

Inhuman sentencing of children in Iran

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Inhuman sentencing of child offenders in Iran

1. In Iran, children may lawfully be sentenced to death, life imprisonment and corporal punishment for offences committed while under the age of 18. The Islamic Penal Code 2013 (IPC) came into force in May 2013, replacing the 1991 Code, and has changed the law in relation to these sentences, though they all remain lawful.
2. There is no separate juvenile justice law in Iran. Children and young people convicted of an offence are primarily sentenced under the Islamic Penal Code 2013. The Child Protection Law (2002) prohibits abuses of all persons under the age of 18,¹ but does not address children in conflict with the law.
3. The Civil Code defines puberty as 15 lunar years for boys and 9 lunar years for girls² (i.e. 14 years and 7 months for boys and 8 years and 9 months for girls).³ This definition has been unaffected by the new IPC.

Legality of inhuman sentencing

The death penalty

4. The death penalty remains common and legal in Iran, including for persons under the age of 18 at the time of committing an offence.
5. The Islamic Penal Code 2013 does not explicitly include the death penalty within the penalties that may be applied to persons under the age of 18.⁴ However, the IPC provides that for offences punishable by *hodud* or *qesas*, “mature persons younger than 18 shall be sentenced to the punishments stipulated in this chapter [the chapter that sets out penalties for children], if

¹ Child Protection Law, Articles 1 and 2

² Article 1210, Note 1. English translation available at: <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/3016-the-civil-code-of-the-islamic-republic-of-iran.html#UxBwQIO9gdM>.

³ Cipriani, D. (2009), *Children's Rights and the Minimum Age of Criminal Responsibility: A Global Perspective*, Farnham: Ashgate Publishing Limited, p.200

⁴ See Islamic Penal Code, Articles 89-95.

they do not understand the nature of the offence committed or its prohibition or if there are doubts about their maturity or development of their reasoning.”⁵ In effect, this article gives judges discretion to determine if a child was mature at the time of committing an offence, and so whether the death penalty may be applied. The explanatory note to this Article authorises, but does not require, the court to seek the opinion of the Forensic Medicine Department or use any other means to reach a judgment on issues of maturity and development.⁶

Life imprisonment

6. The Islamic Penal Code 1991 prescribed life imprisonment for theft (third offence),⁷ and for ordering or forcing another person to commit murder.⁸ In the IPC 2013, the relevant provisions have been renumbered but life imprisonment remains a lawful sentence for both offences.⁹

Corporal punishment

7. Under the Islamic Penal Code 1991, corporal punishment was a lawful criminal penalty for offences committed while under the age of 18. The Penal Code 2013 retains sentences of whipping and flogging, but we have been unable to examine the reforms in detail.¹⁰

Inhuman sentencing in practice

Death penalty

8. Executions continue to be carried out despite announcements of moratoria in 2002 and 2008.¹¹ Recent figures vary between sources, but between 1999 and March 2009, at least 42 executions of juvenile offenders were recorded,¹² Since then, FIDH has reported that one child offender was executed in 2010, seven in 2011, one in 2012 and five in 2013.¹³ Other sources

⁵ Islamic Penal Code, Article 91

⁶ See FIDH, *Death penalty in Iran: A state terror policy*, October 2013, p. 7. Available at: <http://www.fidh.org/en/asia/iran/death-penalty-in-iran-a-state-terror-policy-14075>.

⁷ Islamic Penal Code 1991, Article 201.

⁸ Islamic Penal Code 1991, Article 211.

⁹ Islamic Penal Code 2013, 278, 375. Available at: <http://rc.majlis.ir/fa/news/show/845002>.

¹⁰ See Islamic Penal Code 2013.

¹¹ FIDH (2009); see also Dhimmi watch (from AFP), 4 February 2008, and Amnesty International (2008), “Suspension of stoning executions a welcome step if carried out”, 15 August 2008

¹² FIDH, *Iran death penalty: A state terror policy*, p. 27. Available at: http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf.

¹³ See FIDH, *Death penalty in Iran: A state terror policy*, October 2013, p. 7.

have provided slightly different figures. In 2011, Iran Human Rights reported the execution of four juveniles¹⁴ while Amnesty put the figure at three confirmed executions of child offenders, with unconfirmed reports of a further four.¹⁵

Life imprisonment and corporal punishment

9. We have been unable to obtain figures relating to sentences of corporal punishment and life imprisonment.

International human rights mechanisms

10. During the first cycle of the Universal Periodic Review in 2009, Iran accepted recommendations made by Kazakhstan and Belgium on considering the abolition of the death penalty as it applies to children. The State rejected further recommendations from Belgium, Brazil, Canada, Estonia, France, Germany, Israel, Italy, Japan, Luxembourg, New Zealand, Slovakia and Slovenia, and made no response to such recommendations from Australia, Austria, Czech Republic, Chile, France, Ireland, Hungary, Netherlands, Spain and the United Kingdom.¹⁶

11. In its Concluding Observations on Iran's 2005 periodic report, the UN Committee on the Rights of the Child urged the State to abolish the death penalty for crimes committed by persons under 18.¹⁷ The Human Rights Committee also called on Iran to abolish the death penalty for crimes committed while under the age of 18.¹⁸

The review of Iran by the members of the Human Rights Council

12. In light of the clear international human rights consensus against the imposition of the death penalty, life imprisonment and corporal punishment of child offenders and the specific recommendations made to Iran by the UN Committee on the Rights of the Child, the UN Human Rights Committee and during the first cycle of the Universal Periodic Review we hope that the members of the Human Rights Council will urge the government of Iran to:

- Explicitly prohibit sentences of corporal punishment, life imprisonment and death in Iran under all systems of justice and without exception to ensure full compliance with international standards.
- Raise the minimum age of criminal responsibility and eliminate discrimination between boys and girls with regards to the minimum age of criminal responsibility.

¹⁴ Iran Human Rights "Death Penalty in Iran 2011", March 2012

¹⁵ Amnesty International, "Death Sentences and Executions in 2011" May 2012, p. 38

¹⁶ See CRIN, *Iran: Children's rights references in the Universal Periodic Review*, February 2009. Available at: <http://www.crin.org/en/library/publications/iran-childrens-rights-references-universal-periodic-review>.

¹⁷ CRC/C/15/Add.254, 31 March 2005, paras. 8, 9, 29, 30 72 and 73

¹⁸ Concluding Observations of the Human Rights Committee on Iran's third periodic report, CCPR/C/IRN/CO/3, 29 November 2011, para. 13.

- Provide disaggregated data about sentences handed down to children by offence committed and date, as well as information about children in detention, including gender, age and length of time spent in pre-trial detention in each case.