup> Marcus, B., & Michele, F., & Astrid, S., 2006, *Personality in Cyberspace: Personal Web Sites as Media for Personality Expressions and Impressions*, *Journal of Personality and Social Psychology* 90 (6): 1014–1031.

<sup>17</sup> Grohol, J., 2006, 'Anonymity and Online Community: Identity Matters', *Eserver Tc Library*, Issue No. 214, p. 194.

<sup>18</sup> Elizabeth A. M. 2003. *Oxford Dictionary of Law*. Oxford: Oxford University Press.

<sup>19</sup> Rheingold, H., 1994, *Virtual Community: Finding Connection in a Computerized World*, Secker & Warburg, London, p. 36.

<sup>20</sup> Shields, R., 2003, *The Virtual*, Rutledge, London and New York, p. 6.

<sup>21</sup> Levy, P., 1998, *Becoming Virtual Reality in the Digital Age*, Plenum Pub, New York, pp. 23-34.

or a reconstitution of reality, created collectively and based on electronic environment.<sup>22</sup>

### 2.2.1 DEFINITION OF VIRTUAL IDENTITY

According to a group of technology experts, what is called virtual identity is facing a conceptual challenge, because it is something essentially different from the concept of identity in the real world. In other words, the virtual identity is a new quiddity or a new phenomenon, which must define and considered about needs and specific needs of virtual environments.

In stating the reasons for why is the virtual identity are a new topic or phenomenon some argue the architecture of cyberspace is fundamentally different from the architecture of the physical world, therefore it leads to emerging some new legal concepts. And virtual identity is one of them which need a new cyberspace identity.<sup>23</sup> It is because virtual environments provide the possibility of transformation and manipulation of identity.<sup>24</sup> Or on-line anonymity allows users to present different versions of themselves in on-line environments. Unconstrained by physical limits, users are free to choose and build their virtual form (s) and identities.

On the other words, Construction or creating a virtual identity considered as a main difference or feature which causes some author talks about unbundling of identity creation which eased by cyberspace. That is, in cyberspace, users can unbundle identity from content and transactions. In the real world, there were several obstacles to unbundling. However, in cyberspace, it is possible to unbundle identity to a degree difficult, if possible, to achieve in the real world.<sup>25</sup> A user's virtual identity is a social identity that represents the user in the on-line environment, allowing a user a high-level of control over their identity in a way that differs from the off-line world. The control over creating an on-line identity also extends to the intensity of the connections made in such virtual spaces, as users may engage and release at will.<sup>26</sup>

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<sup>22</sup> Levy, P., 2001, *Cyber culture*, University of Minnesota Press, Minnesota, pp. 29-30.

<sup>23</sup> Sullivan, c., 2011, *Digital Identity: An Emergent Legal Concept*, University of Adelaide Press, Australia, p. 19.

<sup>24</sup> VanderValk, F., 2008, *Identity, Power, and Representation in Virtual Environments*, *Merlot Journal of Online Learning and Teaching*, Vol. 4, No. 2, pp. 47-79.

<sup>25</sup> Abelson, H., & Lawrence, L. 1998. *Digital Identity in Cyberspace*, White Paper Submitted for 6.805/Law of Cyberspace: Social Protocols, New York.

<sup>26</sup> Vasalou, A., & Jonson, A. N., 2009, 'Me, Myself and I: The Role of Interactional Context on Self-Presentation through Avatars', *Computers in Human Behavior*, Vol. 25, No. 2, pp. 59-87.

If we consider the virtual as an onlooker to the form and context of identity development (and not an identity constraint), then the identity created on Internet virtual environment is called virtual identity based on its development context. As a result, virtual identity defined as identity that a person makes for himself in the virtual space, though it is real or fake. With such an interpretation, it can be said that other terms like digital identity, electronic identity and cyber identity would be applied in the same concept, and, they are the synonymous and equal in meaning with virtual identities.

It seems that, we should consider the word virtual as constraints of the context and space for identity formation, and with this approach, we consider the virtual identity as an identity which an Internet user creates for electronic communications to introduce him to others. Therefore, this new identity was formed solely according to its virtual environment, and named virtual identity; it was not because of nonconformity with the true identity of the user who creates it. As a result, virtual identity is an identity that a real person has selected and created for him for virtual space, whether it is real or fakes (fictitious). Therefore, we may classify virtual identity into two types: true virtual identity and false virtual identity.<sup>27</sup> The challenges of identity in cyberspace refer to the second type.

