



Iran's Compliance with Article 37(a) of the Convention on the Rights of the Child

Submitted by the Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC

Iran Human Rights

and

The World Coalition Against the Death Penalty

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I. Reporting Organizations

The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

Iran Human Rights (IHR) is a volunteer based non-governmental organization committed to promotion of human rights and in particular abolition of the death penalty in Iran. IHR was established in 2005 and is registered and based as an international NGO in Norway. IHR is an elected member of the World Coalition Against the Death Penalty's Steering Committee.

The World Coalition Against the Death Penalty, an alliance of more than 150 NGOs, bar associations, local authorities and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

II. Executive Summary

1. Article 37(a) of the Convention on the Rights of the Child states that “[n]o child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.”¹
2. The Government of Iran has pledged to comply with the Convention as it pertains to the death penalty. During its last Universal Periodic Review, in 2010, Iran accepted the recommendation of Kazakhstan to “consider the abolition of juvenile execution.”² Iran also accepted the recommendation of Belgium to “respect at least the minimum standards and the provisions of ICCPR and CRC concerning the death penalty.”³ During the second cycle of the Universal Periodic Review in December 2014, 16 governments recommended that Iran abolish the death penalty for offenses committed by individuals under the age of 18.⁴ The Iranian Government has not yet responded to these recommendations, but will do so on or before the adoption of the outcome of the UPR on March 19, 2015.
3. Despite these pledges in 2010, Iran continues to execute individuals for offenses they committed when under the age of 18 (hereinafter, “child offenders”). Moreover, Iran imposes the death penalty for ordinary crimes. In 2009, Iran ranked first in the world for number of executions per capita (and second only to China for number of executions overall).⁵ According to Iran Human Rights (IHR), Iran executed more than 750 prisoners in 2014. Official Iranian sources announced 291 of the executions.⁶ One human rights organization reported the total for 2014 as 849.⁷ Human rights groups reported that in January 2014 alone, at least 37 to 44 executions took place.⁸ For January and February

¹ Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2 1990.

² *Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran*, (Mar. 15, 2010), U.N. Doc. A/HRC/14/12, ¶ 90.40.

³ *Id.*, ¶ 90.39.

⁴ *Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran*, (Dec. 22, 2014), U.N. Doc. A/HRC/28/12, ¶ 138.146, .149–162, .166.

⁵ International Federation for Human Rights, *Iran: Death Penalty* (International Federation for Human Rights, 2009), 4. Also available online at http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf.

⁶ Iran Human Rights: Annual report on the death penalty in Iran- 2014 (Forthcoming).

⁷ Abdorrahman Boroumand Foundation, Human Rights & Democracy for Iran, <http://www.iranrights.org/>, last visited Feb. 12, 2015.

⁸ Death Penalty Worldwide; Iran Human Rights, “One Prisoner Was Hanged in Northern Iran,” Jan. 5, 2014, <http://iranhr.net/2014/01/one-prisoners-was-hanged-in-northern-iran/>, last visited Feb. 12, 2015; National Council of Resistance of Iran, “Iran: Three prisoners hanged in Oromiyeh prison,” Jan. 9, 2014, <http://www.ncr-iran.org/en/news/human-rights/15709-iran-three-prisoners-hanged-in-oromiyeh-prison>, last visited Feb. 12, 2015; Iran Human Rights, “Six Prisoners Were Executed in Three Iranian Towns,” Jan. 9, 2014, <http://iranhr.net/2014/01/six-prisoners-were-executed-in-three-iranian-towns/>, last visited Feb. 12, 2015; Iran Human Rights, “11 Prisoners Executed in Rajaishahr Prison (West of Tehran) Today,” Jan. 14, 2014, <http://iranhr.net/2014/01/12-prisoners-executed-in-rajaisahar-prison-west-of-tehran-today/>, last visited Feb. 12, 2015; Iran Human Rights, “Three Prisoners Were Hanged in Iran,” Jan. 14, 2014, <http://iranhr.net/2014/01/three-prisoners-were-hanged-in-iran/>, last visited Feb. 12, 2015; Iran Human Rights, “Seven Prisoners Hanged in Iran—One Hanged in Public,” Jan. 15, 2014, <http://iranhr.net/2014/01/seven-prisoners-hanged-in-iran-one-hanged-in-public-2/>, last visited Feb. 12, 2015; Iran Human Rights, “Six Prisoners Were Hanged For Drug Related Charges in Iran— 24 Executions in Two Days in Iran,” Jan. 15, 2014, <http://iranhr.net/2014/01/six-prisoners-were-hanged-for->

2014 combined, 73 executions officially took place and observers say the actual number was closer to 142 executions.⁹ At least 14 of the people executed in 2014 are believed to have been under 18 at the time of the crimes that led to their death sentences.¹⁰ Executions of child offenders convicted of drug trafficking crimes continue, despite revisions to the Penal Code purportedly prohibiting execution of child offenders convicted of “discretionary” offenses.

