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# Rights of the Child in Iran

Joint alternative report by civil society organizations on the implementation of the Convention on the Rights of the Child by the Islamic Republic of Iran



Submitted within the framework of the UN Committee on the Rights of the Child's review of the 3rd and 4th periodic reports of the Islamic Republic of Iran



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# EXECUTIVE SUMMARY

This joint alternative report aims to contribute to the upcoming review by the Committee on the Rights of the Child (“Committee”) of the combined third and fourth periodic state reports on the Islamic Republic of Iran’s implementation of the Convention on the Rights of the Child (“CRC” or “Convention”). This submission reflects the efforts of 21 international and Iranian human rights organizations to provide the Committee with a broad assessment of some of the pressing rights issues affecting children in Iran. These issues are organized along the clusters of the CRC.

## ► GENERAL MEASURES OF IMPLEMENTATION

### **Status of the CRC in Iranian Law**

Under Iran’s Civil Code, the Convention, as a ratified international instrument, should have the force of law and thus should be enforceable in the national courts and should impact the larger legal framework. However, Iran’s reservation to the Convention and implementing national legislation gives force to the Convention only to the extent that it does not contradict domestic laws or Islamic standards, thus undermining the object and purpose of the Convention.

### **National Human Rights Institution and access to international complaints mechanisms**

Iran lacks an independent National Human Rights Institution (NHRI) that has the power to consider individual complaints and petitions from children and carry out investigations. Iran has also not signed or ratified the Third Optional Protocol to the CRC on a communications procedure or similar optional protocols to other treaties to which it is a party.

## ► DEFINITION OF A CHILD

Iran’s civil and penal codes set the age of maturity for boys at 15 lunar years and for girls at 9 lunar years. This definition assigns adult criminal responsibility to children and impacts a range of other legal rights, undermining the intended protections of the Convention.

## ► GENERAL PRINCIPLES

### **Right to Life: Domestic violence and “honor killings”**

Iran’s legal and policy framework results in grave violations of the rights to life and security of children. The Penal Code, in particular Article 301, effectively reduces punitive measures for fathers and other family members that murder or physically harm children, including in domestic violence or “honor killings.”

### **Discrimination: Gender**

Iranian law contains several provisions that discriminate between boys and girls. The age of maturity (referred to earlier) discriminates against girls and assigns them adult criminal responsibility at a younger age than boys. Girls who are physically harmed or murdered, or their next-of-kin, receive less monetary compensation from their assailants for the harm under the law. The law also discriminates in matters of inheritance, mandating that female heirs are entitled to just half of what male heirs receive.

### **Discrimination: Sexual orientation and gender identity**

Iranian children and adolescents who are or are perceived to be lesbian, gay, bisexual, or transgender (LGBT) face legal and social discrimination. Iran's Penal Code criminalizes consensual same-sex relations. Punishments include flogging and execution. LGBT children who are victims of violence, most commonly domestic violence, are unable to seek protection from authorities without potentially facing criminal punishment themselves. In schools, they are also sexually and psychologically abused and bullied by classmates, and sometimes sexually abused and raped by teachers and school administrators.

## **► CIVIL RIGHTS AND FREEDOMS**

### **Right to nationality**

According to Iranian law, children born to Iranian women and non-Iranian men can be denied nationality and corollary social benefits, at times being rendered legally stateless. The majority of these children are born of marriages between Iranian women and Afghan or Iraqi refugees or migrants.

### **Freedoms of expression, association and assembly, and access to information**

Children in Iran face restrictions on their freedoms of expression, association and peaceful assembly as well as their right to access information. Content-based offenses such as "propaganda against the state" or "insulting Islam" can incur prison terms, flogging, and even death sentences. Similarly, offenses such as "membership in an illegal organization" and "participation in an illegal gathering" criminalize association and peaceful assembly. Press and Internet laws result in widespread censorship that infringe on the right of children to access information.

### **Torture: Flogging and corporal punishment**

Iran's Penal Code provides for approximately 149 offenses that are punishable by flogging and applicable to children that reach the legal age of criminal responsibility. Rights groups have documented at least 46 cases of under-18 offenders sentenced to flogging between 2000 and 2011.

## **► FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

### **Best interest of the child: custody and guardianship**

Reforms allow child custody to be granted in the best interest of the child upon appeal of the non-custodial parent. However, fathers or paternal grandfathers retain guardianship regardless of custody, with limited grounds to be challenged, and must sign-off on a variety of important legal transactions pertaining to the child.

## **► BASIC HEALTH, WELFARE, AND EDUCATION**

### **Early and forced marriage of children**

Iran's Civil Code allows girls as young as 13 years and boys as young as 15 years to marry. Younger children can marry upon judicial approval. According to Iran's 2011 national census, 11,289 married girls were reported to have had at least one child before they reached 15 years of age. Iranian regulations also limit married children's access to schools. Marriage is therefore a leading contributor to Iran's dropout rate.

## **Female genital mutilation**

Female genital mutilation (FGM) is illegal and not a common tradition in Iran, however different forms of FGM are nonetheless practiced in certain provincial areas of the country.

## **► SPECIAL PROTECTION MEASURES**

### **Children in situations of emergency: Refugee children**

Afghan child refugees confront obstacles to accessing education in Iran, including registration fees and documentation requirements. Deportation policies also result in refugee children being separated from their parents.

### **Children and armed conflict: Landmines**

Children in Iran are at risk of death and debilitating injury due to landmines and explosive remnants of war. Despite government de-mining efforts, landmine casualties, including those of children, continue to be reported in five western border provinces with major Kurdish and Arab populations.

### **Children in the justice system**

Under Iranian law, only children over the age of 15 may bring claims to courts by themselves. Other children require a guardian to do so.

A new criminal procedure law that goes into effect in June 2015 establishes juvenile courts. The juvenile court's jurisdiction is limited and a sub-branch of general criminal courts will still hear cases involving juveniles charged with serious and sexual crimes. Neither court system is constructed around the best interests of the child, nor are judges required to mitigate sentences for juvenile offenders.

The new criminal procedural law would allow child defendants, upon request, to access a lawyer. However, authorities can block access to a lawyer for up to one week if the accused is charged with a national security or other serious offense. In practice, authorities in Iran frequently limit access to a lawyer and defendants are often not allowed to meet their lawyers until the day of trial, if at all.

In Iran most boys under the age of 18 are detained separately from adults in Rehabilitation and Training Centers located in larger cities. Children arrested in provincial areas, however, are typically not transferred to these centers until after the criminal investigation is complete. Detained girls are not separated from adults outside of Tehran. Most of these centers are set up like prisons and are not designed to facilitate the rehabilitation of detainees.

### **Children in the justice system: Child executions and life imprisonment**

Iran continues to execute individuals for offenses committed when under the age of 18, with at least 14 child offenders reportedly put to death in 2014. Reports indicate that child offenders sentenced to death were often denied fair trials and subjected to torture or ill treatment. A new Penal Code purports to reduce the number of capital crimes for which child offenders can be prosecuted. In January 2015, Iran's Judiciary issued a ruling requiring courts to review death sentences for child offenders imposed prior to the new Penal Code upon a child offender's petition.

Iran conducts public hangings, which children attend. Some children have reportedly died while imitating executions during play.

The new Penal Code has removed some life imprisonment provisions for children, but the punishment has been retained for crimes such as moharabeh, which entails participation in armed violence, and theft as a third offense.

### **Child labor**

Iranian law contains some protections around child labor. Nonetheless, children are at risk of exploitation and health and safety violations. For example, exemptions for small workplaces remove the labor protections for many working children. According to the 2011 national census, there were 68,558 working children between the ages of 10 and 14 and 696,700 between the ages of 15 to 18. State media has also reported cases involving children employed in hazardous jobs.

### **Children belonging to minority groups**

Children belonging to linguistic minority communities are largely deprived of opportunities to learn their mother tongues. There are no schools in Iran that teach some of the foremost minority languages, such as Azeri-Turkish or Kurdish. Attempts by community organizations to develop extra-curricular programs have been looked upon with suspicion by authorities, with programs shut down and instructors arrested.

# KEY RECOMMENDATIONS

*We urge the Committee to make the following recommendations to the Islamic Republic of Iran:*

- Retract or narrow its reservation to the Convention;
- Ensure that the provisions of the Convention are accorded full force of law and precedence over any conflicting provisions in national law;
- Establish an independent NHRI in line with the Paris Principles;
- Ratify the third Optional Protocol to the CRC on a communications procedure;
- Set the minimum age requirement for majority at 18 years in order to afford children maximum protection in conformity with the principles of gender neutrality and in the best interests of the child;
- Review all legislation to ensure that it is non-discriminatory and gender neutral;
- Review all legislation to ensure that it is non-discriminatory and neutral with regard to sexual orientation and gender identity, and to ensure it provides adequate protection for LGBT children from harassment and physical and sexual abuse, both in public and private settings;
- Review legislation and administrative measures to ensure the best interest of the children in all actions concerning children, including child custody and guardianship;
- Register all children at birth and grant an irrevocable nationality without discrimination;
- Ensure the rights of children to free expression, association, peaceful assembly, and access to information, including through the media and Internet;
- Raise the minimum age of marriage to 18 years in keeping with internationally accepted standards and gender neutrality, and take proactive measures to curtail child marriage;
- Ensure child refugees have full access to education and other social services without discrimination;
- Enhance de-mining efforts, ensure child victims of landmines receive appropriate social aid and ratify the Optional Protocol to the Convention on the involvement of children in armed conflict;
- Take appropriate action, legislative and other, to combat violence against children and gender-based violence;
- Ensure prompt and thorough investigations of violence against children, fair prosecutions, and appropriate punishments for perpetrators of violence against children;
- Immediately suspend the execution of all death penalties imposed on persons convicted of crimes committed before the age of 18 and abolish the death penalty for child offenders;



- Protect the interests of children by ceasing all public executions;
- Immediately suspend all flogging sentences and abolish all criminal punishments in the law that would constitute torture or cruel, inhuman, and degrading treatment, including life imprisonment.
- Abolish corporal punishment in all settings;
- Ensure access to justice for children by allowing children to initiate legal proceedings concerning their rights independently or with the assistance of an adult, but only if they wish to have such assistance, and by eliminating the parental consent requirement from national law;
- Reform its justice system to ensure children are always dealt with within a separate juvenile justice system based on rehabilitation, not punishment. Detention should always be a last resort, for the shortest appropriate period of time, and never arbitrary;
- Ensure children's right to access legal counsel and representation is provided for in law and in practice, at all stages of the justice process and in relation to all charges;
- Takes measures, including legislation, to protect children from labor abuses, including in context of small business. And ensure work does not interfere with the child's education.
- Ensure all children have the right to cultural expression, including learning their mother languages.

# INTRODUCTION

This collective stakeholder submission aims to contribute to the upcoming review by the Committee on the Rights of the Child (“Committee”) of the Islamic Republic of Iran’s combined third and fourth periodic reports on its implementation of the Convention on the Rights of the Child (“CRC”).

The submission reflects the efforts of 21 international and Iranian human rights organizations with expertise in various research areas and seeks to provide the Committee with a broad assessment of some of the pressing rights issues affecting children in Iran.

The submission provides information, organized according to the CRC’s clusters, regarding several areas in which the government of Iran has fallen short of implementing the Committee’s previous recommendations, including those on:

- The State party’s reservation to the CRC;
- Ensuring conformity of domestic legislation to the CRC;
- Establishing an independent body to promote implementation of the CRC;
- Setting the age of majority at 18 years, in conformity with all the principles of the CRC;
- Prohibiting forced and early marriages;
- Eliminating discrimination on the basis of sex, religion and other grounds;
- Ensuring the best interest of the child in all matters, including custody;
- Abolishing the death penalty for persons convicted of committing a crime before the age of 18;
- Amending laws that assign reduced criminal responsibility to fathers who kill their children;
- Ensuring the registration of all births and the granting of nationality without discrimination;
- Ensuring freedom of expression and assembly;
- Ensuring freedom of thought, conscience and religion;
- Ensuring access to information;
- Prohibiting corporal punishment and flogging;
- Preventing physical and mental violence against children;
- The rights and protection of Afghan refugees and unaccompanied minors;
- Protecting street children;
- Increasing protections against child labor; and
- Establishing a juvenile justice system in line with the CRC.

The submission also highlights several issues not included in the Committee’s prior review of Iran.

The information provided in this submission is based on extensive witness-based testimony, legal analysis by Iranian attorneys, reviews of the government’s statistical databases, and surveys of the country’s domestic media, supplemented by other forms of primary and secondary research. The following organizations have contributed to or endorse this report:

Abdorrahman Boroumand Foundation  
Advocates for Human Rights  
ARTICLE 19  
Arseh Sevom  
Association of Human Rights in Kurdistan of Iran-Geneva

Centre for Supporters of Human Rights  
Child Rights International Network (CRIN)  
Committee of Human Rights Reporters  
European Ahwazi Human Rights Organisation  
Ensemble contre la peine de mort (ECPM)  
Human Rights Activists of Iran  
Impact Iran  
International Campaign for Human Rights in Iran  
International Gay and Lesbian Human Rights Commission  
Iran Human Rights  
Iran Human Rights Documentation Center  
Iranian Queer Organization  
Small Media  
United for Iran  
Universal Tolerance  
Verein Südwind Entwicklungspolitik

# I. GENERAL MEASURES OF IMPLEMENTATION

## A. Implementation of the Convention

### 1 **Status of the CRC in Iranian law**

According to Article 9 of Iran’s Civil Code, any ratified international instrument, which includes the CRC, should have the force of law and thus should be enforceable in the national courts and impact the larger legal framework.<sup>1</sup> The Islamic Republic of Iran has, however, included a reservation to the Convention, which states that: “The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the internal legislation in effect.”<sup>2</sup>

2 The legislation passed by Iran’s Parliament in order to ratify the CRC echoes this reservation and only adopts the Convention into Iran’s legal framework “provided that if at any time or for any reason its content should contradict domestic laws or Islamic standards, the Islamic Republic of Iran is not obligated to adhere to it.”<sup>3</sup> In other words, the Convention is limited by uncodified interpretive Islamic law and is also subservient to and superseded by other national laws. Indeed, according to Iranian lawyers with experience in court proceedings involving children, in practice judges have refused to apply the provisions of the Convention, saying that it cannot be applied when national law states clear rules governing the matter before the court.

3 As the Committee observed during its last review of the State party, Iran’s broad and imprecise reservation does not meet the necessary requirements for reservations, as it in effect negates many provisions of the Convention and undermines the object and purpose of the treaty.<sup>4</sup>

4 Iran has failed to revisit its reservation despite the Committee’s recommendation during the State’s previous review that the reservation be withdrawn or modified.<sup>5</sup> In this regard, the Islamic Republic of Iran falls short of fully implementing Article 4 of the Convention that requires State parties to “undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the [...] Convention.”

5 **RECOMMENDATION:** *We urge the Committee to recommend that the Islamic Republic of Iran retracts or narrows its reservation to the Convention. We also recommend that the Committee ask the State party to ensure that the CRC is given the full force of law, so that children and their representatives are able to rely on its provisions when bringing complaints of human rights violations before the national courts and that the provisions of the Convention be accorded precedence over any conflicting provision in national law by the courts.*

<sup>1</sup> Civil Code of the Islamic Republic of Iran (“Civil Code”), art. 9 (1981, amended 1991, 2006) available at: <http://www.alaviandassociates.com/documents/civilcode.pdf>.

<sup>2</sup> Reservation of the Islamic Republic of Iran to the Convention on the Rights of the Child, issued upon ratification (13 July 1994) available at: <http://treaties.un.org/doc/publication/unts/volume%201788/volume-1788-a-27531-english.pdf>.

<sup>3</sup> The Law Allowing Accession of the Islamic Republic of Iran to the Convention on the Rights of the Child (“NBCRC Law”), (20 February 1994) available at: <http://rc.majlis.ir/fa/law/show/92374>.

<sup>4</sup> UN Committee on the Rights of the Child, Consideration of the Report submitted, (31 March 2005), CRC/C/15/Add.254, paras. 6-7, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f15%2fAdd.254&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f15%2fAdd.254&Lang=en).

<sup>5</sup> *Ibid.*, para. 7.

## 6 **National Human Rights Institution**

The Committee has previously stated that National Human Rights Institutions (“NHRIs”) must have “the power to consider individual complaints and petitions and carry out investigations, including those submitted on behalf of or directly by children.”<sup>6</sup> There is no NHRI in Iran that is competent to receive and address complaints of violations of children’s rights. The High Council for Human Rights is at times confused for a NHRI, but the institution is not an independent body as required under the Paris Principles<sup>7</sup> and does not operate in a manner similar to an NHRI. The head of the High Council has stated it is a government body and not an NHRI.<sup>8</sup> Indeed, the body is charged with presenting the government’s voice on human rights matters.