### 2.2.2 CHALLENGES OF VIRTUAL IDENTITY

1. *Virtual identity cannot be confined to any time or place:* Cyberspace is a meta-spatial and meta-temporal entity, thus, this is influence on identities created in it. Time and place have lost their common perception and sensibility in the cyberspace, so that they have a both real (physical) and virtual implication. As a matter of fact, unlike the real world, we can be in several places at the same time in the internet world. Therefore, some argue that since cyberspace have not time and space boundaries, and these two elements are closely related to the theme of identity, so in this case, the issue of human identity in cyberspace will be faced with many challenges.

2. *Virtual identity can't be controlled:* One of the significant challenges from the jurist's point of view is the impossibility of controlling and monitoring a virtual identity. These claims rooted in the unknown

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<sup>27</sup> The concept of false identity in Iran Law, according to the The Identification Cards and Identity-Related Crimes and Punishments Law(1989), has been classified into three categories: Identity Theft (The theft or assumption of a pre-existing identity, which may also involve subsequent manipulation), Identity Fabrication (The creation of a fictitious identity), and Identity Manipulation (The alteration of one's own identity).

identity of the user in the virtual space, which called anonymous.<sup>28</sup> The importance of this feature is to the extent that some people are falsely using it synonymous with virtual identities conceptual.<sup>29</sup>

The essence of freedom of a place or geographical location means hiding the real identity; anonymity and obscurity means a sense of insouciance, lack of commitment, and responsibility towards our actions and behaviors, which could facilitate the background for violating and trampled the rights of others in cyberspace. This is one of the main distinguishing features of the virtual world from the real world. People are always controlled by restricting factors and tools such as culture, custom, law, place, time, government, and so on in actual (non-virtual) life.

In other words, individuals are always subjected to the identification, supervision and control in their social life boundaries; and it is an unwanted control mechanism that prevents people from unreasonable and irrational behavior in their daily life and social behavior.<sup>30</sup> Cyberspace is free from all the constraints of the real world, and this leads to a legal challenge; and increasing the use of the internet and the expansion of virtual community, human identity in this unlimited world will be uncontrollable and hard to supervision and monitoring.

3. *Virtual identity can't be identified*: According to the author, if we consider the challenged put upon the juridical science, the most important juridical challenge of identity in the cyberspace is the issue of identification or authentication; which has been facing new challenges in cyberspace. The inseparability of identity in cyberspace means the impossibility of authentication and its confirmation. In other words, it is very difficult for distinguishing between real virtual identity (legal) and unreal virtual identity (illegal) in the cyberspace.

There are well-known strategies for the authentication of individuals in the traditional (non-virtual) world. For example, in the face of a person, an identity document helps identify and distinguish the individual, or in the area of business transactions, they use the person's signature for authenticity and the correctness of a writing or document and assign it

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<sup>28</sup> Grohol, J., (2006), *Anonymity and Online Community: Identity Matters*, p. 198, Available at: <http://alistapart.com/article/identitymatters> .

<sup>29</sup> Halpern, R., Backhouse, J., (2009), *a road map for research on identity in the information society*, paper research by the London school of economic and political science (LSE). London: Springer publication, p. 258.

<sup>30</sup> Annenberg, K., Royer, D., (2009), *The Future of Identity in the Information Society: Challenges and Opportunities* , London: Springer, p. 423.



to a particular person, which has long been a popular authentication method for most people. Moreover, other examples include the scientific identification methods (such as fingerprints or application of biological and genetic signs) that are used frequently in the criminal law (in crime detection, identification and prosecution of offenders).

It must be admitted that the special characteristics of virtual environments which are the results of its differences with the real world, could pose the identity to originality determination challenges. This is so important that lawmakers of virtual world must necessarily prepare them for dealing with this challenge. The researcher will explain this issue in more details in later sections, particularly in the section related to the practical face of lawmaker with this juridical challenge.

