

Concluding Observation Committee on the Rights of the Child CRC/C/IRN/CO/3-4 para 36(a)

Full recommendation:

End the execution of children and persons who committed a crime while under the age of 18.

Assessment using Impact Iran human rights indicators¹

The execution of child offenders – with children defined as human beings below the age of 18 years old² – is prohibited under international law, namely Article 37 of the Convention on the Rights of the Child (“CRC”), Article 6(5) of the International Covenant on Civil and Political Rights (“ICCPR”) and customary international law.³ The death penalty is not to be imposed for crimes committed by persons under 18 years old, regardless of their age at the time of trial, sentencing or the execution of the capital punishment.⁴ Iran has ratified the CRC and ICCPR, thus it is explicitly obligated to prohibit such executions.

The laws in Iran, particularly the Islamic Penal Code of 2013 (“Islamic Penal Code”), still impose death penalties for child offenders. Article 146 of the Islamic Penal Code establishes that persons not considered mature are not responsible for any crimes, but Article 147 stipulates that the age of maturity (and therefore, criminal responsibility) for girls is 9 years old and for boys 15 years old. Therefore, child offenders of these ages and above may be punished under that law,⁵ including for all crimes that are subject to the death penalty in Iran, such as murder, *qisas* (retribution in kind),⁶ organised crime, sodomy, adultery and *moharebeh* (waging war with God).⁷ *Qisas* is an offence that entails a mandatory punishment, with no consideration as to mitigating factors such as the offender’s age.

Iran has undertaken several legislative reforms to restrict the issuance of death sentences for child offenders. On 12 May 2020, Iran introduced the Law on Protection of Children and Adolescents,⁸ which seeks to provide alternative punishments to capital punishment for persons under the age of 18. This law excludes *qisas* (retribution in kind) and emphasises that the Islamic Penal Code, and thus the death penalty, is still valid in such cases.⁹

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

² CRC Article 1.

³ See Commission on Human Rights resolution 2003/67.

⁴ CRC General Comment No. 10 “Children’s rights in juvenile justice” (2007), para 75, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f10&Lang=en

⁵ Article 147 of the Islamic Penal Code.

⁶ For instance, if a person cuts off someone else’s finger, the victim may inflict the same punishment onto the perpetrator.

⁷ Article 279 of the Islamic Penal Code states: “Moharebeh is defined as drawing a weapon on the life, property or chastity of people or to cause terror as it creates the atmosphere of insecurity.”

⁸ See <https://shenasname.ir/laws/6788>

⁹ Article 25 of the Law of “Protection of Children and Adolescents”.

In 2013, Iran amended the Islamic Penal Code to give judges the discretion to exempt children from the death penalty, under Article 91 of Islamic Penal Code, if the judge assessed that the child did not realise the nature of the crime or if there is uncertainty about his or her mental development (in other words, the child defendant is not “completely mature”) at the time of committing the crime. If the defendant was deemed not completely mature at the time of committing the crime, the court may impose alternative punishments, such as imprisonment. The Government of Iran stated its policy goal to utilize mediation when possible so as to avoid executions.¹⁰ Furthermore, the Islamic Penal Code’s guiding notes highlight the importance of restorative justice and juvenile rehabilitation, and provides the opportunity for judges to exercise discretion by seeking a medical expert’s opinion from the “Forensic Medicine Organization” to determine the defendant’s maturity at the time of the crime.

In 2014, Iran’s Supreme Court also confirmed that all juvenile offenders on death row could apply for a retrial.¹¹ In June 2015, Iran introduced reforms specifying that juveniles accused of a crime must be dealt with by specialised juvenile courts. Previously, juvenile offenders accused of capital crimes were generally prosecuted by adult courts.¹² Iran’s legal system considers that juveniles are those individuals who are above Iran’s age of maturity under Article 147 of the Islamic Penal Code, yet under 18 years old.