7 **RECOMMENDATION:** *We urge the Committee to recommend that Iran establishes an independent NHRI in line with the Paris Principles with powers to receive complaints, investigate violations and decide and provide remedies in relation to complaints of children’s rights violations or on its own initiative.*

## 8 **National Body on the Convention on the Rights of the Child**

On 16 April 2012, the President’s cabinet established the National Body on the Convention on the Rights of the Child (NBCRC).<sup>9</sup> The NBCRC is generally charged with promotion of the Convention on the Rights of the Child.<sup>10</sup> The establishment of a national body to monitor implementation of the Convention is a positive step. However, the NBCRC is not an independent body and is overseen by the Ministry of Justice.<sup>11</sup>

9 Its duties include evaluating respect for rights of children at a national level, reviewing draft legislation and regulations, reviewing government reports on child rights, monitoring reported violations of the rights of the child, and conducting public outreach related to child rights. However, the powers of the NBCRC, as described in interviews by its leadership, are primarily advisory and geared towards coordination between government agencies.<sup>12</sup> It is not clear what influence the body could have on the government to change laws and policies that are incompatible with Iran’s obligations under the Convention.

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6 UN Committee on the Rights of the Child, *General Comment No. 2 on the role of independent national human rights institutions in the promotion or protection of the rights of the child*, (15 November 2002), CRC/GC/2002/2, at para. 13, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fG-C%2f2002%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fG-C%2f2002%2f2&Lang=en).

7 *Principles relating to the Status of National Institutions (The Paris Principles)*, Adopted by General Assembly resolution 48/134 of 20 December 1993, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>.

8 *Fars News*, Interview with Mohammad Javad Larijani (13 January 2014), available at: <http://www.farsnews.com/newstext.php?nn=13921014000155>.

9 *Bylaw for the National Body on the Convention on the Rights of the Child* (10 January 2012), available at: <http://rc.majlis.ir/fa/law/show/808437>.

10 *Ibid.*, art. 2.

11 *Ibid.*, arts. 1 and 4.

12 *Iranian Labor New Agency (“ILNA”)*, Interview with the Secretary of National Body on the Rights of the Child (30 July 2014), available at: <http://www.irsprc.org/main/fa/children-s-news/40-%D8%A8%D8%B1%D8%B1%D8%B3%DB%8C-%D8%B9%D9%85%D9%84%DA%A9%D8%B1%D8%AF-%D9%85%D8%B1%D8%AC%D8%B9-%D9%85%D9%84%D8%8C-%D8%AD%D9%82%D9%88%D9%82-%DA%A9%D9%88%D8%AF%DA%A9-%D8%A8%D8%AE%D8%B4-%D8%A7%D9%88%D9%84>.

10 **RECOMMENDATION:** *We urge the Committee to recommend that Iran establish an independent NHRI in line with the Paris Principles with powers to receive complaints, investigate violations and decide and provide remedies in relation to complaints of children’s rights violations or on its own initiative.*

11 **Access to international complaints mechanisms**  
In order to enhance children’s access to justice, states must ensure that international human rights mechanisms are available to children. Currently, there is no regional or international treaty body that can receive complaints alleging human rights violations by children in Iran. The state has not signed or ratified the Third Optional Protocol to the CRC on a communications procedure or the optional protocols to other treaties to which Iran is a party to allow the respective UN treaty bodies to receive individual communications.<sup>13</sup>

12 **RECOMMENDATION:** *We urge the Committee to recommend that the State party ratify the Third Optional Protocol to the CRC in order to ensure that children are able to bring complaints to the Committee in cases where redress for human rights violations is impossible within the domestic framework.*

## II. DEFINITION OF A CHILD

13 Iran’s Civil and Penal Codes provide definitions of the “child.” These definitions directly impact the rights of children as understood in the Convention. According to note 1 of Article 1210 of Iran’s Civil Code (1981), the age of maturity for boys is fifteen lunar years and for girls is nine lunar years.<sup>14</sup> A lunar year, which is the basis of the Islamic calendar, is about 11 to 12 days shorter than the solar year used in the Gregorian and Iranian calendars. Lunar years are only used in Iran as measures for civil and criminal ages of majority and minority, while other age measures are based on the Iranian calendar. The age of criminal responsibility is also set in lunar years according to Articles 146 and 147 of Iran’s 2013 amended Islamic Penal Code.<sup>15</sup>

### 14 Age of Majority in Iran

Sex	Lunar Year Age	Solar Year Age
Girls	9	8 years and 8 months (approx.)
Boys	15	14 years and 7 months (approx.)

<sup>13</sup> Note: these include the Human Rights Committee; the Committee on Economic, Social and Cultural Rights; and the Committee on the Rights of Persons with Disabilities. See, UN Office of the High Commissioner for Human Rights, *Status of Ratifications Interactive Dashboard*, available at <http://indicators.ohchr.org/>.

<sup>14</sup> Civil Code, art. 1210.

<sup>15</sup> Islamic Penal Code of Iran (“Penal Code”), arts. 146 and 147, (submitted to the President to be signed into law on 29 May 2013) available at: <http://rc.majlis.ir/fa/news/show/845002>. See also, Iran Human Rights Documentation Center, *English Translation of Books I & II of the New Islamic Penal Code (8 April 2013)*, available at: [www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html](http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html).

15 Accordingly, any child over the lunar age of 15 (for boys) and 9 (for girls) is considered an adult under the law and does not benefit from any of the special protections afforded to children. These definitions result in a considerable gap between the obligations of Iran under the Convention and the country's legal protections for persons under the age of 18.

16 While the Civil and Penal codes determine basic legal notions of who is a child and who is an adult under the law, other Iranian laws use different ages when granting access to some state benefits, for example, age 18 for passports,<sup>16</sup> 18 for owning property,<sup>17</sup> 18 for voting,<sup>18</sup> and 15 (boys) and 13 (girls) for marriage,<sup>19</sup> 15 for access to courts.<sup>20</sup> The National Body on the Convention on the Rights of the Child also sees its jurisdiction as individuals under the age of 18.<sup>21</sup>

17 **RECOMMENDATION:** *We urge the Committee to recommend that the State party set 18 years of age as the minimum age requirement for legal majority in its civil, criminal, and other legislation in order to afford children maximum protection in conformity with all of the principles and provisions of the Convention, in particular gender neutrality and in the best interests of the child.*

### III. GENERAL PRINCIPLES

#### A. Article 6: Right to life, domestic violence and “honor killings”

18 Iran's legal and policy framework results in grave violations of the rights to life and survival of children in violation of Article 6 of the Convention. Among the most acute dangers posed to the right to life is Iran's ongoing practice of executing child offenders, covered below in section 148, and the prevalence of landmines in the county's western provinces, covered in section 116.

19 Another issue that is contributing to the lack of legal protection of children's right to life is the fact that most crimes of physical harm, including homicide, are based on the concept of qisas, an eye-for-an-eye, life-for-a-life type of retribution.<sup>22</sup> This retribution is considered the private right of the victim rather than a function of the state. In the case of homicide, the right of retribution belongs to the family of the victim, or more specifically, to the deceased victim's older paternal male next-of-kin. In turn, the family member holding the right to retribution must demand that the perpetrator be punished.<sup>23</sup>

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<sup>16</sup> *Passport and Immigration of Iran, section 1, art. 18 (March 1973).*

<sup>17</sup> *Law on Maturity and Age of Traders (1938).*

<sup>18</sup> *Election Law of Iran, art. 36 (as amended in 2013).*

<sup>19</sup> *Civil Code, art. 1041.*

<sup>20</sup> *Penal Code, arts. 146 and 147; Civil Code, arts. 1043 and 1210.*

<sup>21</sup> *NBCRC Law, art. 1(a).*

<sup>22</sup> *Penal Code, Book 3.*

<sup>23</sup> *Iranian Students News Agency (“ISNA”), Larijani: Session on technical cooperation between judiciary and OHCHR (1 December 2010), available at: <http://isna.ir/fa/print/8909-06458/>.*

- 20 As such, when the perpetrator of a violent crime—or a killing—is a family member of the victim, qisas can create a climate of impunity. For example, Iran has seen a number of “honor killings” of mostly girls by their male family members.<sup>24</sup> The family often refuses to file a complaint or pursue punishment in these cases. Even if the government intervenes, homicide prosecutions require plaintiffs in order for the prosecution to pursue typical homicide sentences.<sup>25</sup> In many of these cases, punitive sentences can be set much lower than they would be under the law for non-familial adult offenders.<sup>26</sup> Even when families of victims join cases as plaintiffs and the perpetrators of violence are found guilty and sent to prison, the offenders are often released soon afterwards or serve no prison term at all, because the family formally forgives them, resulting in the retribution being legally settled.<sup>27</sup>
- 21 Moreover, under Article 301 of the Penal Code, if a father (or paternal grandfather in the absence of a father) murders his child, the qisas principle does not apply at all.<sup>28</sup> Instead, the father, if found guilty, will face between three and 10 years in prison.<sup>29</sup> In effect, the murder of a child due to a father’s act of domestic violence, including “honor killings,” receives a lesser punishment than a murder where the victim and assailant are not related. In one 2013 case, a court in Tehran sentenced a father to only six months in prison for stabbing his 17-year-old daughter to death in a dispute about marriage.<sup>30</sup> The result is reduced accountability for those guilty of filicide.
- 22 The 2003 Law on the Rights of the Child gives the State the power to act as plaintiff in cases where the perpetrator of violence against a child is a member of the child’s family.<sup>31</sup> However, a book published by the Iranian Judiciary notes that according to official numbers, not one case of child abuse or murder has been prosecuted under this statute.<sup>32</sup>
- 23 Children born outside marriage are also not protected against murder. Children deemed “illegitimate,” because their religion is not legally established, are granted extremely vague protections under the Penal Code and are not valued equally under qisas principles.<sup>33</sup> The Penal Code thus effectively fails to equally protect the right to life and right to personal security of a child born outside of marriage, and not deemed Muslim, compared to children born to married parents. This issue also applies to children from religious backgrounds other than those recognized in Iran’s Constitution (i.e., Islam, Christianity, Judaism, and Zoroastrianism).<sup>34</sup>

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<sup>24</sup> Landinfo, *Honor Killings in Iran* (22 May 2009), available at: [www.landinfo.no/asset/960/1/960\\_1.pdf](http://www.landinfo.no/asset/960/1/960_1.pdf).

<sup>25</sup> Penal Code, Book 3, arts. 301, 302. In the absence of a family member as plaintiff, the government can act in place of the family member, but the prosecution then moves away from *qisas* charges and shifts to *tazir* charges, which is under the Islamic Penal Code Book 5 (1997), including arts. 610, 612 and 616, carry much lighter sentences.

<sup>26</sup> *Ibid.*

<sup>27</sup> Iran Human Rights Documentation Center, consultation with Iranian lawyer Hossein Raeesi (20 February 2015).

<sup>28</sup> Penal Code, arts. 301 and 348. See note 25.

<sup>29</sup> *Ibid.*

<sup>30</sup> Tabnak, *Murder of a young girl the night her suitor’s family proposed marriage* (16 September 2013), available at: [www.tabnak.ir/fa/news/345258/](http://www.tabnak.ir/fa/news/345258/).

<sup>31</sup> Law on Protecting the Rights of Children and Juveniles, arts. 4 and 5 (October 2003), available at: <http://rc.majlis.ir/fa/law/show/93849>.

<sup>32</sup> Amir Irvaninan, *Child Abuse: From Aetiology to Reply*, published by the office of the Deputy of Law of the Judiciary and Judicial Development Center for Judicial Reform Studies (Tehran 2010).

<sup>33</sup> Penal Code, Book 3, arts. 301 and 302.

<sup>34</sup> *Ibid.*, Book 3, arts. 301 and 310.



24 If domestic abuse results in physical injury but not death, meaning the victim is able to file a complaint and act as a plaintiff, children under the age of 15 or who have not entered puberty must still have their father or guardian act as the complainant on their behalf.<sup>35</sup> Thus, when the abuser is a guardian or another family member, child victims receive less protection under the law.

25 The Committee has previously recommended that “all legislation which condones, allows, or leads to harmful practices is repealed, without further delay, including traditional, customary or religious laws, and any legislation which accepts the ‘defence of honour’ as a defence or mitigating factor in the commission of crimes in the name of so-called honour”.<sup>36</sup>

26 **RECOMMENDATION:** *We urge the Committee to recommend that the State party take necessary measures, including to amend Article 301 and other offending articles of the Penal Code, to ensure that there is no discriminatory treatment for crimes against the rights to life and personal security of children; and that prompt and thorough investigations and fair prosecutions are carried out, and where appropriate, punishments within the limits of all relevant human rights laws are set for perpetrators of violence against children that safeguard children without discrimination. The State party should take additional affirmative policy measures to combat gender-based violence.*

## B. Article 12 Right to be Heard

27 Several Iranian laws and policies inhibit the right of children to be heard as laid out by the Committee’s General Comment no. 12.<sup>37</sup> As explained above in section IV.B., Iranian children face stark limits on their right to free expression, and as discussed below in section VIII.B., children are deprived of independent access to courts and judicial proceedings.

## C. Article 2: Non-discrimination

### 28 **Gender discrimination**

Gender discrimination against girls is systemically ingrained in Iran’s laws and policies, impacting rights of girls within criminal proceedings, family status rights, education, health, sports and the arts, and more. Section 98 on early and forced marriage explores some additional elements of gender discrimination in Iran.

29 Discrimination starts with the age of the child. Iran’s Penal Code and Civil Code contain several provisions that discriminate between boys and girls in violation of Article 2 of the Convention. As stated above, these laws designate the age of maturity and criminal responsibility as 9 lunar years for girls and 15 lunar years for boys, effectively discriminating against girls on the basis of gender by granting them fewer years of child protections under Iranian law and denying girls many of the basic protections of the Convention.

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<sup>35</sup> *Ibid.*, Book 2, arts. 146 and 147.

<sup>36</sup> Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18, (4 November 2014), available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f18&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f18&Lang=en).

<sup>37</sup> See: UN Committee on the Rights of the Child, General Comment no. 12 on the right of the child to be heard, (1 July 2009) CRC/C/GC/12, available at: <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>.

30 While Articles 20 and 21 of Iran’s Constitution say that all citizens, both men and women, enjoy equal rights and the government must ensure the rights of women, the Constitution further mandates that rights must be in conformity with Islamic criteria.<sup>38</sup> Iranian laws that have enshrined forms of gender discrimination are often justified under the guise of Islamic law.

### 31 **Discrimination in inheritance**

Article 907 of the Civil Code provides that in matters of inheritance, when a deceased has multiple child heirs, sons inherit twice as much as daughters.<sup>39</sup> According to Article 911 of the Civil Code, if the deceased leaves no sons or daughters, his grandchildren will inherit according to the portion their parent would have received; hence, the children of a son receive twice as much as the children of a daughter.<sup>40</sup> And the division of that inheritance is then dictated by the sex of each individual, boys receiving twice as much as girls.

32 **RECOMMENDATION:** *We urge the Committee to reiterate its recommendation, expressed in its previous Concluding Observations, that the State party promptly review all its legislation to ensure that it is non-discriminatory, gender neutral, and enforced. Moreover, the State party should take effective measures, including enacting or rescinding, as appropriate, civil and criminal legislation to prevent and eliminate discrimination on the grounds of sex, religion and other grounds, in compliance with Article 2 of the Convention.*

### 33 **Discrimination in the criminal context**

In sections 33, 34, 35 below we will discuss violations of the rights of the child presented by Iran’s Penal Code and justice system. However, it should be understood that given that the age of criminal responsibility in Iran is significantly lower for girls than boys, girls are more vulnerable to facing harsh criminal sentences under Iran’s Penal Code, including the death penalty. In practice, rates of criminal prosecution seem to be higher for males.

34 Under Iran’s Penal Code, boys and girls (or their next of kin) who have suffered intentional or unintentional bodily harm or death are owed different sums of monetary compensation by their perpetrators and wrongdoers. Diya or blood money is the monetary compensation prescribed by Islamic law and according to Article 550 of the new Penal Code, “the diya for murdering a woman is half that of a man.”<sup>41</sup> Up to a point, diya for physical harm is the same for boys and girls. However, when it reaches, or exceeds, one third of the full diya (i.e., the value of a male life), the diya of girls is decreased to half the amount of the male’s diya.<sup>42</sup>

35 While the new Penal Code was amended to establish a monetary fund to equalize the diya for men and women in the case of death, this means the state - and not the perpetrator - pays half the penalty.<sup>43</sup> Moreover, in the case of bodily injury that does not cause death, the diya for men and women is equal only until it reaches one-third of the full diya.<sup>44</sup>

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<sup>38</sup> Constitution of the Islamic Republic of Iran (“Iranian Constitution”), arts. 20 and 21 (December 1979, amended in 1989), available at: <http://www.iranonline.com/iran/iran-info/government/constitution.html>.

<sup>39</sup> Civil Code, art. 907.

<sup>40</sup> Ibid., art. 911.

<sup>41</sup> Penal Code, Book 3, art. 550.

<sup>42</sup> Ibid.

<sup>43</sup> Mohammad Nayyeri, Iran Human Rights Documentation Center, *Gender Inequality and Discrimination: The Case of Iranian Women* (8 March 2013).

<sup>44</sup> Ibid.