### **3. LEGAL APPROACH TO IDENTITY IN CYBERSPACE**

#### **3.1 VIRTUAL IDENTITY IN VIEW OF THE LAW**

As a point of law, virtual identity, with the definition, simply means identity in cyberspace i.e. the definition and conception of identity in law, both in the real and virtual world are the same. Therefore, virtual identity could be classified in two types of realities (true) and unreal (untrue) based on its compliance and consistency with real identities. In fact, the real virtual identity is the real identity of the person in cyberspace. It is necessary to note that cyberspace has made it possible for people to create multiple identities. This means that anyone can simply enter the Internet and create a new identity for himself through providing his identifying information, whether true or false, and then he can use it to introduce himself in the virtual world. Thus, virtual identity can be real and based on the actual identity of the individual.

If someone manipulates and alters his own identification features, so it wasn't consistent with his real identity and lead to fault and mistakes in his authentication; he actually creates a false or synthetic identity for himself that is not consistent with his real self and identity. This practice has a long history of humanity in all man eras, and have criminal and punishable clause in all traditional rules and controls. The misuse of identity does not refer to a certain period of human life. There are same traditional crime, offences, and a transgression of identity in the cyberspace and information technology era; but it got a variety of shapes and forms

and frequency; and the possibility of misuse of identification have been facilitated and practical for all people.

Although we accepted that virtual identity is an emerging phenomenon, and result in new questions; it is not necessarily the emergence of a new essence or new establishment which transform the essence and foundation of identity rules that remembered as a legal challenge.<sup>31</sup> Since the proposed definition for the virtual identity, it has not expressed the fact that any particular event has been occurring for the identity in cyberspace. From a legal point of view, the main differences between virtual identity and real world identity are in their forms based on their context or procedure of development. In other words, we can say that what have been proposed as a challenge or a crisis of identity in cyberspace is just various and vast forms and displays that identity got in the virtual world; and also, the possibility of misuse and misuse of properties of identity are facilitate and applicable for all. To uphold this allegation, I argue about the main factors which should be analyzed from a legal point of view.

### 3.2 LEGAL ANALYSIS OF THE CHALLENGES OF IDENTITY

The most important feature of the difference of nature, of identity in the real and virtual worlds is the control of legal and environmental and geographical forces and necessities. In other words, as mentioned earlier, if we consider the identity synonymous with a person, this person has a distinct physical identity with its own unique characteristics. This identity has characteristics that recorded in a registration system of particular geography, and no matter how much it stay in obscurity; it is still possible to identifying it.

The identity or individual of space less and timeless world of internet is not faced with any limitation of the real world. Therefore, the spatial and temporal independence of virtual identities was considered as a challenge arose by internet cyberspace. The feeling of freeness form a particular territory is equal with presumed a world without spatial and temporal limitation and inhibition, which provide the context of independence from binding social rules and regulations. This makes it easy to get people to do things that they have never done in real life. Because we know that unlike the real physical world, there are not

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<sup>31</sup> Giordano, F., (1998), Invoking Law as a Basis for Identity in Cyberspace, *Stanford Technology Law Review*, Vol. 1, p. 1-79.

any spatial limitation and boundaries for the individual actions. It's obvious that a person cannot attend different places simultaneously in the physical space, but it's possible in the virtual world without any limitation. It is said that the space-time challenge of virtual environments has changed the essential and conceptual features of identity in order to create a new concept of identity that fits this space. The main characteristic of this new quiddity is anonymous.<sup>32</sup>

We can argue that individuals may behave without accountability, commitment, and responsibility due to accredit to individuals' identities remain anonymous, though this feature is not just limited to cyberspace. It is clear that if people find themselves free of the control mechanisms of society and the environment, they will act and live more freely. And it is clear again that this freedom can provide the context for violating the rights of others. From this perspective, a fundamental difference does not exist between the real world and the virtual world. Unless we admit the possibility of obscurity and anonymity of a person's identity in cyberspace beyond her self-made identity is easier and simpler than the real world. Although it is a correct idea and opinion, but it is not enough to challenge the identity from juridical perspective.

