

**Special Rapporteur on the situation of human rights in the Islamic Republic of Iran  
A/HRC/40/67 para 75(h)**

**Full recommendation:**

*Pending implementation of the aforementioned recommendations, and without prejudice to the binding obligation enshrined in the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights to not sentence children to death and to not execute child offenders, the Special Rapporteur recommends that the judiciary: (h) Ensure that the court takes into account the circumstances in which the child is living and the conditions in which any offence has allegedly been committed, including through the preparation, introduction and full consideration of pre-sentence reports. Ensure that the court is informed about all relevant facts about the child, such as social and family background, wealth, education and circumstances of marriage. Ensure that adequate social services capacity has been established to be able to provide such reports and is mandated to provide such advice.*

**Assessment using Impact Iran human rights indicators<sup>1</sup>**

**A. The Special Rapporteur recommends that the judiciary ensures that the court takes into account the circumstances in which the child is living and the conditions in which any offence has allegedly been committed, including through the preparation, introduction and full consideration of pre-sentence reports**

A number of articles in the Islamic Penal Code<sup>2</sup> and the Code of Criminal Procedure<sup>3</sup> recommend the court to take into consideration the circumstances in which the child is living and the conditions in which any offence has allegedly been committed. However, in accordance with Article 211 of the Penal Code, the judge is given full discretion to issue a verdict based on what is usually referred to as the ‘judge’s knowledge’. Ultimately, the judge can issue a verdict without taking into account pre-sentence reports.

Children who have reported acts of torture and ill-treatment against them as well as forced confessions of guilt and subsequently denied their confessions have been sentenced to the death

<sup>1</sup> CCPR.6.5.S.1; CRC.6.1.S.2; CRC.37.4.S.1; CCPR.6.5.P.1; CRC.37.4.P.1; CCPR.6.5.O.1; CCPR.6.5.O.2

<sup>2</sup> Articles 88, 90, 91 of Islamic Penal Code.

<sup>3</sup> Article 410 of the Criminal Procedure Code.

penalty in the Islamic Republic of Iran suggesting that the court doesn't take into account all circumstances in which any offence has been allegedly committed.<sup>4 5 6 7</sup>

**B. The Special Rapporteur recommends that the judiciary ensures that the court is informed about all relevant facts about the child, such as social and family background, wealth, education and circumstances of marriage.**

As mentioned above, the law recommend that the court is informed about all relevant facts about child, but it is not a requirement. As such, the judiciary does not ensure that the court is informed about all relevant facts about the child. For example, while Article 149 of the Islamic Penal Code excludes anyone with mental disorder from criminal responsibility, there has been cases where children diagnosed with mental disorder prior to their trial have been executed nonetheless.<sup>8 9 10</sup>

**C. The Special Rapporteur recommends that the judiciary ensures that adequate social services capacity has been established to be able to provide such reports and is mandated to provide such advice.**

Correctional facilities work with the State Welfare Organization who may provide the services of experts as well as support programmes. Experts from the Welfare Organization may provide reports to the courts.

However, there is no readily available information that might suggest that the Iranian judiciary ensures that adequate social services capacity has been established to be able to provide reports about the circumstances in which the child is living and the conditions in which any offence has allegedly been committed, as well as all relevant facts about the child.

Recommendation Status:

This recommendation has **NOT** been implemented.

<sup>4</sup> See: <https://www.en-hrana.org/juvenile-offender-death-row-ardabil-prison>; <https://www.en-hrana.org/open-letter-kurdish-citizen-fears-for-imprisoned-brothers-life> ; <https://www.en-hrana.org/mohammad-saber-malek-reisi-teenager-became-adult-prison>

<sup>5</sup> OHCHR News, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23689&LangID=E>

<sup>6</sup> Amnesty International, <https://www.amnesty.org/en/latest/news/2019/04/iran-two-17-year-old-boys-flogged-and-secretly-executed-in-abhorrent-violation-of-international-law/>

<sup>7</sup> Amnesty International, <https://www.amnesty.org/en/latest/news/2020/12/iran-stop-execution-of-young-man-arrested-at-16-and-forced-to-confess/>

<sup>8</sup> Amnesty International, <https://www.amnesty.org/en/latest/news/2020/04/iran-execution-of-young-man-vengeful-and-cruel/>

<sup>9</sup> OHCHR News, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24581&LangID=E>

<sup>10</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F40%2F67&Language=E&DeviceType=Desktop>