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**RECOMMENDATION:** We urge the Committee to recommend that the minimum age of criminal responsibility be the same for all children, regardless of sex, and that the minimum age be old enough to ensure that children are kept outside the criminal justice system.<sup>45</sup>

37

### **Discrimination based on sexual orientation and gender identity of children**

Iranian children and adolescents who are or are perceived to be lesbian, gay, bisexual, or transgender (LGBT) face multiple forms of legal and social discrimination stemming from widespread social stigma against homosexuality and trans identities, and perpetuated through Penal Code provisions that criminalize same-sex sexual acts. Discrimination leaves LGBT children vulnerable to criminal prosecution, torture, execution, physical or sexual abuse by the State and non-state actors, and severely interferes with their ability to enjoy their human rights fully, including the right to education. Legal and social discrimination also greatly impact the rights of all children and adolescents to access information about a diversity of sexual orientations and gender identities.

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### **Discrimination within the criminal justice system**

Iran's Penal Code criminalizes consensual same-sex relations contrary to international standards<sup>46</sup> Punishments range from 100 lashes for consensual sexual activity (Article 239) to the death penalty for consensual sexual intercourse between men (Article 234).<sup>47</sup> The law also criminalizes other forms of same-sex sexual touching and intimate kissing, which are punishable by up to 74 lashes for both males and females in Articles 232-233.<sup>48</sup>

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Additionally, in the case of non-penetrative anal sex act between two men (*tafkhez*), these legal provisions do not distinguish between same-sex consensual relations and non-consensual relations, including rape, and in the case of non-penetrative same-sex rape, the victim and perpetrator are both held criminally liable under the law.<sup>49</sup> As the age of criminal responsibility in the Penal Code is 9 lunar years for girls and 15 lunar years for boys, adolescents who are suspected of same-sex consensual relationships or children who have been raped through non-penetrative anal sex can be subjected to harsh punishments, such as executions and flogging, in contravention of the CRC. LGBT rights groups have documented two executions of alleged child offenders for same-sex relations, one in 2005 and another in 2007.<sup>50</sup>

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One of the significant effects of the criminalization of homosexuality and consensual same-sex relations in the Iranian legal system is the practical impunity of those who commit acts of violence against real or perceived LGBT individuals, including minors. LGBT victims of violence are unable to come forward because they could potentially face criminal

<sup>45</sup> See, *Child Rights International Network, Policy Paper: Stop Making Children Criminals*, available at: [https://www.crin.org/sites/default/files/crin\\_policy\\_paper\\_-\\_stop\\_making\\_children\\_criminals.pdf](https://www.crin.org/sites/default/files/crin_policy_paper_-_stop_making_children_criminals.pdf).

<sup>46</sup> See, *Office of the High Commissioner for Human Rights, "Fact Sheet: Criminalization,"* available at [https://www.unfe.org/system/unfe-43-UN\\_Fact\\_Sheets\\_-\\_FINAL\\_-\\_Criminalization\\_%281%29.pdf](https://www.unfe.org/system/unfe-43-UN_Fact_Sheets_-_FINAL_-_Criminalization_%281%29.pdf).

<sup>47</sup> *Penal Code, Book 3, arts. 233-241.*

<sup>48</sup> *Ibid, arts. 232-233.*

<sup>49</sup> *Ibid, art. 236.*

<sup>50</sup> *International Gay and Lesbian Human Rights Commission, Young man executed for alleged sex crime (5 December 2007)*, available at: <http://iglhrc.org/content/iran-young-man-executed-alleged-sex-crime>. Full coverage of the 2005 execution is available in Persian at: <http://news.gooya.com/politics/archives/033525.php> and <http://www.ettelaat.net/05-07/news.asp?id=7829> [accessed January 22, 2015].

punishment, creating an undue barrier to access to justice for abuses by state and non-state actors. In addition, the state's harsh criminalization of same-sex relations, punishable by flogging or death, fuels widespread social and cultural stigmas and creates an environment in which such violence against LGBT persons appears legitimate.

### **Examples**

41 Javad, an Iranian gay man, told the International Gay Lesbian Human Rights Commission (IGLHRC) and the Iranian Queer Organization (IRQO) that when he was a teenager three men in a shared taxi tried to rape him. Although he managed to escape, he was too afraid to report the incident to the police:

42 “If you live in a law-abiding society ... where there are gay rights, you may be able to go the police. If I had gone to the police, I know they would have asked, ‘Well why did you get into the car?’ They blame the victim. For example, once when I was walking home through a soccer field, I was mugged at knifepoint and they stole my phone. I went to the police to report it, and they said, ‘Why would someone like you be walking through a field at night?’”<sup>51</sup>

43 Interviews conducted by IGLHRC and IRQO indicate that LGBT children and adolescents in Iran are also at risk of police brutality and similar abuses from law enforcement. One transgender woman told IGLHRC and IRQO about being raped by a law enforcement officer when she was an adolescent:

44 “When I was around 15, after a particularly awful night at home, I couldn’t take it anymore, so I left. While I was walking the streets trying to figure out what to do, I came upon an officer who was guarding a public building. ... I was desperate for a place to stay, and he seemed kind, so I asked him if he would protect me ... Instead of protecting me, he raped me and then he threw me out.”<sup>52</sup>

45 In some cases, the law literally mandates impunity for crimes against LGBT persons, particularly adolescent males 15 lunar years or older. Article 302(a) of the Penal Code stipulates that if the victim of a murder has committed an act that would be punishable by death, such as male sodomy, the murderer will not face the typical mandatory punishments for the crime of murder, which otherwise include the death penalty or a monetary penalty for homicide known as “blood money”.<sup>53</sup> Rather, they will instead be liable to a lesser punishment under different provisions of the law.<sup>54</sup>

**RECOMMENDATION:** *The Committee should urge the State party to decriminalize consensual same-sex relations and abolish or revise laws (especially Article 302 of the Islamic Penal Code) that can be used as a justification to commit violence against LGBT minors. The Committee should urge the State party to devise policies, regulations, and trainings that protect children from domestic violence, regardless of their sexual orientation, gender identity, or gender expression, and ensure that police and judicial authorities fully investigate allegations of domestic violence by minors and provide full protection for victims.*

<sup>51</sup> Javad’s (not his real name) interview with IGLHRC, September 8, 2012, Kayseri, Turkey.

<sup>52</sup> Solmaz’s (not her real name) written testimony shared with IGLHRC, June 8, 2014.

<sup>53</sup> Penal Code, Book 3, art. 302.

<sup>54</sup> *Ibid*, art. 302 (Section 1). NB: In line with international human rights law, no human being regardless of age should be subject to the death penalty.

47

### Discrimination in the media and access to information

State media consistently reinforces notions that the expression of non-conforming sexual orientations and gender identities is socially unacceptable, immoral, or is a sign of mental and physical illness. Government officials regularly make disparaging statements against LGBT people on state-controlled media.<sup>55</sup>

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ARTICLE 19 and PEN International's Joint Submission to the UN Universal Periodic Review highlights the mandate of the Supreme Council of National Security (SCNS) to censor official journalists, forbidding them from covering certain topics, including LGBT rights, all in the name of ensuring national security.<sup>56</sup> "The SCNS is not required to provide proof of the specific threat of content to national security, nor are they required to balance any apparent threat against the public interest in freedom of expression."<sup>57</sup> Moreover, they are also not required to balance these apparent threats against the public interest in freedom of expression.<sup>58</sup>

49

To this end, Iranian press and Internet laws and policies also restrict neutral or positive content regarding LGBT persons on the Internet and in the media in violation of the right of children to access information guaranteed by Article 17 of the CRC.<sup>59</sup> For example, authorities in Iran block webpages explaining homosexuality or bisexuality on the popular online encyclopedia Wikipedia.<sup>60</sup> In turn, there is no readily available reliable information for Iranian citizens, including adolescents, to learn about gender and sexuality, including homosexuality and transgender identities.

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**RECOMMENDATION:** *The Committee should urge the State party to review and amend laws or policies to provide children with access to positive and neutral information about non-conforming sexual orientations and gender identities.*

<sup>55</sup> On April 4, 2014, Iran's Supreme Leader described homosexuality as "moral bankruptcy" and "libidinous behavior" (<http://www.leader.ir/langs/fa/index.php?p=bayanat&id=11526>), while on August 13, 2014, the Head of Iran's Judiciary, Sadegh Amoli Larijani, described homosexuals as "faggots" and referred to homosexuality as "filth" (<http://www.isna.ir/fa/news/93052010098/%D9%87%D8%AC%D9%85%D9%87-%D9%87%D8%A7%D8%8C-%D8%AD%D9%82%D9%88%D9%82-%D8%A8%D8%B4%D8%B1%DB%8C-%D8%B1%D8%A7-%D8%B7%D8%A8%D9%82-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D8%B3%D8%A7%D8%B3%D8%B8C-%D9%88-%D9%85%D9%88%D8%A7%D8%B2%DB%8C%D9%86>). On September 24, 2014, the Iranian Speaker of Parliament described homosexuality as "modern Western barbarism" (<http://www.icana.ir/Fa/News/209725>)

<sup>56</sup> ARTICLE 19 and PEN International, *Joint Submission to the UN Universal Periodic Review of the Islamic Republic of Iran*, (15 March 2014) available at: <http://www.pen-international.org/wp-content/uploads/2013/05/Iran-submission.pdf>.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<sup>59</sup> For laws on government press and the Internet, see *The Press Law (1986)*, available at: <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/3201-the-press-law.html>; ARTICLE 19, *The Islamic Republic: Computer Crimes Law (2012)*, available at: [http://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB\[4\].pdf](http://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB[4].pdf).

<sup>60</sup> University of Pennsylvania: Iran Media Program, City University of New York: Human Rights in Iran Unit, *Citation Filtered: Iran's Censorship of Wikipedia (7 November 2013)*, available at: <http://www.iranmediaresearch.org/en/research/download/1539>.

51 **Domestic abuse and violence**

Numerous interviews conducted over the past four years by IGLHRC and IRQO have revealed that many LGBT people in Iran have sustained various forms of violence and abuse at a young age by their family members, especially parents and siblings who did not approve of the child's gender or sexual expression. For example, Ahmad, a self-identified Iranian gay man, stated that when he came out to his parents at the age of 15, his father verbally and physically assaulted him and then forced him to see a doctor to "cure" his homosexuality.<sup>61</sup>

52 Those who have been subjected to domestic violence as children because of their actual or perceived sexual orientation and/or gender identity told these rights groups that they did not dare to report the violence to the authorities, because they were afraid that the authorities would either ignore their complaint or would subject them to the harsh criminal punishments that the Iranian law prescribes for homosexual activity.<sup>62</sup>

IGLHRC and IRQO have received reports concerning forced marriage of adolescent lesbians to men, without regard for the girl's sexual orientation.

53 **Example**

Zinat, a lesbian woman, told the LGBT rights groups that her family took her out of high school and forced her to marry when she was only 15 years of age, to a man in his late 20s. Not willing to marry a man almost twice her age, Zinat was beaten by her father until she accepted the marriage.<sup>63</sup> She told IGLHRC and IRQO that her husband repeatedly raped her, even chaining her to the bed before having sex.

54 **RECOMMENDATION:** *The Committee should urge the State party to take steps to raise awareness about domestic violence against children, and to educate children about their rights not to be abused by family members, regardless of their sexual orientation, gender identity, or gender expression. The Committee should also urge the enactment of comprehensive mechanisms, including shelters or foster care, to protect children subjected to domestic violence because of their actual or perceived sexual orientation, gender identity, or gender expression.*

55 **Harassment, physical abuse and abuse in schools**

IGLHRC and IRQO have also documented a pattern of bullying and physical and sexual abuse of LGBT children by classmates and school authorities in high school, middle school, and sometimes elementary school. LGBT Iranians reported that from young ages, their classmates would aggressively mock them for perceived gender non-conformity. Gay and transgender teenagers enrolled in all-boys schools often faced sexual groping and assault by their male classmates as well as physical beatings. In some cases LGBT interviewees reported rape and even group rape as students.

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61 Ahmad's (not his real name) interview with IGLHRC, September 7, 2012, Kayseri, Turkey.

62 For a detailed discussion of the legal punishment for homosexuality and same-sex relations, please see criminalization of same-sex behavior at paragraph 37 of this report.

63 Zinat's (not her real name) interview with IGLHRC, September 4, 2014, phone conversation.

56

**Examples**

Ahmad, an Iranian gay man, described how he was subjected to physical and sexual abuse by his classmates in middle school because of his mannerisms:

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“They were constantly waiting to pounce on me for anything. I was beaten up so many times. My classmates eventually began to be sexually aroused, but there were no girls around in Iranian schools that are sex-segregated,<sup>64</sup> so the next best thing they had was to find someone who looked or acted like a girl.”<sup>65</sup>

58

Nima, another self-identified gay man, told IGLHRC and IRQO that in sixth grade, he was raped by a group of four teenagers. He was too afraid to report the incident at school, even though he was later raped by the same group of teenagers for a total of 10 times over the next few months.<sup>66</sup> He finally shared his repeated victimization with his mother, who notified the school’s vice principal. The student who masterminded Nima’s gang-rape got a warning, but there were no further consequences for him or the other teenagers.<sup>67</sup>

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While some teachers and school administrators take measures to confront bullying and abuse, often abuses are allowed to continue largely unaddressed. LGBT students are told, depending on their biological sex, that they should act more male or female or that the abuse is warranted because of their gender nonconformity. In turn, LGBT students receive very little protection from abuse in schools.

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Moreover, according to testimonies collected by IGLHRC and IRQO, teachers and school administrators participate in or lead the abuse at times, often humiliating the students in front of their classmates for mannerisms seen as improper for the student’s sex.

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**Example**

Zahra, an Iranian trans-woman, told IGLHRC and IRQO that she was subjected to ridicule in school as long as she could remember. “My first-grade teacher used to make fun of me because I used to introduce myself as a girl.”

62

IGLHRC and IRQO have also documented several instances of sexual abuse and rape of LGBT students, namely in boys’ schools, by teachers and school administrators. In these cases, interviewees often expressed that the adult targeted them because of a perceived vulnerability or isolation, stemming from gender expression.

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**RECOMMENDATION:** *The Committee should urge the State party to develop and implement guidelines on the respectful inclusion of gender non-conforming students, and should discipline educators who contribute to or participate in the harassment of gender non-conforming students, including the removal of repeat offenders from their positions.*

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<sup>64</sup> The Islamic Republic of Iran does not allow co-ed primary and secondary schooling and requires all elementary, middle and high schools to be gender segregated.

<sup>65</sup> Ahmad’s (not his real name) interview with IGLHRC, September 7, 2012, Kayseri, Turkey.

<sup>66</sup> Nima’s (Not his real name) interview with IGLHRC, September 7, 2012, Kayseri, Turkey.

<sup>67</sup> Ibid.

## IV. CIVIL RIGHTS AND FREEDOMS

### A. Article 7: Right to nationality

64 Children born to Iranian women and non-Iranian men can be denied nationality and corollary social benefits.

65 Article 41 of Iran's Constitution makes citizenship an indisputable right of every Iranian. Nonetheless, under Iran's Civil Code, women cannot transfer their nationality to their children and are required to receive permission from the government to marry a foreign national.<sup>68</sup> A large number of these marriages are between Iranian women and Afghan and Iraqi men living inside the country, often as refugees or undocumented migrants. Fathers who are refugees and undocumented migrants often face difficulty accessing services from the government of their nationality. As such, their children often do not receive birth certificates or official status, neither in the Islamic Republic of Iran nor elsewhere, and subsequently become legally stateless.

66 **RECOMMENDATION:** *We urge the Committee to reiterate its recommendation, expressed in its previous Concluding Observations, that children are registered at birth and acquire irrevocable nationality without discrimination.*

### B. Article 13: Freedom of expression, Article 15: Freedom of association and assembly, and Article 17: Access to information

67 Children in Iran face restrictions in law and in practice on their freedom of expression, association and peaceful assembly as well as access to information protected under the Convention.