Unlike the real world where the law may restrict people's freedom for the selection of their own identity characteristic, this freedom is exist for each user cyberspace without any limitation or prohibitions. This means that, when a person enters the World Wide Web, he can easily introduce himself as he pleases, and create any type, shape, theme, and even gender he likes as his new identity and commit this action frequently. The power and freedom to choose the quantity and quality of their identity have sociological and psychological dimensions; from this perspective, it is one of the challenging issues of human identity in the age of information technology which analyzed and reflected considerably.<sup>33</sup>

Perhaps, it is an arguable and challenging issue of psychological or sociological perspective, but we have juridical perspective in this paper, and from this point of view, it can be said that, the possibility of creating multiple identities in cyberspace is not a challenging practice in law; because it is not basically an act specific to virtual space, it has already been

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<sup>32</sup> Groom, J., 2006, Anonymity and Online Community: Identity Matters, 'EServerTic Library', Issue No. 214.

<sup>33</sup> Halpern, R., & Backhouse, J., 2009, A Road Map for Research on Identity in the Information Society, Springer Publication, London.

practiced in the past. In other words, it is possible in the real world, although it may be limited.

## **4. LEGAL CONFRONTATION WITH THE CHALLENGES OF VIRTUAL IDENTITY**

### **4.1 THEORETICAL CONFRONTATION**

Theoretical explanation means explaining the position of the legal system related to new emergent phenomenon of virtual quiddity, which shape a theoretical foundation for guiding lawmaker in meeting practical challenges around virtual identity. The brief study of juridical aspects of information technology shows that juridical systems adopt two different approaches in dealing with information technology with the purpose of providing a legal context for cyber space. It is rooted in their different approaches to theoretical dealing with the issue of information technology impacts on the law.

The basic question posed is whether the impact of changes and developing modern communication technologies on social relations and humanism are changes in the essence and quiddity or shape and pattern of law? The answer to this question can represent out theoretical opinion about technological developments in the legal science. Whether concepts like time, space, location, relation, business, democracy, education, and so on experienced a content and quiddity change that need proposing new laws, or information technology merely changes the shape, form, method, and patterns; and essentially do not need any new law making and we can apply existing traditional laws in this situation.

The result of exploring the theoretical foundation of a new phenomenon can lead to avoidance of repetitious, impartial, conflicting new laws. Therefore, in theoretical analysis of virtual identity as a new phenomenon, we must first analyze the essence and nature of virtual identity from the juridical view, to explore raised legal challenges based on these foundations.

Providing a correct and proper opinion needs deep interdisciplinary discussion which is beyond the scope of this article. But according to the subject and in brief expression, it seems that: First, a virtual space is not simply a neutral modern communication technology tool; it can

change the nature, content and concept of issues as well as their form (ease and speed). Even if we argue that technology can also create new concepts or realities, we didn't utter a wrong. Second, we cannot deal with all legal areas affected by the cyberspace with the same response, in other word, we must admit that often, the change happened in content and nature, and in other cases; it changes the pattern, procedure or customs. The influence of cyberspace on identity in a legal approach must be viewed as transforming in form, pattern, or procedure.

## 4.2 PRACTICAL CONFRONTATION

### 4.2.1 RECOGNIZING A LEGAL VIRTUAL IDENTITY

There is unique and independent identity for each person in the real world, which his legal personality is established based on this unique identity. Regulating the relationships between individuals (as the main duty of the law) is depending on the clarity of their rights and duties towards one another and towards the government (for example, Department of Finance, banks, police, etc.). Clarification of the rights and duties of both the parties is also depending on their distinctive identity's characteristics.

Studying virtual identity from the point of law would lead to a practical impact when it was co-ordinated with the primary purpose of the law. This inferred that we must define a legal personality for virtual identity like traditional world; to assign a legal rights and duties and juridical life to virtual identity.

So, the law could take the same mission that it has in real community on the virtual identity in cyber society. In this regard, we must admit that there shouldn't be any discrimination or differences between granting of legal personality to the identity in the virtual space than the real world.<sup>34</sup> In other words, the legal adoption and recognition of virtual identity means that each member of society must have a virtual identification card in cyberspace, alongside with traditional paper-based identity card (ID card or birth certificate).

At law, the virtual identity that legislature formally assigns to each individual based on a specific rule called legally virtual personality or legal virtual identity. However, the first and most important step in controlling and watching individuals and their performance in the virtual world

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<sup>34</sup> Vankokswijk, J., 2008, 'Digital Ego: Social and Legal Aspects of Virtual Identity', *International Journal of Human and Social Science*, Vol. 3, No. 9, pp. 32-43.

are recognizing an independent and unique virtual identity for the citizens of the digital world. It also involves designing a virtual legal registration system, as in the traditional model with similar works for the future of virtual society.