Despite legal developments and the opportunity to impose alternative sentences for child offenders, Iranian law continues to permit the imposition of the death penalty for child offenders, which can be applied to cases of murder (in accordance with *qisas*).¹³ Since 1990, Iran has reportedly executed more child offenders than any other State worldwide, and their total number of such executions is over double the cumulative number of child offenders executed by the following nine States with the highest number of child executions.¹⁴ Reportedly, Iranian authorities have executed at least 33 child offenders since 2013.¹⁵ This number includes 13 child offenders in 2014, 5 in 2017, 6 in 2018, 4 in 2019 and 4 in 2020.¹⁶

¹⁰ <https://undocs.org/en/A/HRC/40/67 para 39>

¹¹ <https://rc.majlis.ir/fa/law/show/133797>

¹² The amendment to Criminal Procedure Code, Article 315 of the Code of Criminal Procedure calls for the establishment of one or several special juvenile branches in Provincial Criminal Courts (renamed Criminal Courts 1 under the Code of Criminal Procedure), with jurisdiction over all offences committed by people under 18 years of age which ordinarily fall, when committed by adults, under the jurisdiction of Provincial Criminal Courts or Revolutionary Courts. <https://shenasname.ir/laws/2327-keifari>

¹³ Iran Human Rights and ECPM, “Annual Report on the Death Penalty in Iran 2019”, <https://www.iranhr.net/en/reports/22/>

¹⁴ Amnesty International, “Executions of Juveniles Since 1990 as of November 2019”, accessed April 25, 2020, <https://www.amnesty.org/download/Documents/ACT5002332019ENGLISH.pdf>

¹⁵ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, A/HRC/40/67 (30 January 2019) para 60, <https://undocs.org/en/A/HRC/40/67>

¹⁶ <https://iranhr.net/en/articles/4727/>

Despite some reports of child offenders having their sentences commuted,¹⁷ such reports are rare when compared to the estimated number of child offenders executed annually.¹⁸ As of July 2019, the UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Javaid Rehman (“Special Rapporteur”), estimated that 90 individuals sitting on death row were under the age of 18 at the time of their alleged offences.¹⁹

Iran has justified the execution of child offenders because it does not execute any children under the age of 18 years old. That is, under Islamic Penal Code, if a child commits a crime punishable by death, the death sentence can be imposed on that individual after a court hearing, but the execution of the death penalty will be suspended until the offender reaches the age of 18 years old.

In recent years, there have been numerous reports that Iranian courts have selectively applied Article 91 of Islamic Penal Code and its guiding notes in sentencing child offenders to the death penalty.²⁰ In 2016, the Committee on the Rights of the Child expressed “serious concern” that decisions to exempt children from death sentences under Article 91 of Islamic Penal Code are under full judicial discretion.²¹ The Special Rapporteur described this judicial discretion as “problematic” because the criteria for assessing children’s mental development is undefined and subjective.²²

Despite forensic reports confirming that the defendant was not “fully mature” at the time of the crime, some judges reportedly have decided that the defendant was mature and the language of Article 91 of Islamic Penal Code did not apply to the individual, as they had previously been charged for criminal activities (e.g. robbery). Some judges allegedly have concluded that the child offender was “mature” based on simple factors, including: if the child understood it is wrong to kill another human being, if the defendant had grown body hair (used as an assessment for mental development), or contributed a lack of mental health concerns with criminal responsibility as those with diminished criminal responsibility typically have mental health issues or are “afflicted with insanity”.²³

¹⁷ ISNA News, “The death sentence of 6 juvenile offenders was commuted on February 8, 2017” (in Persian): <https://www.isna.ir/news/95112014376/>

¹⁸ See Abdorrahman Boroumand Center for Human Rights in Iran, <https://www.iranrights.org/projects/omidmap>

¹⁹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, A/74/188 (18 July 2019) para 10, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

²⁰ Amnesty International, <https://www.amnestyusa.org/press-releases/irans-hypocrisy-exposed-as-scores-of-juvenile-offenders-condemned-to-gallows/>

²¹ CRC/C/IRN/CO/3-4, paras 35–36

²² Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, A/HRC/40/67 (30 January 2019) para 61, <https://undocs.org/en/A/HRC/40/67>

²³ Amnesty International, <https://www.amnestyusa.org/press-releases/irans-hypocrisy-exposed-as-scores-of-juvenile-offenders-condemned-to-gallows/>; Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, A/HRC/40/67 (30 January 2019) para 61, <https://undocs.org/en/A/HRC/40/67>

Overall, despite some judicial and legislative developments in Iran purporting to reduce the imposition of capital punishment for child offenders, in practice they have had little effect.

Recommendation Status:

This recommendation has **NOT** been implemented.