68 Iran's Penal code contains multiple provisions that criminalize free expression, according to UK-based organization ARTICLE 19. Content-based offenses such as propaganda against the State, insulting Islam (i.e. blasphemy), creating anxiety and unease in the public's mind, and spreading false rumors carry with them penalties including prison, flogging, and even death.<sup>69</sup> The Penal Code also makes it a crime to criticize state officials.<sup>70</sup> Iranian law fails to define these terms, leaving them open to subjective and arbitrary interpretation.<sup>71</sup>

Major restrictions on print media are regulated under the Press Law (of 1986, amended in 2000) and the Islamic Penal Code (of 1991, ratified in 1996 and amended in 2013), as well as other statutes such as the Theologians' Law and the Public and Revolutionary Courts' Procedural Law (of 1999).<sup>72</sup>

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<sup>68</sup> *Civil Code, arts. 976 and 1060, a.*

<sup>69</sup> *ARTICLE 19, Computer Crimes in Iran: Online repression in practice (5 December 2013), available at: <http://www.article19.org/resources.php/resource/37385/en/computer-crimes-in-iran:-online-repression-in-practice>.*

<sup>70</sup> *Ibid.*

<sup>71</sup> *ARTICLE 19 and PEN International, Joint Submission to the UN Universal Periodic Review of the Islamic Republic of Iran (15 March 2014), available at: <http://www.pen-international.org/wp-content/uploads/2013/05/Iran-submission.pdf>.*

<sup>72</sup> *Ibid.*



70 ARTICLE 19 highlights the serious interference of editorial independence that is maintained under the Press Law.<sup>73</sup> Under this law, the press are obliged to pursue at least one of five “legitimate objectives,” which include “to campaign against manifestations of imperialistic culture” and “to propagate and promote genuine Islamic culture and sound ethical principles,” and the press must “not undermine the realisation of the other goals or the principles of the Islamic Republic” (Article 2).<sup>74</sup> Article 3 of the law holds that the press must restrict publications to “constructive criticism, while duly observing Islamic teaching and the best interest of the community,” and avoiding “insult, humiliation and detrimental effects.” Importantly, distribution of any domestic and foreign news should “increase public awareness and protect society’s interests” (Article 5).<sup>75</sup>

71 Similarly, vaguely phrased Penal Code offenses such as “acting against national security,” “membership in an illegal organization” and “participation in an illegal gathering” criminalize a wide range of association and peaceful assembly, as well as expression that is protected under the CRC and carry harsh punishments.<sup>76</sup> These laws and their application conflict with Articles 26 and 27 of the Constitution that protect freedom of assembly and peaceful association that is “not detrimental to the fundamental principles of Islam.”<sup>77</sup>

72 **EXAMPLE**

In March 2009, authorities allegedly threatened and beat women’s rights activist and 17-year-old high school student Navid Mohebbi at a gathering for international Women’s Day.<sup>78</sup> Soon after, authorities summoned and interrogated Mohebbi.<sup>79</sup> Mohebbi was a blogger and member of the One Million Signatures Campaign, a campaign petitioning to change Iranian laws that discriminate against women.<sup>80</sup> In September 2010, after Mohebbi turned 18 years of age, he was brought up on charges of “acting against national security” for being a member of the campaign, which he joined as a child, and for “insulting the Supreme Leader,” a charge reportedly based in part on a diary he kept from ages 12 to 16. He was detained for at least four months and given a suspended sentence of three years imprisonment for his peaceful activism as a child.<sup>81</sup>

73 These provisions and others are regularly used in arrests of journalists, bloggers, student activists, protesters, and human rights defenders.<sup>82</sup> The criminalization extends to girls from

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<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.*

<sup>76</sup> Penal Code, Book 5 (1997), arts. 498, 499, 610, 611, and 1375.

<sup>77</sup> Iranian Constitution, arts. 26 and 27.

<sup>78</sup> Human Rights Activists in Iran News Agency, Navid Mohebbi arrested (March 2009), available at: <https://hra-news.org/fa/thought-and-expression/1-3158>.

<sup>79</sup> One Million Signatures Campaign, Report about arrest and summons of Campaign activists (December 2009), available at: <http://chrr.biz/spip.php?article3601>.

<sup>80</sup> Reporters Without Borders, World’s Youngest Detained Blogger on Trial in Northern Iran (18 November 2010), available at: <http://en.rsf.org/iran-world-s-youngest-detained-blogger-18-11-2010,38848.html>; Committee of Human Rights Reporters, After eight days of arrest, Navid is still in prison and his case uncertain (November 2010), available at: <http://chrr.biz/spip.php?article11815>.

<sup>81</sup> Rahe Sabz, Blogger Navid Mohebbi sentenced to three years (25 December 2010), available at: <http://www.rahesabz.net/story/29773/>.

<sup>82</sup> See, UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Report on the situation of human rights in the Islamic Republic of Iran (13 March 2014), available at: <http://shaheedoniran.org/english/dr-shaheeds-work/latest-reports/march-2014-report-of-the-special-rapporteur/>.

the age of 9 lunar years and boys from the age of 15 lunar years and have led to arrests and prosecutions.

74 Under the law there is no subscribed leniency or sentence mitigation for children facing security or political charges. Security forces including the police, ministry of intelligence, Basij (national militia), and Revolutionary Guards are permitted to make arrests of children. Investigations in these cases are conducted directly by security officials and not the special units for child offenders. These children are often detained and interrogated by the Ministry of Intelligence or Revolutionary Guards in special security wards, which are not monitored by the prison's administration.<sup>83</sup>

75 **Examples**

Hossein Raeesi, an Iranian human rights lawyer, has stated that the Ministry of Intelligence or Revolutionary Guards arrested and interrogated multiple juveniles, including some of his clients, after they participated in peaceful demonstrations following the 2009 presidential elections.<sup>84</sup>

76 Another child, Nasim, a 16 year old Baha'i student from the city of Shiraz, was arrested in 2007 after school authorities reported that she allegedly laughed during morning prayers at school. She was charged with blasphemy but was ultimately acquitted by the court. However, after her arrest by the Revolutionary Guards she was expelled from high school. After two months she was finally allowed to register at a different school by signing a pledge that she would not talk about her religion.<sup>85</sup>

77 The 1979 Iranian Constitution (amended in 1989) provides superficial protection of the right to freedom of expression for all citizens, including children, in its Article 24.<sup>86</sup> ARTICLE 19 finds that the Constitution embeds ambiguous caveats that limit free expression and are not sufficiently precise to comply with international human rights law.<sup>87</sup>

78 For example, the Constitution allows the restriction of free expression when it is found to be "detrimental to the fundamental principles of Islam or the rights of the public" (Articles 20 and 24).<sup>88</sup> These concepts are unduly broad and have not been defined.<sup>89</sup> Again, Article 40 prohibits the exercise of constitutional rights in a manner that is "injurious to others" or "detrimental to public interests." The preamble to the Constitution includes similarly vague restrictions for media outlets, which must "strictly refrain from diffusion and propagation of destructive and anti-Islamic practices." Article 4 requires that all laws and regulations must be based on Islamic criteria, which is also required as the framework for interpreting the Constitution.<sup>90</sup> The Guardian Council is given powers for interpreting Islamic criteria.<sup>91</sup>

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<sup>83</sup> Iran Human Rights Documentation Center, consultation with Iranian lawyer Hossein Raeesi (February 2013).

<sup>84</sup> *Ibid.*

<sup>85</sup> *Ibid.*

<sup>86</sup> ARTICLE 19 and PEN International, Joint Submission to the UN Universal Periodic Review of the Islamic Republic of Iran (15 March 2014), available at: <http://www.pen-international.org/wp-content/uploads/2013/05/Iran-submission.pdf>.

<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.*

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.*

- 79 ARTICLE 19 found that these provisions demonstrate the state’s failure to protect the right to freedom of expression as required by international law and lay the foundation for the institutionalization of censorship.<sup>92</sup> The limitations outlined are vague and/or framed too broadly, encouraging the arbitrary application of the Constitution, which provides for unchecked interpretive powers. Many of the purposes advanced through the limitations do not legitimize the restriction of the right to freedom of expression.<sup>93</sup> The Constitution also fails to require that the limitation imposed on free expression be necessary in a democratic society and proportionate.<sup>94</sup>
- 80 Iranian Internet law and policy also restrict freedom of online expression, access to information, and association of children and adolescents in contravention of the Convention. According to an analysis by ARTICLE 19, Iran’s 2010 Computer Crimes Law is “saturated with provisions that criminalize free expression. Offenses such as ‘crimes against public morality and chastity’ and ‘dissemination of lies’ are engineered to ensnare all forms of legitimate expression.”<sup>95</sup> The law is vague and overly broad, allowing the government to censor all forms of critical or disfavored expression and subject content providers to prison or fines. For example, under the law “using a computer or telecommunication system to disseminate lies... with the intention of damaging the public, disturbing the public state of mind, or that of the official authorities” is a punishable offense.<sup>96</sup>
- 81 Restrictions on Internet content and use not only impact content providers but also severely restrict access to information for users. The Computer Crimes Law mandates that Internet service providers (ISPs) are liable for enforcing all content restrictions. Failure to do so means risking fines and closure of businesses.<sup>97</sup> This essentially privatizes enforcement of the law, placing it in the hands of private individuals who do not have the training to implement even a less vaguely phrased law, and who are motivated to over-restrict content.

As a result, Iranian ISPs, independently or under orders of government agencies, block a range of online content that is protected under the Convention, including entire social media platforms, human rights websites, news sites, political blogs, arts and music websites, websites dedicated to health and well-being, and religious websites.<sup>98</sup> Social media such as Facebook, Twitter, and YouTube, which are popular amongst children and adolescents, are blocked in Iran, as are select pages of the online encyclopedia Wikipedia.<sup>99</sup> In the current communications environment in Iran as elsewhere, Internet access constitutes a vital platform for expression of children, as well as a source of information about the news, culture, and society they live in. Additionally, social media platforms serve as a means of association for children where they form groups, discussions, and organize activities with peers.

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<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid.*

<sup>95</sup> ARTICLE 19, *Computer Crimes in Iran: Online repression in practice* (5 December 2013), available at: <http://www.article19.org/resources.php/resource/37385/en/computer-crimes-in-iran:-online-repression-in-practice>.

<sup>96</sup> ARTICLE 19, *The Islamic Republic: Computer Crimes Law, (2012)* available at: [http://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB\[4\].pdf](http://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB[4].pdf).

<sup>97</sup> *Ibid.*

<sup>98</sup> UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, *Report on the situation of human rights in the Islamic Republic of Iran, (4 October 2013)* available at: <http://shaheedoniran.org/wp-content/uploads/2013/10/N1350031.pdf>.

<sup>99</sup> *Ibid.*

- 83 Websites in Persian and other languages for human rights organizations – including many that report and advocate for the rights of children such as Human Rights Watch, Amnesty International, ARTICLE 19, and the International Campaign for Human Rights in Iran – are also blocked. As such, children’s access to information about their human rights is greatly curtailed. Websites belonging to some minority religious groups, including Christians, Baha’is, and Sufi Muslims are also blocked, undermining children’s freedom of thought, conscience and religion.
- 84 According to the International Campaign for Human Rights in Iran, local monitors identified over 40,000 sites blocked by authorities and ISPs in just the ten months before February 2014.<sup>100</sup> The Campaign’s research has shown that government Internet controls and censorship are becoming simultaneously more pervasive and harder to detect.<sup>101</sup> Authorities have also started limiting some smart phone chat and text applications, such as WeChat, understood to be popular among adolescents.<sup>102</sup>
- 85 The Computer Crimes Law also mandates that ISPs keep Internet speeds at below international standards without special authorization from government agencies. As a result, Iran has one of the slowest Internet speeds in the region, creating a further barrier to digital access of information, expression, and association.
- 86 Censorship of the news media also greatly undermines the right of children and adolescents to access information, particularly related to social and political issues. ARTICLE 19 findings show that, despite a formal prohibition of censorship under Iranian law,<sup>103</sup> the Islamic Republic News Agency (IRNA), Iran’s official news agency, which is directly subordinate to the government, monitors all articles written by journalists before they are published to ensure their compliance with IRNA’s five governing principles.<sup>104</sup> These principles are: 1) preservation of state secrets and national security, 2) upholding public morality, 3) strengthening linguistic and religious solidarity, 4) maintaining human dignity, and 5) not publishing information prohibited by law. Yet ARTICLE 19 and PEN International found that “a wide range of independent and official reports allege that individuals, including media workers, are routinely summoned to government offices to be instructed or warned not to continue exercising their right to freedom of expression.”<sup>105</sup>

**RECOMMENDATION:** *We urge the Committee to recommend that the State party take all necessary measures to ensure the freedoms of expression, association, and peaceful assembly of children, as maintained by the Convention, including amending and clarifying relevant provisions of its criminal laws and suspending police measures against children exercising these rights. Moreover, the State party should also take all measures, including amending relevant laws, censorship policies, and other limits on the media and Internet, to allow children access to appropriate information from a diversity of sources, especially those aimed at the promotion of the totality of the child’s rights as enshrined in the Convention and other international instruments.*

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<sup>100</sup> International Campaign for Human Rights in Iran, *Internet in Chains: the Front Line of State Repression in Iran*, (November 2014) available at: [http://www.iranhumanrights.org/wp-content/uploads/Internet\\_report-En.pdf](http://www.iranhumanrights.org/wp-content/uploads/Internet_report-En.pdf).

<sup>101</sup> *Ibid.*

<sup>102</sup> *Ibid.*

<sup>103</sup> ARTICLE 19 and PEN International, *Joint Submission to the UN Universal Periodic Review of the Islamic Republic of Iran*, (15 March 2014) available at: <http://www.pen-international.org/wp-content/uploads/2013/05/Iran-submission.pdf>.

<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

## C. Article 37(a): Torture, Flogging, and Corporal Punishment

88 Iran's penal law provides for about 149 offenses that are punishable by flogging, according to the Abdorrahman Boroumand Foundation.<sup>106</sup> Flogging for each individual offense can range from 10 lashes to over 100. These punishments would constitute torture under Article 19 and 37(a) of the Convention.

89 Based on the age of majority in the Penal Code, girls above the age of 9 lunar years and boys above the age of 15 lunar years can be flogged for criminal offenses, although revisions in the 2013 Penal Code provide for some mitigation. (For explanation of mitigations, see section 148 on child executions). It is currently unclear whether these revisions have impacted sentencing.

90 Abdorrahman Boroumand Foundation documented at least 46 cases of under-18 offenders being sentenced to flogging between 2000 and 2011<sup>107</sup> following convictions of robbery, consumption of alcohol, selling drugs, prostitution, illicit sexual relationships, and insulting public authorities.<sup>108</sup> The real number is believed to be notably higher, as flogging is underreported and government data is not publicly available. Typically people prefer not to disclose, in part out of social stigma, the fact that they were flogged, and not all implemented sentences are reported.

91 Criminalization of and flogging for free expression and belief constitute a violation of Article 37 of the Convention. In addition to the offense of insulting public authorities, other expression-related crimes for which flogging is a mandated or permitted punishment include offending the public, having an un-Islamic appearance, selling or wearing clothes depicting images against Islam or the Iranian revolution, and publishing false news about presidential election candidates.

92 Aside from flogging as a criminal punishment, corporal punishment of children is prohibited in Iranian prisons and detention centers.<sup>109</sup> However it is not prohibited in the home, schools, alternative care settings, and day care, according to The Global Initiative to End All Corporal Punishment of Children.<sup>110</sup>

93 **RECOMMENDATION:** *We urge the Committee to recommend that the State party take necessary steps to immediately suspend all flogging sentences and abolish all criminal punishments in the law that would constitute torture or cruel, inhuman, and degrading treatment or punishment under the Convention and other international instruments. The State party should also take measures to prohibit corporal punishment of children in all private and public contexts.*

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<sup>106</sup> Abdorrahman Boroumand Foundation, *Flogging Interactive*, available at: <https://iranrights.org/projects/flogging>.

<sup>107</sup> *Ibid.*

<sup>108</sup> *Ibid.*

<sup>109</sup> The Global Initiative to End All Corporal Punishment of Children, *Corporal punishment of children in Iran: Briefing for the Universal Periodic Review, 20<sup>th</sup> session, (2014)*, available at: [www.upriiran.org/uprlibrary/](http://www.upriiran.org/uprlibrary/).

<sup>110</sup> *Ibid.*

## V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### A. Article 3: Best interest of the child

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#### Custody and guardianship

Reforms with regard to child custody have brought Iranian law further in line with Article 3(1) of the Convention, however laws on guardianship still do not take into account the best interest of the child, according to a legal review by the Centre for Supporters of Human Rights.

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In cases such as divorce where child custody must be determined, Article 1169 of the Civil Code stipulates that mothers are the preferred legal custodian for children seven years of age or younger.<sup>111</sup> After age seven, custody transfers automatically to the father.<sup>112</sup> Legal reforms issued in 2003, however, allow parents to dispute guardianship, requiring the court to render custody on the basis of the best interest of the child.<sup>113</sup> When a child has reached the age of legal maturity,<sup>114</sup> the court is supposed to ask for his or her opinion as part of determining what custody arrangement, and with which parent, is in the child's best interest. In this context, a girl can decide at a younger age, 9 lunar years of age, with which parent she wants to live.

