

**Special Rapporteur on the situation of human rights in the Islamic Republic of Iran
A/HRC/40/67 para 73(c)**

Full recommendation:

The Special Rapporteur recommends that Parliament: Amend the Penal Code to increase the age of criminal responsibility for qisas and hudud crimes to 18 years for all children, and ensure that all children are treated equally and without discrimination within the criminal justice system.

Assessment using Impact Iran human rights indicators¹

**A. The Special Rapporteur recommends that the Parliament of the Islamic Republic of Iran:
Amend the Penal Code to increase the age of criminal responsibility for *qisas* and *hudud*
crimes to 18 years for all children**

The Islamic Penal Code (2013)² establishes the age of criminal responsibility at 9 lunar years for girls and 15 lunar years for boys.³ However, the age of responsibility for *ta'zir* crimes (crimes for which fixed penalties are not provided under Islamic law)⁴ is 18 years. For these crimes, convicted children are sentenced to correctional measures. In contrast, criminal responsibility for crimes punishable by *hudud* (punishments fixed by God) or *qisas* (punishment or retribution in kind), which carry mandatory punishments such as death, is maintained at the age of “maturity” that is 9 lunar years for girls and 15 lunar years for boys. The law on the “Protection of Children and Adolescents”,⁵ adopted in June 2020, provides alternative punishments for persons under the age of 18, except for crimes under *qisas* and *hudud*. In such cases, sentences that are already established under the Islamic Penal Code prevail.⁶

Reportedly, four convicted child offenders were executed in 2019 in the Islamic Republic of Iran.⁷

In his January 2020 report, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran wrote that “he continues to monitor the situation of child offenders on death

¹ CCPR.6.5.S.1; CCPR.2.1.S.1; CCPR.6.5.P.1; CCPR.2.1.P.1; CCPR.2.1.P.2; CCPR.6.5.O.1

² Article 146 and 147, Islamic Penal Code (2013), English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

³ Article 1210, note 1

⁴ Ta'zir crimes are acts that are in violation of *Shari'a* laws and/or the Islamic Government's regulations. While punishment of crimes under *hudud* or *qisas* are provided under *Shari'a* law, *taz'ir* crimes do not have codified and fixed penalties under *Shari'a* law and are determined at the discretion of the Islamic Government.

⁵ The law adopted on May 12, 2020 : <https://shenasname.ir/laws/6788>

⁶ Article 25 of the law of “Protection of Children and Adolescents”.

⁷ ECPM, Iran Human Rights: <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

row, and has received information that there are at present at least 100 individuals who have been sentenced to death for crimes committed when they were under 18 years of age”.⁸

B. The Special Rapporteur recommends that the Parliament of the Islamic Republic of Iran: ensure that all children are treated equally and without discrimination within the criminal justice system.

Article 20 of the Constitution of the Islamic Republic of Iran guarantees that all citizens of Iran, men and women, enjoy the equal protection of the law and of rights, “in conformity with the Islamic criteria.” Article 21 emphasizes that “the government must ensure the rights of women in all respects, in conformity with Islamic criteria”.⁹ While these provisions supposedly safeguard the human rights of women and protect them from discrimination, such legal guarantees exist only as long as they are in conformity with “Islamic criteria.” The opportunity for interpretation allowed under the qualifications such as “in conformity with Islamic criteria” has often resulted in provisions that discriminate or have a discriminatory impact on various grounds, including gender.

The Iranian Islamic Penal Code (2013) is largely based on the Government’s interpretation of Islamic *Sharia* precepts and contains provisions which directly discriminate between girls and boys under the criminal justice system. One of the most telling examples is the age of criminal responsibility, which is set at nine lunar years for girls (equivalent to eight years, nine months in solar years) and fifteen lunar years for boys (equivalent of fourteen years, seven months in solar years).¹⁰ The Islamic Republic of Iran has not increased the age of criminal responsibility for girls, nor does it appear that the Government has considered such change.

Other provisions under the Iranian criminal justice system discriminate between girls and boys. To name a few, a girl over the age of nine or a woman’s testimony is valued at half that of a man’s¹¹, or not even considered¹², in some proceedings. Another instance is that the Islamic Penal Code (2013) penalizes women and girls over the age of nine who do not comply with the Islamic dress code in public, notably with wearing the compulsory *hijab*.¹³

⁸ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf

⁹ Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

¹⁰ Criminal responsibility, Articles 140, 146 and 147 of the Islamic Penal Code, 2013 <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

¹¹ Islamic Penal Code, 2013, Articles 74, 75 199, English Translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-one-book-two/>

¹² Islamic Penal Code, 2013, Article 119, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-one-book-two/>

¹³ Islamic Penal Code, 2013, Article 638, Iran Human Rights Documentation Center, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

There are a number of mechanisms where Iranian citizens can report violations of their rights in the Islamic Republic of Iran, including the Article 90 Commission of the parliament,¹⁴ or Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts.¹⁵ However and as aforementioned, gender discrimination is inherent in the criminal justice system in the Islamic Republic of Iran. Consequently, there is little opportunity for one's complaint in that matter to be adequately addressed and properly adjudicated in compliance with international standards. There is no independent National Human Rights Institution competent to receive complaints from children, including girls, in the Islamic Republic of Iran. With regards to illegal acts of violence against women under Iranian law, there is no readily available information that might suggest that complaints are adequately addressed, investigated and adjudicated.

Children are not treated equally and without discrimination within the criminal justice system of the Islamic Republic of Iran.

Recommendation Status:

This recommendation has **NOT** been implemented.

¹⁴ The Article 90 Commission was established to receive the citizens' complaints against government institutions and has the responsibility to review them and transmit cases for judicial procedure accordingly.

¹⁵ These committees have the responsibility to oversee the strict implementation of the "Law on Respect for Legitimate Freedoms and Civil Rights"