

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran
A/73/398 para 35

Full recommendation:

The Special Rapporteur expresses his grave concern at the continuing execution of juvenile offenders in the Islamic Republic of Iran and calls upon the Government to immediately prohibit all executions of persons charged with offences that they committed when under the age of 18 years. He further recommends that the Government abolish the death penalty in all cases and, pending that measure, introduce a moratorium.

Assessment using Impact Iran human rights indicators¹

A. The Special Rapporteur calls upon the Government to immediately prohibit all executions of persons charged with offences that they committed when under the age of 18 years

The Islamic Penal Code (2013)² establishes the age of criminal responsibility to be of 9 lunar years for girls and 15 lunar years for boys.³ However, the age of responsibility for *ta'zir* crimes (crimes for which specific penalties are not provided for under Islamic law)⁴ is 18. For *ta'zir* crimes, convicted children are sentenced to correctional measures. In contrast, criminal responsibility for crimes punishable under *hudud* (punishments established by God) or *qisas* (punishment or retribution in kind), which carry mandatory punishments, such as the death penalty, is maintained at the age of “maturity”, which 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

¹ CRC.6.1.S.2; CCPR.6.2.S.1; CCPR.6.5.S.1; CCPR.6.2.P.1; CCPR.6.5.P.1; CCPR.6.2.O.2; CCPR.6.5.O.1; CCPR.6.5.O.2

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 the punishments for 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, which 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”.

In cases regarding *qisas*, the pardon or commutation of the sentence is based solely on the request of the victim or the victim's guardian. This deprives the child defendant of his or her right to seek pardon or commutation of the sentence by the State.⁷ There are a number of institutions that can intervene in order to mediate cases of children sentenced through *qisas*. This mediation is notably used to convert *qisas* sentences into *diya* sentences (blood money). These institutions include a reconciliation commission, a working group tasked to support mediation with the victim's next of kin, conflict resolution council branches and the Women and Children and Protection Office of the Judiciary.⁸ There is no readily available information that would indicate the number of cases received, reviewed and adjudicated by these institutions.

Article 91 of the Islamic Penal Code, revised in 2013, allows judges to pronounce alternative sentences in circumstances where the juveniles “do not realise the nature of the crime committed or its prohibition, or if there is uncertainty about their full mental development, according to their age”.⁹ The Article further adds that “the court may ask for the opinion of forensic medicine or resort to any other method that it sees appropriate in order to establish the full mental development [of the accused]”. In 2017, a number of UN special procedure mandate holders considered the ongoing executions of child offenders in the Islamic Republic of Iran as “conclusive proof of the failure of the 2013 amendments to stop the execution of individuals sentenced to death as children”.¹⁰ In 2019, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran found that the aforementioned assessment of the mental development of the accused at the time of the offence was “arbitrary and inconsistent, and at the sole discretion of the judge, who can choose whether to seek medical advice or not”.¹¹

Over the years, several executions of child offenders have been commuted in Iran, however, these reports are rare.¹²

In the 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 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”.¹³

⁷ 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>

⁸ Ibid.

⁹ Article 91, 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/>

¹⁰ See OHCHR News, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21547&LangID=E

¹¹ 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>

¹² For more, please see: Abdorrahman Boroumand Center for Human Rights in Iran - <https://www.iranrights.org/projects/omidmap>

¹³ 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

The prohibition on the imposition of the death penalty on children is 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 proven, beyond a reasonable doubt, that the accused was 18 years old or older at the time of the offence.¹⁴ Executions of child offenders continue to be carried out in the Islamic Republic of Iran. Four convicted child offenders were reportedly executed in 2019 in the Islamic Republic of Iran.¹⁵

According to data collected by Iran Human Rights (IHR) and international human rights organisations, the Islamic Republic is responsible for more than 70% of all executions of juvenile offenders in the last 30 years. IHR's statistics also show that at least 63 juvenile offenders have been executed in Iran over the past 10 years, with at least four executed in 2019 and four in 2020.¹⁶ There is no readily available information that might indicate the existence of steps taken by the Government to repeal all laws imposing the death penalty against child offenders.

The Government of the Islamic Republic of Iran did not prohibit all executions of persons charged with offences that they committed when under the age of 18.

B. The Special Rapporteur further recommends that the Government abolish the death penalty in all cases and, pending that measure, introduce a moratorium

In its latest General Comment on Article 6 of the International Covenant on Civil and Political Rights, the Human Rights Committee explicitly stipulated that the term “most serious crimes” must “be read restrictively and appertain only to crimes of extreme gravity, involving intentional killing. Crimes not resulting directly and intentionally in death [...], although serious in nature, can never serve as the basis, within the framework of Article 6, for the imposition of the death penalty. In the same vein, a limited degree of involvement or of complicity in the commission of even the most serious crimes, [...], cannot justify the imposition of the death penalty.”¹⁷

In the Islamic Republic of Iran, the death penalty continues to be applied to a wide range of offences that do not meet the threshold of “most serious crimes”, in other words, crimes that do not involve intentional killing,¹⁸ thus contravening Article 6 of the International Covenant on