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Importantly, custody and guardianship are mutually exclusive concepts under Iranian law. While custody can be granted to the mother of a child under the age of seven or based on the best interests of the child, the father or the paternal grandfather retains guardianship even if the mother has legal custody, with only narrow grounds to challenge guardianship.<sup>115</sup> In most cases, in the absence of a father or paternal grandfather a mother will be granted legal guardianship.<sup>116</sup> In other words, legal guardianship is not necessarily based on the best interests of the child and deviates from the Convention. This shortcoming is important because legal guardians, particularly for girls and adult females, must sign off on a variety of legal transactions for their wards, such as signing contracts, opening bank accounts, accessing legal remedies in court, or granting permission to travel outside the country.<sup>117</sup>

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**RECOMMENDATION:** *We urge the Committee to reiterate its previous recommendation that the State party review its legislation and administrative measures to ensure that Article 3 on the best interest of the children is reflected therein and implemented in all actions concerning children, including child custody and guardianship.*

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<sup>111</sup> *Civil Code, art. 1169.*

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid, note 1.*

<sup>114</sup> *Civil Code, art 1210.*

<sup>115</sup> *Legal and Parliamentary Deputy at the Judiciary, Note on child custody by the mother, (accessed February 2015) available at: <http://www.hvm.ir/print.asp?id=29952>.*

<sup>116</sup> *Ibid.*

<sup>117</sup> *Ibid.*

## VI and VII. BASIC HEALTH, WELFARE AND EDUCATION

### A. Early and forced marriage of children

- 98 Early and forced marriages in Iran undermine a child's right to health, education and overall well-being in contravention of the Convention, according to Austrian organization Verein Südwind Entwicklungspolitik. Girls are at particular risk of early marriage, both due to Iran's legal framework and because of social norms. As the Committee expressed concerns in its General Comment No. 4, there are potentially serious negative health consequences associated with early marriage and early pregnancy.<sup>118</sup> According to the Committee on the Rights of the Child, marriage should not be allowed for any child under the age of 18, save for children over 16 in exceptional circumstances with the permission of a court.<sup>119</sup>
- 99 According to Article 1041 of the Civil Code, amended 17 December 2000, "marriage for girls younger than 13 years and for boys younger than 15 years requires the guardian's permission, but on the condition of appropriateness, as determined by a competent court."
- 100 The amended article might be seen as a positive step, because it sets the age for marriage to 13 for girls and 15 for boys, instead of 9 for girls and 15 for boys, the ages of maturity stipulated in Article 1210.<sup>120</sup> Additionally it introduced the permission of a court as a prerequisite to these extra-early marriages below age 13, although they remain legal.
- 101 Virgin girls above the age of 13 who are marrying for the first time, regardless of age, legally need a father's or paternal grandfather's permission.<sup>121</sup> In cases where the father or paternal grandfather withholds permission without justifiable reason, his authority can be voided and the girl can marry with the permission of the court.<sup>122</sup> The Civil Code does not require such permissions for a boy who is marrying for the first time.
- 102 Additionally, a new law on child adoption, passed in 2013, legalized marriage between a father and his adopted daughter.<sup>123</sup> Such a marriage would be prohibited unless a court, after consulting with the state welfare organization, rules that such a marriage is in the best interest of the child.
- 103 According to UNICEF's State of the Child Report, 3% of all girls in Iran are married by the age of 15, 17% by the age of 18.<sup>124</sup>

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<sup>118</sup> UN Committee on the Rights of the Child, General comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child, CRC/GC/2003/4, para. 20, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f4&Lang=en).

<sup>119</sup> UN Committee on the Rights of the Child, Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18, (4 November 2014) available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f18&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f18&Lang=en).

<sup>120</sup> Civil Code, art. 1210.

<sup>121</sup> *Ibid*, art. 1043.

<sup>122</sup> *Ibid*.

<sup>123</sup> Law on the protection of children and adolescents without guardians or with irresponsible ones, Article 26, (2013), available at: <http://www.rooznamehrasmi.ir/Laws/ShowLaw.aspx?Code=1344>.

<sup>124</sup> UNICEF, the state of the world's children, (2015) available at: [http://www.unicef.org/publications/files/SOWC\\_2015\\_Summary\\_and\\_Tables.pdf](http://www.unicef.org/publications/files/SOWC_2015_Summary_and_Tables.pdf).

### Child Marriages in Iran<sup>125</sup>

Year	New Marriages of Girls			New Marriages of Boys	
	Under 10	10-14	15-19	Under 15	15-19
1392 (2013-2014)	201	41,236	234,974	313	36155
1391 (2012-2013)	187	40,464	265,117	359	43549
1390 (2011-2012)	220	39,609	281,747	742	47403
1389 (2010-2011)	716	42,741	298,625	1452	55914
1388 (2009-2010)	449	40,160	301,246	1149	54377
1387 (2008-2009)	302	37,820	313,433	858	56391
1386 (2007-2008)	317	35,614	298,387	1011	50612

105 In practice, child marriage rates are high, even for girls below the age of 13. According to Iran's latest national census, at least 48,580 girls between 10 and 14 years of age were married in 2011. Of these married girls, 11,289 were reported to have had at least one child before they reached 15 years of age.<sup>126</sup>

### Number of births by mothers' age<sup>127</sup>

Mothers age	Under 15	15-19
(2013-2014) 1392	1727	107,585
(2012-2013) 1391	1646	109,179
(2011-2012) 1390	1666	108,900
(2010-2011) 1389	1731	111,387
(2009-2010) 1388	1628	113,233
(2008-2009) 1387	1683	113,533
(2007-2008) 1386	1581	113,234

107 Earlier marriage also undermines the right to education of children. Officials have cited early marriage as one of the most common reasons children drop out of school.<sup>128</sup> Indeed, Iranian educational regulations place restrictions, mostly impacting girls, on the education of married children in schools, allowing them only to (1) participate in final exams, without attending classes, (2) attend special night schools, or (3) attend school but not disclose that they are married.<sup>129</sup>

<sup>125</sup> Rayehe Mozafarian, *Ring: A view to early child marriages in Iran*. (London, 2015) H&S media.

<sup>126</sup> National Census, Table 5 on marriage data: Civil status of women above the age 10, (2011) available at: <http://www.amar.org.ir/Default.aspx?tabid=1187>.

<sup>127</sup> National Organization for Civil Registration, Register of births by gender of child, rural or urban status, and the mother's age, available at: <https://www.sabteahval.ir/Default.aspx?tabid=4763>.

<sup>128</sup> Shahrzad News, Millions drop out for over the last four years, (12 January 2010) available at: <http://www.shahrzadnewz.net/index.php?page=1&newsItemId=3938&Language=en>.

<sup>129</sup> Regulation on Schools, art. 53, available at: [www.medu.ir/portal/File/ShowFile.aspx?ID=8cce6939-ec2f-48a6-bb17-95b5e22c5b3f](http://www.medu.ir/portal/File/ShowFile.aspx?ID=8cce6939-ec2f-48a6-bb17-95b5e22c5b3f).



108 **RECOMMENDATION:** *We urge the Committee to recommend that the State party raise the minimum age of marriage to 18 years in keeping with internationally accepted standards, gender neutrality, and to ensure the best interests of the child and the child’s health, education, and social well being; and take proactive measures to curtail child marriage. Children over 16 may be permitted to marry only where legitimate exceptions are defined by law, authorised by a court and judicial permission to marry rests on an individual assessment grounded in the Convention, without deference to culture and tradition. The State party should also rescind legal provisions allowing fathers to marry their adopted daughters.*

## B. Female genital mutilation (FGM)

109 Female Genital Mutilation (FGM) is not a common tradition in Iran, however, according to researchers on the ground, different forms of FGM are practiced in certain provincial areas in Kurdistan, Western Azarbaijan, Kermanshah, Illam, Hormozgan, and Khuzistan provinces.<sup>130</sup> There are no official statistics about the number of FGMs performed in Iran, likely due to cultural sensitivity regarding the issue. On 17 March 2014, Shahindokht Mowlaverdi, Vice President for Women and Family Affairs, FGM “is a serious issue and needs to be addressed and the Islamic Republic of Iran has joined a global campaign to combat this issue globally.”<sup>131</sup>

110 Iranian law criminalizes FGM. The Islamic Penal Code states, “cutting or removing each of the two sides of the female genitalia leads to *diya* (a financial penalty) equal to half of the full amount of *diya* for a woman's life. With respect to this provision, there is no distinction between adults and children or virgin or non-virgin [...] women.”<sup>132</sup>

111 **RECOMMENDATION:** *We urge the Committee to recommend that the State party include provisions to protect girls from FGM in its draft bill “protection of women against violence” currently under consideration by the Administration to address the deficiencies in punitive measures under the current Penal Code. We also recommend that the State party initiate awareness campaigns in partnership with local NGOs and community and religious leaders in those areas in Iran where FGM is most prevalent.*

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<sup>130</sup> Sudwind, *Violations of Girls Rights in Iran, Girl Marriage and FGM in I.R of Iran*, page 9, (2010) available at: [http://www.iranhr.org/uploads/docs/docs\\_en/girlsrights2014.pdf](http://www.iranhr.org/uploads/docs/docs_en/girlsrights2014.pdf).

<sup>131</sup> Correspondence with Shahindokht Mowlaverdi, Vice President for Women and Family Affairs, on file.

<sup>132</sup> *Penal Code*, Book 3, art. 663.

## VIII. SPECIAL PROTECTION MEASURES

### A. Children in situations of emergency

#### 112 **Article 22: Refugee Children**

Iran is host to one of the largest refugee populations in the world, and faces many challenges in providing necessary protective measures for refugee children. According to the UN Special Rapporteur on the situation of human rights in Iran, as of 2013, “Iran provides certain support measures such as decisions to issue work permits to refugee women, to extend a health insurance scheme to refugees and to permit refugee girls admitted to universities to obtain student visas within the country.”<sup>133</sup>

113 Afghan refugees report facing restrictions in accessing education in Iran. According to the director of the Bureau for Aliens and Foreign Immigrants Affairs (BAFIA) there are currently 310,000 Afghan refugees studying in Iran. Refugees are required to pay a fee to register in Iran’s public schools, which are otherwise free for Iranian nationals.<sup>134</sup> On 3 August 2014, the Ministry of Education issued a letter announcing that Afghan refugees can register in schools without paying a fee. However, according to NGOs on the ground, between 300,000 to 450,000 Afghan children are currently out of school in Iran.<sup>135</sup> Moreover, Afghan refugees are required to provide a valid residency card or passport in order to register for schools.<sup>136</sup>

114 Such a limitation, therefore, bans undocumented Afghan children from attending Iranian public schools. Alternatively, those children and other refugee children who are eligible but whose families cannot afford school fees have the choice of enrolling in “Afghan schools” in Iran. Human Rights Watch has noted that “[t]hese schools, which are not licensed or regulated by the Iranian government, are reportedly uneven in terms of quality, in part because they are starved for resources.”<sup>137</sup>

**RECOMMENDATION:** *We urge the Committee to reiterate its previous recommendation that the State party ensure that all children, including refugee children, have equal educational opportunities at all levels of the educational system without discrimination based on gender, religion, ethnic origin, nationality, legal status, or statelessness. We add that the State party should undertake similar measures to ensure access to other essential social benefits for refugee children and calibrate deportation proceedings of parents and children to be in the best interest of the child.*

<sup>133</sup> Situation of human rights in the Islamic Republic of Iran, 4 October 2013, A/68/503.

<sup>134</sup> <http://bafia.moi.ir/Portal/Home/ShowPage.aspx?Object=Instruction&CategoryID=a25b3683-80cc-48ec-810c-29ca-2ea14479&WebPartID=34903ca2-7a78-4688-bf5e-1652e6f283f1&ID=23b8fb68-e804-402b-8217-acdfd0da9282>.

<sup>135</sup> Iranian High Council for Human Rights, 450,000 Afghan children out of school, registration fees for Afghan students in public schools to be removed, (August 2014) available at: <http://www.humanrights-iran.ir/news-41381.aspx>.

<sup>136</sup> Children of foreign nationals will be registered at schools with resident cards or passport, 27 June 2012 Bureau for Aliens and Foreign Immigrant Affairs, Ministry of Foreign Affairs <http://bafia.moi.ir/Portal/Home/ShowPage.aspx?Object=News&CategoryID=a25b3683-80cc-48ec-810c-29ca2ea14479&WebPartID=1ccb27ea-dce7-45b5-b951-d5108afc82bc&ID=facd5618-f923-492b-ad16-73772f6e3896>.

<sup>137</sup> Unwelcome Guests, Human Rights Watch, <http://www.hrw.org/node/120431/section/9>.

## Article 38: Children and armed conflict

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### Landmines

Children living in five western border provinces in Iran are at notable risk of death and debilitating injury due to landmines and explosive remnants of war, according to the Center for Supporters of Human Rights (CSHR) and Association for Human Rights in Kurdistan of Iran-Geneva (KMMK-G). An estimated 20 million landmines were placed in Iran during the 1980-1988 Iran-Iraq War and during internal armed conflicts between the Islamic Republic and Kurdish non-state combatants in the 1980s.<sup>138</sup>

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Despite government de-mining efforts, landmine casualties, including those of children, continue to be reported in the five western border provinces: West Azerbaijan, Kurdistan, Kermanshah, and Ilam, which have Kurdish majority populations, and Khuzestan, which has an Arab majority population.<sup>139</sup>

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CSHR and KMMK-G point out that the government's approach to landmine clearance has been insufficient and poorly managed. In 2006, officials from the Ministry of Defense and National De-Mining Center announced de-mining operations would be completed by 2008, then pushed the deadline back to 2012.<sup>140</sup> Officials staged a ceremony in February 2013 to celebrate the end of de-mining operations in Kermanshah.<sup>141</sup> In January 2014 the Ministry of Defense announced the government had finished clearing mines in most parts of Khuzestan Province.<sup>142</sup>

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However, casualties continued throughout this period. In 2013, exploding landmines reportedly caused 6 deaths and 71 serious injuries such as loss of limbs or other disabilities; at least 107 civilians overall were injured.<sup>143</sup> The ages of all these victims is not known but reports indicate that at least 19 were children, most under the age of 15. Indeed, children represent 41% of all civilian landmine casualties where the age of the victim is known. Reports indicate there were seven child casualties in 2012 from landmine explosions.<sup>144</sup> While countrywide numbers for 2014 are currently unavailable, a media survey by KMMK-G found at least 43 casualties, including two maimed children, in four Kurdish-populated provinces.<sup>145</sup>

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<sup>138</sup> President Rohani's message on the global day on landmine awareness ceremony, (8 April 2014 available at: <http://www.iribnews.ir/NewsBody.aspx?ID=47632>; Armin Kohli, *Kurdish Landmine Plight Across and Along the Border*, Geneva Call, available at: <http://www.jmu.edu/cisr/journal/11.2/focus/kohli/kohli.shtml>.

<sup>139</sup> Center for Supporters of Human Rights (CSHR) and Association for Human Rights in Kurdistan of Iran-Geneva (KMMK-G), *Mine: Asleep Murderer, Civil Responsibility of the Iranian Government to Protect Citizens Against Landmines*, available at: <http://iranwithoutlandmines.org/wp-content/uploads/2014/10/final-for-site-1.pdf>.

<sup>140</sup> Center for Supporters of Human Rights (CSHR) and Association for Human Rights in Kurdistan of Iran-Geneva (KMMK-G), *Landmines: the sleeping evil*, (November 2014) available at: <http://iranwithoutlandmines.org/wp-content/uploads/2014/10/final-for-site-1.pdf>.

<sup>141</sup> [http://www.the-monitor.org/index.php/cp/display/region\\_profiles/theme/3533](http://www.the-monitor.org/index.php/cp/display/region_profiles/theme/3533).

<sup>142</sup> Center for Supporters of Human Rights (CSHR) and Association for Human Rights in Kurdistan of Iran-Geneva (KMMK-G), *Landmines: the sleeping evil*, (November 2014) available at: <http://iranwithoutlandmines.org/wp-content/uploads/10/2014/final-for-site1-.pdf>, Defense Minister: A large part of Khuzestan province has been cleared of landmines, (15 January 2014), Mehrnews <http://www.mehrnews.com/news/2215422/%D%8A%8D%8A%D%8B-4%D%8A%7D%8B%9D%8B%8D%85%9DB8%C-%D%8A%7D%8B%-2D%85%9DB8%C%D%8A%7D%8A%7D%8C%D%86%9D%85%9DB8%C%D%86%9D%8A%7D%8B%3D%8A%D%8A%7D%-86%9D%8A%D%88%9D%8B%2D%8B%3D%8A%D%8A%7D%-86%9D%9BE%D%8A%7DA%A%9D%8B%3D%8A%7D%8B%2DB8%C-%D%8B%4D%8AF%D%87%9D%8A%7D%8B%3D%8A>

<sup>143</sup> *Landmine and Cluster Munition Monitor, Iran*, (19 October 2014) available at: [http://www.the-monitor.org/index.php/cp/display/region\\_profiles/theme/3534](http://www.the-monitor.org/index.php/cp/display/region_profiles/theme/3534).

<sup>144</sup> *Ibid.*

<sup>145</sup> *On file with Association for Human Rights in Kurdistan of Iran-Geneva (KMMK-G).*

- 120 On 20 October 2013, Iranian Parliamentarian Omid Karimian explained that the government's de-mining operations had failed because the Ministry of Defense and Armed Forces Logistics have sub-contracted the task to "companies that either lack competence or due to other reasons are not performing their job properly."<sup>146</sup> More recently, other officials and experts posited that at the current rate, mine-clearing operations will take approximately 50 more years.<sup>147</sup>
- 121 Additionally, authorities have not properly designated and publicly marked high-risk areas. On 18 October 2013, for example, seven children were reportedly injured from a landmine explosion in Kurdistan Province's Nashkash village, where there were no landmine markings or warning signs. Ten-year-old Gashin Karimi lost her leg and six-year-old Ala Robina lost one of her eyes.<sup>148</sup>
- 122 Some of the other reasons cited by CSHR and KMMK-G for the government's poor performance are: (1) lack of political will amongst security officials, (2) insufficient budgetary allocations, (3) failure of state media to raise public awareness, and (4) restrictions on the activities of NGOs, such as the 2008 government shutdown of a major anti-landmine NGO, Mine Cleaning Collaboration Association.<sup>149</sup> Additionally, Iran has refused to allow international organizations to enter Iran to provide training and help de-mine the country. At the same time, international sanctions placed on the Islamic Republic have made it more difficult for international organizations to offer financial and technical assistance to Iran's de-mining program.<sup>150</sup>
- 123 Government measures to provide support and rehabilitation to child victims of landmines are also insufficient. A 1994 law, amended in 2010, mandates payment of salaries or benefits to war refugees or people who returned to their homes in war-torn areas of the country and had become disabled as a result of coming into contact with explosive materials. However, victims who were not recognized by a special commission as disabled "veterans" are only entitled, upon the commission's approval, to negligible allowances afforded by the Imam Khomeini Relief Foundation (IKRF) or the State Welfare Organization (SWO).<sup>151</sup> The law does not provide for legal procedures for appeal of the commission's decisions. In other words, the commission decides cases unilaterally. Another problem for victims is the prolonged procedure for investigating cases. This has left civilian victims with no financial assistance to cover medical or other costs before a decision is made on their status. Even in the case of a favorable decision, the assistance provided is not retroactive. Costs incurred between the moment of accident and the date of decision are not reimbursed.

