

Concluding Observations Committee on the Rights of the Child CRC/C/IRN/CO/3-4 para 28

Full recommendation:

The Committee urges the State party to revise, as a matter of urgency and priority, its legislation in order to ensure that all persons below the age of 18 years, without exceptions, are considered as children and are provided with all the rights under the Convention. The Committee also urges the State party to further increase the minimum age for marriage for both girls and boys to 18 years, and to take all necessary measures to eliminate child marriages in line with the State party's obligations under the Convention.

Assessment using Impact Iran human rights indicators¹

A. Ensure that all persons below the age of 18 years, without exceptions, are considered as children and are provided with all the rights under the Convention

The Convention on the Rights of the Child (CRC), in its first article, defines children as individuals who have yet to reach the age of eighteen.² Despite this definition, there is still ambiguity as to who can be considered a child in Iran. The Islamic Penal Code (2013)³ establishes the age of criminal responsibility at 9 lunar years for girls and 15 lunar years for boys.⁴ However, the age of responsibility for *ta'zir* crimes (crimes for which fixed penalties are not provided in Islamic law giving the judge discretion as to the sentence imposed) is 18 years for all children. In these cases, 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 and 15 lunar years for girls and boys respectively. Reportedly, four convicted child offenders were executed in 2019 in the Islamic Republic of Iran.⁵

Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Parliament's Article 90 Commission (based on Article 90 of the Constitution, offering a mechanism for citizens to file complaints against any of the three branches of power) and the Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts, there is no evidence to suggest that complaints to these bodies are

¹ CRC.19.1.S.1 ; CRC.19.1.S.2; CRC.37.1.S.2 CRC.19.1.P.1; CRC.37.1.P.1 CCPR.23.3.P.1 CCPR.3.1.O.2 CRC.37.1.O.1

² OHCHR, Convention of the Rights of the Child, Article 1: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

³ 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/>

⁴ Article 1210, note 1

⁵ <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

independently reviewed and investigated.⁶ There is no independent National Human Rights Institution competent to receive complaints from children, including girls, in the Islamic Republic of Iran.

The prohibition of imposing the death penalty on children is widely considered to be *jus cogens* under international law and represents a violation of Articles 6(5) of the International Covenant on Civil and Political Rights and 37(a) of the Convention on the Rights of the Child. The Human Rights Committee has explicitly stipulated that the death penalty cannot be imposed if it cannot be proved, beyond reasonable doubt, that the accused was older than 18 years old at the time of the offence.⁷

The Islamic Republic of Iran has not ensured that all persons below the age of 18 years, without exceptions, are considered children and are provided with all rights under the Convention.

B. Further increase the minimum age for marriage for both girls and boys to 18 years, and to take all necessary measures to eliminate child marriages in line with the State party's obligations under the Convention

Child marriage continues to be permitted under Iranian law. The legal minimum age for marriage is 13 for girls and 15 for boys.⁸ However, children who have reached puberty can marry with parental consent and court approval.⁹ The predefined age of puberty under the Islamic Republic of Iran, and the age of legal majority, is 9 lunar years for girls and 15 lunar years for boys.¹⁰ Marriage before puberty is criminalised in accordance with Article 50 of the Family Protection Act¹¹ and is punished under Article 646 of the Islamic Penal Code (2013).¹²

In 2018, a proposed amendment to Article 1041 of the Civil Code that would raise the age of marriage for girls from 13 to 16, while allowing earlier marriage with legal and medical approval, was rejected by the Parliament's Committee for Judicial and Legal Affairs.¹³ In

⁶ Joint submission to the Human Rights Committee, Abdorrahman Center, Iran Human Rights Documentation Center (IHRDC), Impact Iran and Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fIRN%2f42313&Lang=en

⁷ UN Human Rights Committee, General Comment no.36, Article 6 (Right to life), 3 September 2019, CCPR/C/GC/35, available at <https://www.refworld.org/docid/5e5e75e04.html>

⁸ Article 1041 of the Civil Code as amended up until December 2000, NGO Impact Iran Coalition, Joint Submission to the Committee on the Rights of the Child, 2016

⁹ Iran Human Rights Documentation Center, https://iranhrdc.org/wp-content/uploads/pdf_en/LegalCom/Womens_Rights_Commentary_389929723.pdf

¹⁰ Committee on the Rights of the Child, 2016, CRC/C/IRN/CO/3-4, paras. 27–28 <https://undocs.org/en/CRC/C/IRN/CO/3-4>

¹¹ Universal Periodic Review, Iran, 2019, <https://undocs.org/A/HRC/43/12>

¹² Islamic Penal Code (2013), Islamic Republic of Iran, Iran Human Rights Documentation Center, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹³ Amnesty International, UPR submission 2019, <https://www.amnesty.org/download/Documents/MDE1305732019ENGLISH.PDF>