#### 4.2.2 DEFINING A LEGAL SYSTEM OF VIRTUAL IDENTIFICATION

The next step after legal acceptance of virtual identity is developing its legal framework. However, some scholars (and not only for identity) has been questioned in creating a comprehensive legal system for controlling and coverage of all issues, but most authors in this field have always stressed and emphasized the need for rule of law and rule of cyberspace.<sup>35</sup>

The author believes that if computer and electronic scientists could plan, such technological infrastructures, jurists could introduce its legal framework. For example, in discussing identity, decide a solution for issues related to main identity in the virtual space such as binding or non-binding individuals into a virtual identity, procedures for creating legal virtual identities, issues about identification and proving the identity of an individual, and other related issues. Some of the legal issues relating to identity in the legal system of identification will be discussed here:

1. Is virtual identification compulsory or non-obligatory? In the present conventional system of identity, it is a legal duty of every person to have a unique identity. Everybody must report the birth of a new born to issuance of identification documents, because this formal and legal identification documents are necessary for juridical life of any person. Based on this, as mentioned earlier, recognition of personality or virtual identity through granting a formal and legal mandatory virtual birth certificate for all electronic citizens was one of the needs and needs for the cyberspace.

2. What is the legal process of granting official virtual identity? In traditional (non-virtual) process of identification and proving identity in the real meetings is taking place through the identification documents. Since the rules and controls governing the identifying characteristics of people are common in all legal systems, and make up a part of the public order as compulsory laws, therefore, people have not much freedom in selecting their own identification features (such as name and surname

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<sup>35</sup> Johnson, D. and post, D, 1996, Law and borders: the rise of law in cyberspace, Stanford law review, Vol. 45, No. 5 and Abelson, H. and Lawrence, L. 1998. Digital Identity in Cyberspace, White Paper Submitted for 6.805/Law of Cyberspace: Social Protocols, U.S., and Kamal, A. (2005), the law of cyber-space. First Edition. U.S.A: United Nations Institute for Training and Research.

or place of staying) and they are obliged to follow these rules and orders. The electronic model (or virtual) registration system with the same legal functions necessary should be carried out for virtual space; to issuing identification cards, or virtual birth certificates for citizens of Internet virtual community just similar to the traditional system of registration.

3. How is the identification or proof of authenticity in cyberspace? Another need of identity legal system is providing contexts for possibility of identification and authentication of virtual identities of all Internet users. It is practically performed for facing the challenge of identity confirmation and authentication in the cyberspace. Therefore, computer and technical scientists has been introducing many different means and approaches for the e-identification process, but no one is reassured about the authentication and correctness of attribution. Currently, the only possible and practical solution that both technically and legally approved and accepted is electronic signature strategy.

Electronic signature refers to any form of confirmation that made electronically, perhaps as a sign, token, password, word, number, type in a name, the adoption of the digital handwritten signature, or electronic proof of identity which is adopted by the issuance or his deputy and incorporated into a contract or any other document.

Nowadays, electronic signature is accepted globally in all legal systems. Also, similar to traditional mechanisms in which, authentication and assurance and confirmation of identity is carried out by third party authorities such as public notary, they are necessary and considered for virtual spaces too, to authenticate the identity of electronic signature issuance. The main task of this certificate authority has merely confirmed the authenticity of the identity of signatory and proper attribution of it to.

Although, the use of electronic signature was a very important solutions and relatively solve many problems; However, because of the non-mandatory use of it by the citizens of cyberspace, its only involved insignificant part of authenticating identity in cyberspace, and just in certain areas of legal and business transactions. At this present, the electronic signature is not applied to all domains and all users of the Internet even in the juridical relations domain. However, some believe that even if the legal authorities mandate the electronic signature for all electronic communication and transactions of people with themselves and others, the challenge of identity authentication may not resolve completely,

because there are many unknown dimensions of virtual worlds. The legal requirements regarding the control and supervision of identity is the need to provide a legal and official means for identification of the identity of all users and conformity or nonconformity with it with information of issuance.