¹⁴ UN Human Rights Committee (HRC), 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>

¹⁵ ECPM, Iran Human Rights: <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

¹⁶ <https://iranhr.net/en/articles/4648/>

¹⁷ 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>

¹⁸ 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>

Civil and Political Rights. For example, in Iran the death penalty may be applied in some cases of adultery,¹⁹ for certain cases of consensual same-sex intercourse between men²⁰ or for vaguely defined offences such as *moharebeh* (“enmity against God”)²¹ and *efsad-e fel-arz* (“corruption on earth”).²²

In November 2017, an amendment made to the law on drug trafficking entered into force, replacing the mandatory death penalty with a prison term of up to 30 years for non-violent drug-related offences and increasing the quantity of drugs required for a death sentence to be imposed. However, mandatory death sentences for numerous drug-related offences remained and a number of crimes, in specific circumstances, were transformed into capital crimes for first-time offenders.²³ In 2019, 30 individuals were reportedly executed on drug-related charges.²⁴ The Human Rights Committee has consistently underscored that drug-related offences do not meet the threshold of “most serious crimes” and the death penalty should not be applied to them.²⁵

Despite the existence of several means and mechanisms that accept complaints regarding the violation of rights in Iran, such as the Judge’s Disciplinary Court, the Parliament’s Article 90 Commission and, in general, any courts of appeals including the Supreme Court, there is little evidence to suggest that these complaints are properly investigated and adjudicated. Iran does not have any administrative processes or independent human rights monitoring mechanisms in place to ensure the prohibition of capital punishments.

Between January 2015 and December 2018, the Islamic Republic of Iran reportedly executed at least 2,303 people.²⁶ Reports received by the Office of the United Nations High Commissioner for Human Rights (OHCHR) indicated a decrease in the number of executions between 2017 and 2018 (437 in 2017 compared to 207 in 2018 for the same period).²⁷ Iran Human Rights and ECPM reported that the Islamic republic carried out at least 273 executions in 2018, 280 in 2019, and 267 in 2020.²⁸

While the amended drug trafficking law reduced the number of offences punishable by the death penalty, the Islamic Republic of Iran still has a wide range of capital crimes. In 2019, Iran was

¹⁹ Islamic Penal Code (2013) articles 136 and 225

²⁰ Islamic Penal Code (2013) article 235

²¹ Islamic Penal Code (2013) article 279

²² Islamic Penal Code (2013) article 286

²³ Drug trafficking law, articles 8 and 45.

²⁴ ECPM, Iran Human Rights, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

²⁵ CCPR/C/PAK/CO/1, para. 17; CCPR/C/THA/CO/2, para. 17; CCPR/C/KWT/CO/3, para. 22; A/71/372, para. 48; and Human Rights Committee, general comment No. 36.

²⁶ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1305732019ENGLISH.PDF>

²⁷ Report of the UN Secretary General on the situation of human rights in the Islamic Republic of Iran, February 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/028/77/PDF/G1902877.pdf?OpenElement>

²⁸ https://iranhr.net/media/files/Rapport_iran_2021-gb-290321-BD.pdf

the second country with the highest number of reported executions, behind China.^{29 30 31 32} According to reports by Iran Human Rights, at least 30 people were executed on drug-related charges in 2019 and 25 in 2020.³³ On May 3, Iran Human Rights reported that during the first four months of 2021, 22 out of 82 executions were carried out as a result of drug-related charges - a 300% increase compared to the first trimesters of the two previous years.³⁴

The Islamic Republic of Iran did not introduce a moratorium on the death penalty and continues to carry out executions.^{35 36} A significant number of individuals are reportedly currently on death row in the Islamic Republic of Iran³⁷ with seemingly no prospect of commutation.

The Government of the Islamic Republic of Iran did not abolish the death penalty in all cases and, pending that measure, did not introduce a moratorium.

Recommendation Status:

This recommendation has **NOT** been implemented.

²⁹ <https://www.amnesty.org/en/latest/news/2020/04/death-penalty-in-2019-facts-and-figures/>

³⁰ See more: ECPM, Iran Human Rights https://iranhr.net/media/files/Rapport_iran_2019-GB-BD.pdf

³¹ See more: Abdorrahman Boroumand Center <https://www.iranrights.org/projects/omidmap>

³² See more: Human Rights Activists in Iran <https://www.en-hrana.org/wp-content/uploads/2019/10/Annual-Report-of-Executions-2019.pdf>

³³ https://iranhr.net/media/files/Rapport_iran_2021-gb-290321-BD.pdf

³⁴ <https://iranhr.net/en/articles/4721>

³⁵ United For Iran, <https://ipa.united4iran.org/en/prisoner/5328/>

³⁶ Center for Human Rights in Iran, <https://iranhumanrights.org/2020/12/three-baluch-prisoners-executed-three-others-in-imminent-danger-of-execution/>

³⁷ Radio Farda, <https://en.radiofarda.com/a/more-than-thirty-people-are-on-death-row-in-iran-says-afkari-s-lawyer/30840157.html>