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<sup>146</sup> Islamic Consultative Assembly News Agency, *Representative Of Marivan criticizes the Ministry of Defence after landmine explosion*, (20 October 2013) available at: <http://www.icana.ir/Fa/News/239157>.

<sup>147</sup> Center for Supporters of Human Rights (CSHR) and Association for Human Rights in Kurdistan of Iran-Geneva (KMMK-G), *Landmines: the sleeping evil*, (November 2014) available at: <http://iranwithoutlandmines.org/wp-content/uploads/2014/10/final-for-site-1.pdf>.

<sup>148</sup> Islamic Republic News Agency, *Suprise exploitation of landmines in the lives of children in Kurdistan*, (18 October 2014) available at: <http://www.irna.ir/fa/News/81359980/>.

<sup>149</sup> *Ibid.* note 147.

<sup>150</sup> *Ibid.*

<sup>151</sup> According to Article 4 of the 1994 law (amended 25 August 2010), the authority responsible for determining cases concerning death, disability, and injury, as a result of anti-regime activists is the Commission established according to the procedures of the Martyrs Foundations and War Veterans Affairs, which is made up of following persons: (1) the Governor as the chairman, (2) Management of the Martyr Foundation and War Veterans Affairs, (3) The Head of the Intelligence Unit, (4) Commander of the Revolutionary Guards of the Islamic Revolution Corps, (5) Attorney General, (6) Commander of the border, (7) the Head of the Imam Khomeini Relief Committee, and (8) the Coroner.

124 There is no comprehensive plan or central coordinating body in charge of aid to all victims of landmines.<sup>152</sup> Children disabled by landmines incur high medical costs and are unable to access required medical treatment, including physical, psychological, and other needed therapies.

125 Post-conflict safety measures are necessary to restore and protect rights, including in areas where landmines pose a threat to the safety of children. Investment must be made to ensure the complete clearing of landmines and cluster bombs from all affected areas.<sup>153</sup>

126 **RECOMMENDATION:** *We urge the Committee to recommend that the State party enhance de-mining efforts and ensure child victims of landmines receive the maximum available social services and aid. The State party should also ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which it signed in 2010, and the Ottawa Convention.*<sup>154</sup>

## B. Children in the justice system

### Access to justice

#### 127 **Bringing complaints to the courts and legal status of the child**

Access to justice is guaranteed in Iran under Article 34 of the Constitution, which states that: “It is the indisputable right of every citizen to seek justice by recourse to competent courts. All citizens have the right to access such courts, and no one can be barred from courts to which he has a legal right of recourse.” According to the Iranian Civil Code, all persons are entitled to civil rights but nobody can utilize and employ these rights unless they possess the legal capacity to do so.<sup>155</sup> Only children over the age of 15, who are legally deemed mature, may bring a case to the courts unassisted, however,<sup>156</sup> all other children need to bring cases through their legal guardian.<sup>157</sup> The father’s consent is needed to initiate legal proceedings, except where the father is the person against whom a complaint is made or he is unavailable to provide his consent.<sup>158</sup>

128 Children should be able to bring proceedings in their own names by themselves or, where they so desire, with the assistance of an appropriate representative. Furthermore, there

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<sup>152</sup> Landmine and Cluster Munition Monitor, Iran, last updated 19 October 2014, available at: [http://www.the-monitor.org/index.php/cp/display/region\\_profiles/theme/3534](http://www.the-monitor.org/index.php/cp/display/region_profiles/theme/3534).

<sup>153</sup> CRC general comment no. 17(2013) on the rights of the child to rest, leisure, play, recreational activities cultural life and arts (article 31), 17 April 2013 CRC/C/GC/17, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11).

<sup>154</sup> Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 18 September 1997, available at: [https://treaties.un.org/doc/Treaties/1997/09/19970918%2007-53%20AM/Ch\\_XXVI\\_05p.pdf](https://treaties.un.org/doc/Treaties/1997/09/19970918%2007-53%20AM/Ch_XXVI_05p.pdf).

<sup>155</sup> Civil Code art. 958.

<sup>156</sup> Civil Code, art. 1210.

<sup>157</sup> *Ibid.*

<sup>158</sup> For example see art. 1172 of the Civil law. The Guardianship of the child is fully explained in this article: Guardianship in Iranian Law, Hakime Mohammadi, Published August 23, 2014, available at <http://mehrkhane.com/fa/news/12585/%D8%AD%D8%B6%D8%A7%D9%86%D8%AA-%D8%AF%D8%B1-%D9%82%D9%88%D8%A7%D9%86%DB%8C%D9%86-%D8%A7%DB%8C%D8%B1%D8%A7%D9%86>

should be no requirement for parental consent and, where a guardian is appointed, courts must ensure that there is no conflict of interests between guardian and child.

129 **RECOMMENDATION:** *We urge the Committee to recommend that children be allowed to initiate legal proceedings concerning their rights independently or with the assistance of an adult, but only if they wish to have such assistance, and that the parental consent requirement is eliminated from national law.*

### 130 **Legal aid, legal clinics and pro bono practice**

Another major obstacle to justice for children in Iran is access to legal aid. The Constitution of Iran (Article 35) grants everyone the right to select a lawyer and states that if a person is unable to do so, arrangements must be made to provide them with legal counsel.<sup>159</sup> State-funded legal aid is available to persons who provide evidence that they do not have the financial means to secure legal representation; however, there is no priority given to or special regime for applications submitted on behalf of children.<sup>160</sup>

131 **RECOMMENDATION:** *We urge the Committee to recommend that the State party reform its laws to provide automatic legal aid to children or their representatives regardless of the child's or their family's financial status.*

## **Article 40: Administration of juvenile justice**

### 132 **Juvenile court system**

The Iranian judicial system has established several procedural mechanisms to administer juvenile justice, some as recently as this past year. However, examinations by the Iran Human Rights Documentation Center and Child Rights International Network demonstrate that the Islamic Republic still lacks a distinctive and comprehensive juvenile justice system that is geared toward the best interest of the child.

133 The new criminal procedure law, coming into force in June 2015, establishes a new type of court - juvenile court.<sup>161</sup> The proposed juvenile courts will be administered by a judge and two judicial advisors with experience in psychology, criminology, social work or education.<sup>162</sup> According to the Criminal Procedure law, juvenile court judges should be married (preferably with children), have a minimum of 5 years of judicial experience as judges, and have received training (although the type of training is not specified).<sup>163</sup>

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<sup>159</sup> Constitution of Iran, art. 35, available at: <http://www.moi.ir/Portal/File/ShowFile.aspx?ID=ab40c7a6-af7d-4634-af93-40f2f3a04acf> (in Farsi) and at: [http://www.servat.unibe.ch/icl/ir00000\\_.html](http://www.servat.unibe.ch/icl/ir00000_.html) (English translation).

<sup>160</sup> Family sponsorship law, Article 5.

<sup>161</sup> Criminal Procedure Law, art. 294, available at: <http://www.rooznamehrasmi.ir/Files/Laws/Ghanoon%2093.02.03.pdf>.

<sup>162</sup> *Ibid.* art. 298, available at: <http://www.rooznamehrasmi.ir/Files/Laws/Ghanoon%2093.02.03.pdf>.

<sup>163</sup> *Ibid.* art. 409, available at: <http://www.rooznamehrasmi.ir/Files/Laws/Ghanoon%2093.02.03.pdf>.

134 Under the new criminal procedures, one of the branches of the criminal court system will be devoted to children and adolescents.<sup>164</sup> Similarly during the initial investigation phase, one of the branches of the office of the prosecutor is appointed to conduct investigations in those cases.<sup>165</sup> The creation of a special office of prosecutors for juveniles that is in charge of investigating crimes committed by juveniles between the ages of 15 to 18 is a positive improvement, however, one legal expert predicts that those offices will be established only in Tehran.<sup>166</sup>

135 The general criminal court still preserves jurisdiction over “serious crimes” – which are offenses punishable by at least 10 years imprisonment – and sexual crimes, such as sodomy between two males, adultery, or rape, all of which can carry capital sentences.<sup>167</sup> Under the new Penal Code, a specific sub-branch of the general criminal court, and not the special juvenile court, is designated to have jurisdiction over serious crimes or sexual crimes charged to juveniles.<sup>168</sup>

136 Neither court is granted any additional powers to mitigate sentences and detention as advised by the Committee in its General Comment on juvenile justice.<sup>169</sup>

137 While there are positive aspects to the new juvenile courts and juvenile branch of the criminal courts, these developments fail to bring Iran’s juvenile justice system in line with the Convention. Neither court system is constructed around the best interest of the child, nor are there any legal provisions requiring judges to take the best interest of the child into account during criminal proceedings. Iranian law does not prescribe any limit on pretrial detention of defendants under 18. Nor does Iranian law present any procedural safeguards to protect the privacy of child defendants. In addition, there are no separate procedures for initiating investigations and issuing warrants against children or separating children vulnerable to domestic violence from their parents.

138 **RECOMMENDATION:** *We ask the Committee to recommend that the State party reform its juvenile justice system to ensure that each child who comes into contact with it is treated in a manner consistent with the promotion of the child's sense of dignity and worth, as required by the CRC. Children in conflict with the law should never be dealt with by the general justice system, but by a separate juvenile justice system which has a rehabilitative rather than punitive aim.*

### 139 **Article 37(d): Access to a lawyer**

Iranian law recognizes the right to a lawyer for all criminal defendants including child and juvenile defendants. In practice, however, the rights to fair trial and counsel as safeguarded by the Convention are often undermined. The Iranian criminal process is divided into two

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<sup>164</sup> *Ibid.* art. 402, available at: <http://www.rooznamehrasmi.ir/Files/Laws/Ghanoon%2093.02.03.pdf>.

<sup>165</sup> *Ibid.* 287, available at: <http://www.rooznamehrasmi.ir/Files/Laws/Ghanoon%2093.02.03.pdf>.

<sup>166</sup> Iran Human Rights Documentation Center consultation with Iranian lawyer Hossein Raeesi, February 2015.

<sup>167</sup> Code of Criminal Procedure(2014), arts. 306 and 285, available at: <http://www.rooznamehrasmi.ir/Files/Laws/Ghanoon%2093.02.03.pdf>.

<sup>168</sup> *Ibid.* art.315, available at: <http://www.rooznamehrasmi.ir/Files/Laws/Ghanoon%2093.02.03.pdf>.

<sup>169</sup> General Comment N° 10 (2007): Children's rights in juvenile justice, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f10&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f10&Lang=en).



parts: (1) the investigatory phase, which starts with arrest or charges and continues through the indictment, and (2) the trial phase, which extends from indictment through the trial. Under the current criminal procedure law, access to counsel is guaranteed only during the trial phase.<sup>170</sup> The new criminal procedure law would expand access to a lawyer to the initial investigation phase with extensive exceptions enumerated in the code.<sup>171</sup>

140 The new procedural law would allow child defendants, upon their request, to access a lawyer within the initial investigation phase. The procurator (often called an investigative judge) who oversees the investigation phase is also required to inform the defendant of the right to legal counsel.<sup>172</sup> In cases where the defendant's guardians cannot afford a lawyer, a public defender will be appointed by the court.

141 Despite these notable improvements to the law, restrictions on access to legal counsel continue. Security forces and judicial officials can block a juvenile's access to a lawyer for one week after arrest if the accused is charged with a national security offense or other serious offenses, defined as crimes with a sentence of three years or more.<sup>173</sup> The presence of a defense lawyer during a trial is required only for cases in front of the high criminal court.<sup>174</sup> Under Article 415 of the new Criminal Procedure, which specifically deals with juvenile and child defendants, the presence of an attorney is not required in trials for less serious *tazir* crimes (i.e. those with discretionary punishments), meaning a public defender would not be provided in such cases.<sup>175</sup> Article 415 also states that in these cases, a parent or the child can conduct the defense. Less-serious crimes are considered those punishable by up to two years in prison, up to 99 lashes, or fines.<sup>176</sup> According to the Iran Human Rights Documentation Center, child defendants are frequently charged with these less serious categories of offenses, especially girls accused of prostitution, a crime punishable by flogging.<sup>177</sup> Even in cases where a child defendant is eligible for state funded legal aid, there is no system in place to prioritize attorneys for children. Under the new criminal procedure code, authorities may also block a detainee's communication with family if they deem that necessary.<sup>178</sup>

142 Additionally, authorities in Iran frequently restrict or limit access to a lawyer even in situations where it is legally permitted or required.<sup>179</sup> For example, defendants are often not allowed by authorities to meet their lawyers until the day of their trial, compromising the right to a defence and fair trial.<sup>180</sup>

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<sup>170</sup> *New Code of Criminal Procedure on Islamic Republic of Iran ("Criminal Procedure")*, arts. 48, 190 and 415 (2014).

<sup>171</sup> *Law on Code of Criminal Procedure(2014)*, art. 5, available at: <http://www.rooznamehrasmi.ir/Files/Laws/Ghanoon%2093.02.03.pdf>.

<sup>172</sup> *Ibid.* art. 190.

<sup>173</sup> *Ibid.* arts. 48 and 5.

<sup>174</sup> *Ibid.* art. 415.

<sup>175</sup> *Ibid.*

<sup>176</sup> *Ibid.*

<sup>177</sup> *Ibid.*

<sup>178</sup> *Ibid.* art. 415, available at: <http://www.rooznamehrasmi.ir/Files/Laws/Ghanoon%2093.02.03.pdf>.

<sup>179</sup> See, <http://shaheedoniran.org/wp-content/uploads/2014/03/A-HRC-25-61-updated.pdf>.

<sup>180</sup> *Ibid.*



143 Borzan Nasrollahzadeh, was arrested in May 29, 2010, at age 17, according to research by United for Iran.<sup>181</sup> Authorities allegedly, kept him in solitary confinement for 19 months. Nasrollahzadeh reportedly did not have access to his court appointed lawyer until the day of the trial.<sup>182</sup> On the basis of a confession during his initial detention, Nasrollahzadeh was convicted of moharebeh for allegedly participating in military training with “Salafist” Sunni Muslim groups in Kurdistan and sentenced to death.<sup>183</sup>

144 **RECOMMENDATION:** *We request the Committee to urge the State party to ensure children’s right to access legal advice and representation is provided for, both in law and in practice, in all phases of the justice process and in relation to all charges.*

### 145 **Article 37(a): Prohibition of inhuman sentencing**

**DEFINITIONS:** Criminal punishments in Iran are divided into five types: *hodood*,<sup>184</sup> *qisas*, *diya*, *ta’zirat*, and deterrent punishments. *Hodood* punishments are those for which the type, amount and quality is prescribed by Islamic law.<sup>185</sup> *Qisas*, which translates to “retribution,” is a punishment deemed equal to a perpetrator’s crime.<sup>186</sup> A family member of the victim may and sometimes does pursue the punishment, including execution.<sup>187</sup> In the case of murder, therefore, the punishment is considered *qisas* as retribution for life. *Diya* punishment is monetary compensation, prescribed by Sharia, for the crime.<sup>188</sup> *Ta’zirat* is “chastisement” or punishment, not prescribed by Islamic law but instead left to the discretion of judges, and includes imprisonment, fines and lashes. Most frequently, the death penalty is applied under the *hodood* section, and it is used under the *qisas* section in cases of murder.<sup>189</sup>

146 Juvenile defendants are subjected to the same legal framework as adult offenders. The Penal Code allows judges from any court system some discretion in sentencing for what the Penal Code calls *tazir* crimes (i.e., crimes for which punishments are not prescribed by Islamic law). However, the law prescribes no formal form of mitigation for *tazir* crimes based on the age of the offender. *Hodood* crimes and *qisas* crimes typically have mandatory punishments, which can include death, flogging, imprisonment and fines.<sup>190</sup> Until recently judges had no discretionary role in *hodood* and *qisas* sentencing.