#### 4.2.3 REVIEWING LEGAL SUPPORT OF VIRTUAL IDENTITY

Basically, critical part of the purpose or mission of law for justice is protecting the rights of people. It means that issuing some rules or control for preventing violations of the other rights and fixes sanctions for rules violations and by it redress in cases where violating the rights of individuals was happening, and, enforcement power to compensate the rights of people. The protection and enforcement of peoples' rights in cyberspace is a known issue, which has been the focus of law from different aspects such as protecting consumer rights for electronic commerce, data security, data privacy, and electronic signatures.

As stated before, the challenges of identity in cyberspace refer to the false virtual identity. For this, altering one's identity or inventing a new one in a virtual environment may be considered as an offense. These kinds of offenses classified as Identity-Related crimes which involve altering one or more elements of identity (for example Name, date of birth, address) commonly done to dishonestly get dual or more access to services or benefits or to avoid set up duties.<sup>36</sup> Although, a brief study of the legal environment of cyberspace has shown that no laws have been passed towards virtual identity independently, but some national lawmakers concentrating on on-line confirmation processes (e-Authentication) and risks extended the scope of identity related crimes, to virtual worlds which involve creating fictional identities or alteration or manipulation of existing identities.<sup>37</sup>

Therefore, false virtual identity can be the subject of criminal and civil sanctions. In cyberspace, as in the real world, crimes and civil damages are unavoidable, because individuals in cyberspace may intentionally commit a crime or unintentionally incurred or committed damage in their interactions and communications. Although these interactions

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<sup>36</sup> Standardization of definitions of identity crime terms: A step towards consistency, The Australasian Centre for Policing Research (ACPR) (for the Police Commissioners' Australasian Identity Crime Working Party); and The Australian Transaction Reports and Analysis Centre (AUSTRAC) Proof of Identity Steering Committee, 2006.

<sup>37</sup> Russell, G., S., 2013, Identity Crime Trends, Risks and Solutions, Australian institute of criminology, Australia, p. 134.



and communications are virtual (in unreal and non-physical sense), the results are real, therefore we can say there is no difference in need of criminal and civil sanctions in the real world and cyberspace. So, principles and rules of compensation applicable to the real world can be used in cyberspace as well.

Finally, if we accept theoretically that virtual identity is not a new quiddity and it is merely a form of identity, then at criminal enforcement and punishment of criminal offenses related to identity, we don't need a new legislation; and the traditional rules could apply in cyberspace as well. Unless the legislature made some changes in the amount or sanctions available for Internet crimes in his legislative policy for the Internet.

## **5. CONCLUSION**

Although, social and behavioral studies confirm some changes in lifestyle and personal identity characters of individuals in cyberspace, and even introduce them as challenges of identity, but from the point of law nothing happened as a challenge, to target the foundation of law-although we believe the technology of cyberspace inevitably impacts law.

Cyber space did not reconfigure identity. Virtual identity as an emerging phenomenon which lead to identity challenges, is not a quiddity or a creation; and regardless of the specific characteristics and conditions of cyberspace, which has an impact on all human affairs, no particular event has occurred for identity, and all differences or challenges posed on the issue of virtual identity is supervision for its formation context and background.

In other words, from a legal perspective, the influence of cyberspace on identity is not anchange of the content, but a change in the form, evidence, or procedure. So, in terms of the law dealing with the issue of identity in cyberspace, there is no difference between the virtual and the real world, therefore general rules and controls, applied to the identity in the real world, can be applied in cyberspace as well. This does not mean, however, that new issues about identity does not need any legal preparation, or law have not any duty for virtual identity; but also its stressed that legislators should be present and active in the virtual space proportional to advances and developments in the world of technology.

Therefore, to enforce the rule of law in cyberspace, it seems necessary to recognize an independent and unique virtual identity for each citizen of the digital world, and then granting a legal personality to the virtual identity of the people.

As the legal systems has provided anyone with a unique identity, and predicted the process of protecting their rights, they must also think about designing a virtual registry system for the future of the lawful virtual world, where granted any of the Internet users with a unique virtual identification card, and provided the possibility of controlling and watching virtual identities. Therefore, the design of an identity registration system for the future of virtual society is unavoidable. A system like what we have in the real world that makes it possible to trace one's virtual content to one's real world identity. It is extremely important as it will engage not only lawyer and legislatures but technician architectures.

The final goal of jurists and law in virtual society is realizing the true identity and real life in the virtual world. This will need provision of the context in which virtual identity and real identity has full compliance, so interactions and relations between people in cyberspace are becoming real.

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