February 2019, the chair of the Committee stated that a “new plan” would be introduced for the approval of parliament and the Guardian Council.¹⁴

During its last Universal Periodic Review (November 2019), the Government of the Islamic Republic of Iran stated that the Act on Protection, Dignity and Security of Women against Violence, currently under governmental review, will be “aimed at criminalising new forms of assault, harassment and violations of the rights of women and adopting preventive and support measures to stop violence against women.”¹⁵ Reportedly, the bill would also include the prohibition of forced and early marriage for girls under 18.¹⁶ However the bill has been under review since 2010¹⁷ and as of February 2021, is under the review of the Iranian Parliament.¹⁸ In January 2020, the UN Secretary General expressed concerns about the slow progress of the bill. Additionally, the Secretary General noted that “critical articles were reportedly removed from the initial proposal of the Executive, including provisions protecting women from various forms of violence and criminalising domestic violence.”¹⁹ ²⁰ The Government of the Islamic Republic of Iran also noted during its 2019 Universal Period Review that bills already drafted and currently going through the adoption process dealt with the prohibition of early marriage, although without specifying the age limitation. The Government added that it was raising awareness on the issue of child marriage in local communities.²¹

Between March 2018 and March 2019, the National Organisation for Civil Registration reported over 30,000 marriages involving girls between the age of 10 and 14, including 209 marriages involving girls under the age of 11.²² ²³ However, the number is likely to be higher as many child marriages are unregistered.²⁴ In January 2020 the Secretary General highlighted that “the Government [of the Islamic Republic of Iran] expressed the view that setting the minimum age of marriage regardless of the cultural context would increase unregistered marriages.”²⁵

¹⁴ Information from Impact Iran; see www.tasnimnews.com/fa/news/1397/11/17/1941311/

¹⁵ Universal Periodic Review, Iran, 2019, <https://undocs.org/A/HRC/43/12>

¹⁶ Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/eoir/page/file/1203136/download> ; Iran Newspaper, ‘Hamsari ke zendegi nemikonad amma mamnou’ol khorouj mikonad [A spouse who doesn’t live but bans me from leaving the country],’ 4 October 2015, <https://bit.ly/2youDGX>

¹⁷ Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/eoir/page/file/1203136/download>

¹⁸ New York Times, <https://www.nytimes.com/2021/01/05/world/middleeast/iran-sexual-violence-metoo-women.html>

¹⁹ Report of the Secretary General, Situation of human rights in the Islamic Republic of Iran, 2020,

²⁰ See <https://en.radiofarda.com/a/new-watered-down-draft-law-on-violence-against-women-iniran/30173089.html> ; and www.isna.ir/news/98071612729/ (in Farsi).

²¹ Universal Periodic Review, Iran, 2019, <https://undocs.org/A/HRC/43/12>

²² Report of the Secretary General, Situation of Human Rights in the Islamic Republic of Iran, 2020, para 37 https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Secretary-General_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4320.pdf

²³ See www.sabteahval.ir/avej/tab-1499.aspx (in Farsi)

²⁴ Report of the Secretary General, Situation of Human Rights in the Islamic Republic of Iran, 2020, para 37

²⁵ Report of the Secretary General, Situation of Human Rights in the Islamic Republic of Iran, 2020, para 37 https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Secretary-General_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4320.pdf

Despite bills being currently reviewed which would potentially prohibit early marriage in the Islamic Republic of Iran, girls and boys as young as 9 and 15 lunar years respectively can still get married under Iranian legislation and translate reportedly in widespread practice.^{26 27 28} In 2016, the Committee on the Rights of the Child stated that the legal age of marriage in the Islamic Republic of Iran “gravely violated rights under the Convention [on the Rights of the Child] and placed children, in particular girls, at risk of forced, early and temporary marriages, with irreversible consequences on their physical and mental health and development.”²⁹

As of February 2021, the Islamic Republic of Iran has not increased the minimum age for marriage for both girls and boys to 18. In light of the above, the Government has not taken all necessary measures to eliminate child marriages in line with the State party’s obligations under the Convention on the Rights of the Child.

Recommendation Status:

This recommendation has **NOT** been implemented.

²⁶ Report of the Secretary General, Situation of Human Rights in the Islamic Republic of Iran, 2020, para 37 https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Secretary-General_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4320.pdf

²⁷ See www.sabteahval.ir/avej/tab-1499.aspx (in Farsi)

²⁸ See Human Rights Activists News Agency : <https://www.en-hrana.org/?s=child+marriage>

²⁹ CRC/C/IRN/CO/3-4, para. 27-28 <https://undocs.org/en/CRC/C/IRN/CO/3-4>