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<sup>181</sup> *United for Iran interview with anonymous sources (names withheld for security reasons) close to the case (February 2015). See also, <http://united4iran.org/political-prisoners-database/>.*

<sup>182</sup> *Ibid.*

<sup>183</sup> *Ibid.*

<sup>184</sup> *Also spelled hodud, hudud, or hadd, these are punishments whose type and scope have been determined by Sharia Law and cannot be commuted or pardoned.*

<sup>185</sup> *Penal Code, art. 15.*

<sup>186</sup> *Ibid., art. 16 (refers to Book 3 for sentencing). The new Penal Code retains exemptions for the following acts and persons: father and paternal grandfather of the victim (art. 301); murder of a person who committed a death-eligible hodood offense (art. 302); murder of a rapist (art. 302); a husband who murders his wife and her lover committing adultery (art. 302); Muslims, members of recognized religions, “protected persons” who kill members of unrecognized religions or “non-protected persons” (art. 310) (as described by Iran Human Rights and Together Against the Death Penalty, Annual Report on the Death Penalty in Iran – 2013, 17).*

<sup>187</sup> *See, e.g., Iran Human Rights, “Two Prisoners Executed Publicly in Northern Iran,” Oct. 5, 2013, available at: <http://iranhr.net/2013/10/two-prisoners-executed-publicly-in-northern-iran/>, last visited Feb. 12, 2015.*

<sup>188</sup> *Penal Code, art. 17.*

<sup>189</sup> *International Federation for Human Rights, Iran: Death Penalty (2009), 10, available at: [http://www.fidh.org/IMG/pdf/Rapport\\_Iran\\_final.pdf](http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf), last visited Feb. 12, 2015.*

<sup>190</sup> *Iran Human Rights Documentation Center consultation with Hossein Raeesi human rights lawyer,*

147 Under Article 88 of the 2013 Penal Code, judges can mitigate *hodood* and *qisas* punishment, with the help of judicial advisors, if they determine that an offender is not mature enough to understand his or her crime.<sup>191</sup> While this is a positive provision, there is some indication that the court has used overly simplistic measures to determine maturity, such as assessing whether a defendant has grown body hair. Moreover, mitigating a sentence on the basis of psychological maturity is completely at the discretion of the judge, even in the case of the new juvenile courts.

#### 148 **Child executions**

In violation of Article 37(a) of the Convention on the Rights of the Child, Iran continues to execute individuals for offenses committed when under the age of 18 (hereinafter, “child offenders”). In 2009, Iran ranked first in the world for the number of executions per capita (and second only to China for the number of executions overall).<sup>192</sup> It has consistently been among the states with the greatest number of executions of child offenders. Moreover, Iran imposes the death penalty for ordinary crimes, i.e., those that would not be considered among the “most serious crimes,” required to justify capital punishment under the International Covenant on Civil and Political Rights and international standards.<sup>193</sup>

149 According to Iran Human Rights (IHR), Iran executed more than 750 prisoners in 2014.<sup>194</sup> At least 14 of the people executed in 2014 are believed to have been under the age of 18 at the time of the crimes that led to their death sentences.<sup>195</sup> There are currently at least 160 child offenders on death row in Iranian prisons.<sup>196</sup>

150 According to a legal review by the Abdorrahman Boroumand Foundation, Iran’s Penal Code allows or mandates the death penalty for more than 80 discrete offenses.<sup>197</sup> These offenses include adultery, incest, rape, sodomy, a non-Muslim party in same-sex relations, insulting the Prophet Mohammad or other great Prophets, possessing or selling illicit drugs, theft for the fourth time, premeditated murder, *moharebeh* (waging war against God), *mofsid-e-fil-arz* (corruption on earth), and human trafficking.<sup>198</sup> In practice, only a handful of these offenses, such as murder, drug trafficking, *moharebeh*, and rape, account for the vast majority of executions, with drug offenses topping the list. Under Iranian law, child offenders—girls aged 9 lunar years or more and boys aged 15 lunar years or more—can be executed for most of these crimes.

151 Iran adopted a new Penal Code that entered into force in June 2013.<sup>199</sup> The new Penal Code retains the death penalty for nearly all capital offenses in the previous Penal Code, and

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<sup>191</sup> Penal Code, art. 88.

<sup>192</sup> International Federation for Human Rights, *Iran: Death Penalty* (International Federation for Human Rights, 2009), 4. Also available at: [http://www.fidh.org/IMG/pdf/Rapport\\_Iran\\_final.pdf](http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf).

<sup>193</sup> See, <http://shaheedoniran.org/wp-content/uploads/2014/03/A-HRC-25-61-updated.pdf>.

<sup>194</sup> Iran Human Rights: *Annual report on the death penalty in Iran- 2014* (Forthcoming).

<sup>195</sup> *Ibid.*

<sup>196</sup> *Ibid.*

<sup>197</sup> See, Abdorrahman Boroumand Foundation, “Expert Panel on Executions in Iran – 5th World Congress Against the Death Penalty in Madrid, June 13, 2013,” July 5, 2013, available at: <http://www.iranrights.org/blog/expert-panel-on-executions-in-iran-5th-world-congress-against-the-death-penalty-in-madrid-june-13th-2013/>, last visited Feb. 12, 2015.

<sup>198</sup> United Nations, *Situation of Human Rights in the Islamic Republic of Iran: Report of the Secretary-General*, U.N. Doc. A/68/377, Sept. 10, 2013, ¶ 14. See also, Iran Human Rights and Together Against the Death Penalty, *Annual Report on the Death Penalty in Iran – 2013*, 15-18.

<sup>199</sup> Tabnak, “Penal Code was promulgated by the President,” accessed Feb. 24, 2014.

even expands applicability of the death penalty by giving judges authority to order death in additional cases based on Islamic law.<sup>200</sup>

- 152 The new Penal Code purports to reduce the number of death-eligible crimes pursuant to which juvenile offenders can be prosecuted.<sup>201</sup> Child offenders under the age of 18 who commit *hodood* or *qisas* offenses can be exempted of a mandatory death sentence if a judge determines, based on evidence, that the offender lacked “adequate mental maturity and the ability to reason.”<sup>202</sup> This is a discretionary process and the accompanying legislative note allows, but does not mandate, judges to seek expert forensic opinions or other sources to make that determination.<sup>203</sup> In effect, maturity is based on a more-or-less subjective standard, and not objective standards such as biological age, and the default age of maturity in the law is still 9 for girls and 15 for boys. Additionally, Articles 88 and 89 provide that juvenile offenders who commit *tazir* or “discretionary crimes,” presumably including drug possession or trafficking, are not eligible for capital punishment.<sup>204</sup>
- 153 In January 2015, the judiciary issued a ruling requiring all courts to review death sentences for child offenders imposed prior to the new Penal Code if the defendants petitioned for review.<sup>205</sup> As discussed below, however, child offenders convicted of drug offenses are still scheduled for execution.
- 154 In 2014, the Iranian government executed at least 14 child offenders—one of the country’s highest rates in more than a decade.<sup>206</sup> According to Iran Human Rights’ annual reports, since 2008, at least 42 child offenders have been executed. Eight child offenders were executed in 2013, four in 2011, two in 2010, five in 2009, and nine in 2008.<sup>207</sup>
- 155 The 2014 executions of two child offenders—Hasan Gholami and Mehras Rezaei—were announced by the media inside Iran, while the rest have been documented by human rights organizations and confirmed by at least two different sources. Mehras Rezaei was convicted of murdering his cousin when he was 17 years old<sup>208</sup> Hassan Gholami was 14 years old when he was convicted of a murder as a result of a street fight in 2007. He was executed seven years later, on March 2, 2014, in a prison in Shiraz. His family was not informed about the execution.<sup>209</sup>

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<sup>200</sup> United Nations, *Situation of Human Rights in the Islamic Republic of Iran: Report of the Secretary-General*, U.N. Doc. A/68/377, Sept. 10, 2013, para. 14; International Federation for Human Rights, *Background information and Recommendations for the UNGA Resolution on Human Rights in the Islamic Republic of Iran (2013)*, 2; *Death Penalty Worldwide* (citing Islamic Penal Code of the Islamic Republic of Iran of 1991, art. 220, as amended on April 27, 2013).

<sup>201</sup> United Nations, *Situation of Human Rights in the Islamic Republic of Iran: Report of the Secretary-General*, U.N. Doc. A/68/377, Sept. 10, 2013, para. 14.

<sup>202</sup> *Situation of human rights in the Islamic Republic of Iran: Report of the Secretary-General*, para. 17, U.N. Doc. A/68/377 (Sept. 10, 2013); *Iran Penal Code (2013)*, Art. 91.

<sup>203</sup> *Iran Human Rights, Annual Report on the Death Penalty in Iran – 2013*, 18.

<sup>204</sup> *Penal Code*, art. 88.

<sup>205</sup> Human Rights Watch, *Iran: Halt Execution of Child Offender*, Feb. 10, 2015, available at: <https://www.crin.org/en/library/news-archive/iran-halt-execution-child-offender> (last visited Feb. 11, 2015).

<sup>206</sup> Amnesty International, “Iran: Alleged juvenile offender among 10 hunger strikers threatened with immediate execution,” Dec. 16, 2014, available at: <http://www.amnesty.org/en/news/iran-alleged-juvenile-offender-among-10-hunger-strikers-threatened-immediate-execution-2014-12->, last visited Feb. 12, 2015.

<sup>207</sup> *Iran Human Rights*, “Iran Human Rights: at least 350 executions in 2008 in Iran,” Feb. 24, 2009, available at: <http://iranhr.net/2009/02/iran-human-rights-at-least-350-executions-in-2008-in-iran/>, last visited Feb. 12, 2015.

<sup>208</sup> *Iran Human Rights*, “Execution of a minor offender in Iran,” Mar. 7, 2014, available at: <http://iranhr.net/2014/03/execution-of-a-minor-offender-in-iran/>, last visited Feb. 12, 2015.

<sup>209</sup> *Fedagh news website*, *Gholami was executed in Shiraz today*, March 2, 2014, available at: <http://fedagh.ir/archives/7560>.

156 In practice, the government of Iran typically holds child offenders on death row until they reach the age of majority before executing them.<sup>210</sup> Indeed, the Iranian government seems to conflate the Convention’s prohibition on imposing the death penalty on an individual for a crime committed when under age 18 with a prohibition on executing persons under age 18. For example, Iran’s Third Periodic Report to the Committee states that “[t]he Head of the Judiciary has issued a circular to prohibit applying *qisas* (death or corporal punishment for the crime of murder) on children and adolescents.”<sup>211</sup>

157 Elsewhere in the Third Periodic Report, the Iranian government asserts in passing:

158 “In Iranian law some serious crimes are punishable by death. However, in the judicial proceedings, no death sentence is issued for the children. Similarly, it is the policy of the Judiciary to avoid heavy sentences against children under the age of 18 or to change them subsequently through pardons.”<sup>212</sup>

159 This statement does not reflect the reality in Iran. Iranian state media reports confirm that Iran has executed at least eight child offenders since 2010.<sup>213</sup> Iranian media do not report all executions, but human rights organizations supplement these media reports through independent monitoring.

#### 160 **Examples**

Despite Article 88 of the new Penal Code, Iran continues to execute individuals for drug trafficking crimes, which seem to qualify as “discretionary crimes.” One of the child offenders executed in 2014 was convicted of drug trafficking,<sup>214</sup> which appears to fall under Article 88 of the new Iranian Penal Code and, contrary to typical practice, was executed while still a child. According to Radio Liberty a 15-year old Afghan boy named Jannat Mir was among six Afghan citizens executed for drug-related crimes in the Dastgerd prison of Isfahan in April 2014.<sup>215</sup> The UN High Commissioner for Human Rights and the UN Secretary-General publicly raised concern over Jannat Mir’s execution.<sup>216</sup>

161 In another case taken up by UN officials,<sup>217</sup> Saman Naseem was first sentenced to death in January 2012 for the offenses of “enmity against God” (*moharebeh*) and “corruption on earth” (*mofsid-e-fil-arz*) resulting from alleged armed activities against Iran’s Revolutionary

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<sup>210</sup> International Federation for Human Rights, *Iran: death penalty*, (April 2009), 28; Iran Human Rights, *Annual Report on the Death Penalty in Iran – 2013*, 19.

<sup>211</sup> Islamic Republic of Iran, *Third Periodic Report on the Convention on the Rights of the Child* (Mar. 2013), 91 (underlining added).

<sup>212</sup> *Ibid.* at 91.

<sup>213</sup> Human Rights Watch, *Iran: Halt Execution of Child Offender*, Feb. 10, 2015, available at: <https://www.crin.org/en/library/news-archive/iran-halt-execution-child-offender> (last visited Feb. 11, 2015).

<sup>214</sup> Iran Human Rights, “Afghan Juvenile Executed in Iran for Drug-Related Charges,” May 6, 2014, available at: <http://iranhr.net/2014/05/afghan-juvenile-executed-in-iran-for-drug-related-charges/>, last visited Feb. 12, 2015.

<sup>215</sup> *Ibid.*

<sup>216</sup> UN High Commissioner for Human Rights, “Iran: Execution of juvenile offenders breaches international law – Pillay,” June 26, 2014, available at: <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=14780&LangID=F>, last visited Feb. 12, 2015.

<sup>217</sup> UN High Commissioner for Human Rights, “Iran: UN experts urge Iran to halt immediately execution of a juvenile offender, scheduled tomorrow” 18 February 2015, available at: <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=15582&LangID=E>.

162 Guard.<sup>218</sup> Originally sentenced by the Revolutionary Court of Mahabad, Naseem's sentence was overturned by Branch 32 of the Iran Supreme Court in August 2012 both for lack of jurisdiction by the Revolutionary Court and because Naseem was under 18 at the time of the alleged offense.<sup>219</sup> Naseem's case was remanded to Branch 2 of the Criminal Court of West Azerbaijan Province, and he was again sentenced to death in April 2013.<sup>220</sup> Branch 32 of the Supreme Court upheld this death sentence in December 2013.<sup>221</sup> Naseem's attorney told Human Rights Watch that he petitioned the judiciary and government authorities several times to suspend Naseem's execution because he was a child offender, but the petitions were either rejected or went unanswered.<sup>222</sup> In February 2015, Naseem's attorney of record received an official letter suggesting that the judiciary had cleared the path for Naseem to be executed on or about February 19, 2015.<sup>223</sup> Despite a last minute stay of execution, some reports indicated that Naseem was executed on February 20, 2015.<sup>224</sup> As of this writing, rights groups were awaiting confirmation about Naseem's fate.<sup>225</sup>

163 Notwithstanding Iran's *de jure* prohibition on torture and laws enshrining fair trial safeguards, several case studies demonstrate that child offenders sentenced to death are often denied due process, access to attorneys, and are subjected to torture and other forms of ill treatment.

164 Saman Naseem's attorney of record reports that officials in the judiciary unlawfully prevented him from thoroughly reviewing the case file for information about the impending execution.<sup>226</sup> A source close to Naseem's family said that agents tortured Naseem—beating and lashing him and pulling out his fingernails—during the first few months after his arrest, when he was held incommunicado.<sup>227</sup> Naseem's "confession" was later aired on state television, although court documents suggest that at trial Naseem denied his involvement.<sup>228</sup>

165 **Example**

Jannat Mir, according to his brother, did not have access to a lawyer during his trial.<sup>229</sup> Similarly Rasoul Holoumi—executed in 2014 for a homicide he allegedly committed at age 17—was, according to media reports, not given access to a lawyer during the investigation, nor given

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<sup>218</sup> Amnesty International, "Iran: Alleged juvenile offender among 10 hunger strikers threatened with immediate execution," Dec. 16, 2014, <http://www.amnesty.org/en/news/iran-alleged-juvenile-offender-among-10-hunger-strikers-threatened-immediate-execution-2014-12>, last visited Feb. 12, 2015.

<sup>219</sup> *Ibid.*

<sup>220</sup> *Ibid.*

<sup>221</sup> *Ibid.*

<sup>222</sup> Human Rights Watch, *Iran: Halt Execution of Child Offender*, Feb. 10, 2015, available at: <https://www.crin.org/en/library/news-archive/iran-halt-execution-child-offender> (last visited Feb. 11, 2015).

<sup>223</sup> *Ibid.*

<sup>224</sup> Iran Human Rights, *Juvenile Offender Naseem was Executed, February 20, 2015*. <http://iranhr.net/2015/02/saman-naseem-was-executed-yesterday/> (last visited Feb. 22, 2015).

<sup>225</sup> <http://www.hrw.org/news/2015/02/20/dispatches-possible-execution-and-agony-not-knowing>

<sup>226</sup> Human Rights Watch, *Iran: Halt Execution of Child Offender*, Feb. 10, 2015, <https://www.crin.org/en/library/news-archive/iran-halt-execution-child-offender> (last visited Feb. 11, 2015).

<sup>227</sup> *Id.*

<sup>228</sup> *Id.*

<sup>229</sup> Iran Human Rights, "Afghan Juvenile Executed in Iran for Drug-Related Charges," May 6, 2014, <http://iranhr.net/2014/05/afghan-juvenile-executed-in-iran-for-drug-related-charges/>, last visited Feb. 12, 2015.

166 adequate time or resources to prepare a defense during trial.<sup>230</sup> Ali Mahin Torabi, who was accused of murder at age 16 and given a death sentence, was allegedly tortured and kept with two other inmates in a cell that measured only 5 x 5 meters in area.<sup>231</sup> Torabi's family was allowed to visit him just once every 45 days for only 20 minutes at a time.<sup>232</sup>

167 Most executions are reportedly carried out within prisons, but Iran still conducts public hangings. In 2014, at least 53 people were hanged in public.<sup>233</sup> Public hangings are often announced locally and people are encouraged to attend as spectators.<sup>234</sup> As there are no age limits, children are often observed watching public executions, including as recently as January 2015.<sup>235</sup> There are several reports of children who have died while imitating executions during play.<sup>236</sup> In September 2013, for example, an eight-year-old boy died during a playtime execution "game."<sup>237</sup>

168 **RECOMMENDATION:** *We urge the Committee to recommend that the State party to take the necessary steps to immediately suspend the execution of all death penalties imposed on persons for having committed a crime before the age of 18, to take the appropriate legal measures to convert them into penalties in conformity with the provisions of the Convention and to fully abolish the death penalty as a sentence imposed on persons for having committed crimes before the age of 18, as required by Article 37 of the Convention; and protect the interests of children by ceasing all public executions.*

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<sup>230</sup> Amnesty International, "Iran: Youth at risk of hanging amid disturbing rise in juvenile executions," July 15, 2014, <http://www.amnesty.org/en/for-media/press-releases/iran-youth-risk-hanging-amid-disturbing-rise-juvenile-executions-2014-07-15>, last visited Feb. 12, 2015.

<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> Written communication with Iran Human Rights, Feb. 12, 2015, on file with The Advocates for Human Rights.

<sup>234</sup> Written communication with Iran Human Rights, Feb. 12, 2015, on file with The Advocates for Human Rights.

<sup>235</sup> Written communication with Iran Human Rights, Feb. 12, 2015, on file with The Advocates for Human Rights; Iran Human Rights, "Two prisoners hanged in public in Shiraz (Southern Iran)," Feb. 13, 2014, <http://iranhr.net/2014/02/two-prisoners-hanged-in-public-in-shiraz-southern-iran/>, last visited Feb. 12, 2015; Iran Human Rights, "Children watching public executions in Iran: Iran Human Rights urges the international community to act immediately," Oct. 12, 2011, <http://iranhr.net/2011/10/children-watching-public-executions-in-iran-urges-un-ban/>, last visited Feb. 12, 2015; Iran Human Rights, "Public Execution of Two Prisoners in Front of Children," Jan. 18, 2015, <http://iranhr.net/2015/01/public-execution-of-two-prisoners-in-front-of-children/>, last visited Feb. 12, 2015.

<sup>236</sup> Written communication with Iran Human Rights, Feb. 12, 2015, on file with The Advocates for Human Rights.

<sup>237</sup> Iran Human Rights, *Annual Report on the Death Penalty in Iran-2013*, 12 (citing Roozonline, *Child dies while simulating a public execution*, Sept. 4, 2013, available at: <http://www.roozonline.com/persian/news/newsitem/archive/2013/sepember/04/article/-de12bcf75b.html>).

169

## Life imprisonment

The Islamic Penal Code, as revised in 2013, has removed some life imprisonment provisions for children, but the punishment has been retained for crimes such as *moharabeh* (Article 91), which entails participation in armed violence, and a third theft offense.<sup>238</sup>

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**RECOMMENDATION:** *We urge the Committee to recommend that the State party prohibit the death penalty and life imprisonment for all offenses committed while under the age of 18 and immediately commute the sentence of any person on death row or serving life imprisonment for an offense committed while under the age of 18. Furthermore, we urge the Committee to press the State party to fulfil its obligation to ensure a fully rights-compliant juvenile justice system that focuses on rehabilitation and reintegration rather than retribution. This should ensure that the detention of children is only used as a last resort, for the shortest possible time and only for reasons of public safety.*

## Article 37(b)-(c): Detention of children

171

### Juvenile detention centers

In Iran's prison system, boys under the age of 18 are detained separately from adults.<sup>239</sup> In most provinces' capitals, "Rehabilitation and Training Centers" have been established for convicted juvenile offenders.<sup>240</sup> However that is not the case for children in smaller cities.<sup>241</sup> Children in smaller cities are often transferred by authorities to centers in larger cities.<sup>242</sup> But because investigations are conducted in the same locality as the alleged crime, such transfers are not possible during the investigation phase of detention, meaning during initial detentions children and adults can be jailed together.<sup>243</sup>

172

### Example

According to ARTICLE 19, police in Karaj, a city 35 km outside Tehran, arrested a 16-year-old boy name Ali in 2008 or 2009.<sup>244</sup> His alleged crime was wearing a t-shirt with English words printed on it (it said "LA Gear"), which the police could not read. Ali, along with several other children who were "inappropriately dressed" were transferred to a detention center in Karaj. Prison authorities placed Ali in a cell that accommodated four other people, three of whom were adults. The adults were reportedly charged with drug trafficking, burglary, and one claimed he had killed someone (perhaps in an attempt to intimidate Ali and the others). Ali spent one night in the cell until his parents bailed him out the next morning. Ali paid a small fine and signed an agreement stating he would never wear "provocative clothes" again.

<sup>238</sup> Penal Code, arts. 278 and 375.

<sup>239</sup> Iran's Prison Law (2005), art. 17, available at: <http://www.prisons.ir/index.php?Module=SMMPageMaster&SM-MOp=View&PagelD=27>.

<sup>240</sup> For a history of "Rehabilitation and Training Centers" in Iran, please see: <http://www.madadkar.org/prevention-of-social-damage/history-correcting-and-training-centers.html>.

<sup>241</sup> An eyewitness account published by the prison administration authorities describes how the juveniles at the "Rehabilitation and Training Centers" who physically grow in size are transferred to adult prisons regardless of their age: [http://www.kermanprisons.ir/index.php?Module=SMMNewsAgency&SM-MOp=View&SMM\\_CMD=&PagelD=2005](http://www.kermanprisons.ir/index.php?Module=SMMNewsAgency&SM-MOp=View&SMM_CMD=&PagelD=2005).

<sup>242</sup> Some of the issues at the Juvenile Prisons are discussed in great detail by the former head of "Rehabilitation and Training Centers," available at: <http://www.khabaronline.ir/detail/304921/society/social-damage>.

<sup>243</sup> In a press interview published on June 3, 2014, the public prosecutor of Semnan Province tacitly accepted the existing shortcomings in handling the interrogation of juvenile prisoners, and promised new measures under the new penal code to better protect juvenile detainees during interrogation and trial. See, <http://www.hemayat.net/detail/News/2260>.

<sup>244</sup> ARTICLE 19 interview with Ali (full name withheld for security purposes), 2009.



173 Most of the “Rehabilitation and Training Centers” are set up like prisons and are not designed to facilitate the rehabilitation of detainees.<sup>245</sup> Thus far, with the exception of the center in Tehran, detained girls are not separated from adults.<sup>246</sup>

174 In addition, according to an Iranian lawyer from Shiraz, juveniles detained by the police’s Detective Unit (*Aghai*) have allegedly been subjected to torture and other forms of ill treatment. An official of a Rehabilitation and Training Center told him that after juveniles return from *Agahi* they often have bruises and signs of torture on their bodies.<sup>247</sup>

### 175 **Arbitrary Detention**

As discussed above in section 27, children can be arrested, jailed and imprisoned for rights protected under the CRC, including freedom of expression, association, peaceful assembly, and religion. As discussed above, children can also be imprisoned after trials that fail to meet international fair trial standards. These detentions would constitute arbitrary detentions under the definition applied by the UN Working Group for Arbitrary Detention.<sup>248</sup>

176 **RECOMMENDATION:** *We urge the Committee to reiterate Iran’s obligation under Article 37 of the Convention to use detention only as a measure of last resort and for the shortest appropriate period of time. The only justification for detaining a child should be that the child has been assessed as posing a serious risk to public safety. In the case of lawful detention, children must not be placed together with adults, unless their best interests so require.*

## C. Children in situations of exploitation

### 177 **Article 32: Child labor**

Despite some protections, legal shortcomings and child labor practices in Iran contravene safeguards under Article 32 of the Convention, put children at risk of exploitation, and endanger their health and safety.

Iran’s labor law prohibits employment of children under the age of 15.<sup>249</sup> Employers are allowed to hire children above the age of 15 as juvenile laborers after the juveniles undergo medical exams by the Ministry of Labor.<sup>250</sup> Juvenile laborers have to undertake regular medical exams by the Ministry of Labor and are prohibited from being employed in hazardous professions or performing hard labor.<sup>251</sup> Working hours for juveniles must be 30 minutes less than regular work hours, which are eight hours per day under Iranian labor law.

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<sup>245</sup> Iran Human Rights Documentation Center consultation with Iranian lawyer Hossein Raeesi, February 2015.

<sup>246</sup> Iran Human Rights Documentation Center consultation with Iranian lawyer Hossein Raeesi, February 2015.

<sup>247</sup> Iran Human Rights Documentation Center consultation with Iranian lawyer Hossein Raeesi, February 2015. See also: the first center for rehabilitation for girls will be established in Mashhad, Iranian Students News Agency published on 13 January 2015 <http://isna.ir/fa/news/93102312550/>

<sup>248</sup> UN Working Group on arbitrary detention, Individual Complaints and Urgent Appeals, available at: <http://www.ohchr.org/EN/Issues/Detention/Pages/Complaints.aspx>.

<sup>249</sup> Labor Law of Iran, art. 79, available at <http://www.mcls.gov.ir/fa/law/267>.

<sup>250</sup> *Ibid*, art. 80.

<sup>251</sup> *Ibid*, arts. 79 to 84.



179 Despite these provisions, businesses with fewer than 10 employees are exempt from certain provisions of the labor law.<sup>252</sup> This exemption means these businesses are not required to comply with maximum hour requirements or provide overtime pay.<sup>253</sup> These businesses are also not required to pay any disability benefits for workplace injuries.<sup>254</sup> Under these regulations, businesses with fewer than 10 employees are also specifically exempted from complying with laws that modify working hours for juveniles and mandate the regular medical testing of juvenile laborers.<sup>255</sup>

180 There is no official data on the number of child laborers currently working in Iran. According to the 2011 national census, there were 68,558 working children between the ages of 10 and 14.<sup>256</sup> There were also reportedly a total of 696,700 juvenile laborers aged 15 to 18.<sup>257</sup> According to some child rights activists, the number of child laborers is much higher. Akbar Yazdi from the Society to Protect Street Children reported in 2012 that there are a total of 1,450,000 child workers in Iran, 450,000 of whom are street children (i.e. children selling good or begging in the streets).<sup>258</sup>

181 The 2011 national census also showed that there were more than 900,000 children between the ages of 6 and 14 years that were not in school.<sup>259</sup> Early marriage and child labor were cited as the most common reasons contributing to the dropout rate.<sup>260</sup> According to the 2011 national census, street children constitute 10% of illiterates in the capital.<sup>261</sup>

182 **Example**

Various labor right studies have designated garbage collection as hazardous professions unsuitable for children.<sup>262</sup> Nonetheless, reports in 2014 and 2015 indicate that juveniles between the ages of 12 and 15 have been hired by companies contracted by the municipality of Tehran to collect recycling and garbage.<sup>263</sup> The municipality of Tehran has denied any responsibility for hiring child labor.<sup>264</sup>

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<sup>252</sup> Law on businesses with fewer than 10 employees and their exemptions according to article 119 of Iran's labor law passed on 19 January 2003 available at [http://www.mcls.gov.ir/icm\\_content/media/law/634643017437412500.pdf](http://www.mcls.gov.ir/icm_content/media/law/634643017437412500.pdf).

<sup>253</sup> Businesses with fewer than 10 employees are exempted from articles 51, 56 and 58 of the labor law.

<sup>254</sup> Businesses with fewer than 10 employees are also exempted from articles 31 and 32 of the labor law.

<sup>255</sup> Businesses with fewer than 10 employees are also exempted from articles 81 and 82 of the labor law.

<sup>256</sup> 2011 National Census Results in Detail, Statistic Centre of Iran [http://www.sci.org.ir/SitePages/report\\_90/Labor-Force\\_report.aspx](http://www.sci.org.ir/SitePages/report_90/Labor-Force_report.aspx).

<sup>257</sup> 2011 National Census Results in Detail, Statistic Centre of Iran [http://www.sci.org.ir/SitePages/report\\_90/Labor-Force\\_report.aspx](http://www.sci.org.ir/SitePages/report_90/Labor-Force_report.aspx).

<sup>258</sup> Everything about Child Labor in IRNA Round Table, Islamic Republic News Agency published on 28 July 2012, <http://www3.irna.ir/fa/News/301711/>.

<sup>259</sup> Shirzad Abdollahi, Number and information about children out of school: classified, political, propaganda, Donyaye Eghtesad Newspaper published on 25 September 2013, available at: <http://www.magiran.com/npview.asp?ID=2819370>.

<sup>260</sup> 3 million students dropped out in Iran, interview with Ali Bagheri, Public Education Deputy at Ministry of Education ;Jahan news published on 11 January Available at 2010 <http://jahannews.com/vdca0ona.49nao15kk4.html>

<sup>261</sup> Mr. Jafari, Literacy Deputy of the Ministry of Education, Tasnim's Report on the barriers to child education in Iran, Published October 12, 2014, available at: <http://www.tasnimnews.com/Home/Single/507811> (accessed 17 February 2015).

<sup>262</sup> First Global Strategic Workshop of Waste Pickers . Pune 2012 , Global Alliance of Waste Collectors [http://globalrec.org/archive/design/report-pune2012\\_120708\\_a.pdf](http://globalrec.org/archive/design/report-pune2012_120708_a.pdf).

<sup>263</sup> Child Labor in Municipality Contractors, Islamic Republic News Agency Published on 20 November 2014 <http://www.irna.ir/fa/News/81394069/>.

<sup>264</sup> Head of Tehran Municipality inspection's section: Municipality does not have a direct responsibility in death of Mr. Cheraghi, Iranian Labor News Agency published on 19 November 2014 <http://ilna.ir/news/news.cfm?id=225126>.

183

**RECOMMENDATION:** *We urge the Committee to recommend that the State party take all appropriate legislative and other measures to ensure that no child is employed in situations that could be detrimental to their health, development or well-being. This includes extending all employee protections to apply to small businesses. Where employment is permitted, children's labor activities should not interfere with their education or other rights, and should be formalized and regulated. This includes ensuring that they have the right to be heard and have their views taken into account in policies affecting them.*

184

### **Street Children**

Street children are one of the most vulnerable groups of children in Iran. According to Mr. Rouzbeh Kardooni, the head of social pathologies' office at the Ministry of Labor, 45 percent of street children are between the ages of 10 and 14. While 34 percent of street children are still in school, 40 percent of them have dropped out of school and 24 percent have never been to school.<sup>265</sup>

Research cited by Dr. Mino Moharez, the director of the HIV Research Center, and Dr. Ali Akbar Sayari, hygiene deputy at the Ministry of Health, indicated that the rate of HIV/AIDS among street children is 45 times higher than that of the general population.<sup>266</sup> According to this research, 4 to 5 percent of the 1000 children chosen for their study tested positive for HIV. Rape and drug use are believed to be the main causes for the high HIV rate among these children. 72 percent of these children stated that their friends have used drugs, while 4.6 percent admitted that they used drugs as well.<sup>267</sup> The director of the HIV/AIDS Center, Dr. Minoo Mohraz, announced on September 19, 2014 that the main cause of HIV in street children is rape.<sup>268</sup>

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**RECOMMENDATION:** *Develop and implement a comprehensive policy to address the root causes of this phenomenon. Specialised and youth-friendly harm reduction services should be developed to include children in street situations and criminal laws should not impede access to such services. Health and law enforcement personnel working with children in street situations should be appropriately trained in HIV prevention and in addressing sexual abuse. The State must ensure that street-connected children are not prevented from exercising all their rights under the Convention, in particular the right to education.*

<sup>265</sup> Interesting Statistics about Street Children, Iranian Student News Agency published on 16 September 2014 <http://www.isna.ir/fa/news/93062515224/>.

<sup>266</sup> HIV/Aids in Street Children, Iranian Student News Agency published on 19 September 2014, <http://isna.ir/fa/news/93062816453/>

<sup>267</sup> *Ibid*

<sup>268</sup> *Ibid.*



190

**Example**

The al-Hiwar (“Dialogue”) Cultural Institute, registered in 2000 with the National Youth Organization in Ahwaz, held classes in Arab-language poetry at night and provided college preparation classes for Arabic-speaking teenagers. Following a period in 2005 of political unrest in Khuzestan, where Ahwaz is located, the organization was shut down by Iranian authorities and its members later arrested in February 2011. Two have been executed.<sup>275</sup>

The result of these laws and policies is that children belonging to minority groups are the opportunity to exercise their right to enjoy their culture and practice their language under Article 30 of the Convention.

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**RECOMMENDATION:** *We urge the Committee to recommend that the State party take all necessary measures to ensure that minority children have the right to cultural expression and are free to learn, utilize, and receive information in their mother languages.*

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<sup>275</sup> Iran Human Rights Documentation Center, *A Framework of Violence: Repression of the Arab Ethnic Minority in the Islamic Republic of Iran*, (25 September 2014) available at: <http://www.iranhrc.org/english/publications/reports/100000528-a-framework-of-violence-repression-of-the-arab-ethnic-minority-in-the-islamic-republic-of-iran.html>.