4. Child offenders are sometimes denied access to counsel, tortured to extract confessions, and denied due process in judicial proceedings.
5. Public executions in Iran have a profound effect on children who witness them. Children imitate and reenact executions during playtime—sometimes with fatal results.

III. Iran’s Penal Code includes more than 80 capital offenses and allows execution of individuals for crimes committed as minors.

6. The Islamic Republic of Iran ratified the Convention on the Rights of the Child in 1994 with the following reservation: “If the text of the Convention is or becomes incompatible with the domestic laws and Islamic standards at any time or in any case, the Government of the Islamic Republic shall not abide by it.” Iran has not adopted specific legislation implementing the Convention.
7. The number of crimes carrying the possibility of execution in Iran is among the highest in the world. Capital offenses include “adultery, incest, rape, sodomy, a non-Muslim party in same-sex relations, insulting the Prophet Mohammad and other great Prophets, possessing or selling illicit drugs, theft for the fourth time, premeditated murder, moharebeh (waging war [against God]), *fisad-fil-arz* (corruption on earth) and human trafficking.”¹¹
8. In practice, only a handful of these offenses, such as murder, drug trafficking, and rape, account for the vast majority of executions, with drug offenses topping the list. Criminal punishments in Iran are divided into five types, in accordance with the Islamic Penal Code (“IPC”).¹² They are *hodood*¹³, *qesas*¹⁴, *diyeh*, *ta’zirat*, and deterrent punishments.

drug-related-charges-in-iran-24-executions-in-two-days-in-iran/, last visited Feb. 12, 2015; Iran Human Rights Documentation Center, “IHRDC Chart of Executions by the Islamic Republic of Iran – 2014,” last updated Jan. 7, 2015, <http://www.iranhrdc.org/english/publications/1000000425-ihrdc-chart-of-executions-by-the-islamic-republic-of-iran-2014.html>, last visited Feb. 12, 2015; Human Rights and Democracy for Iran, “Reported executions 2014,” <http://www.iranrights.org>, last visited Feb. 12, 2015.

⁹ Iran Human Rights and Together Against the Death Penalty, *Annual Report on the Death Penalty in Iran – 2013*, 5.

¹⁰ Iran Human Rights: Annual report on the death penalty in Iran- 2014 (Forthcoming)

¹¹ 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.

¹² All references herein to the Islamic Penal Code will be to (1) the English translation of Books One and Two, dated April 4, 2013 and undertaken by the Iran Human Rights Documentation Center (<http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/3200-islamic-penal-code-of-the-islamic-republic-of-iran-book-one-and-book-two.html>, last visited Feb. 12, 2015), which includes all amendments up to January 2012; (2) the English translation of Books Three and Four undertaken by the Iranian Law Network (http://www.iran-law.com/IMG/pdf/Iran_Criminal_Code_in_English.pdf, last visited Feb. 12, 2015); and (3) the English translation of Book Five, dated July 18, 2013, also undertaken by the Iran Human Rights Documentation

Hodood punishments are those for which the type, amount and quality is prescribed by Sharia.¹⁵ *Qesas*, which translates to “retaliation,” is the punishment to which the criminal shall be sentenced and is equal to his/her crime.¹⁶ A family member of the offended may and does sometimes carry out the execution.¹⁷ In the case of murder, therefore, the punishment is considered *qesas* as retribution for life. *Diyeh* punishment is monetary compensation, prescribed by Sharia, for the crime.¹⁸ *Ta’zirat* is “chastisement” or punishment, not prescribed by Sharia but instead left to the discretion of judges, and includes imprisonment, fine and lashes. Most frequently, the death penalty is applied under the *hodood* section, and it is used under the *qesas* section in cases of murder.¹⁹

9. In 2013, Iran adopted a new Penal Code.²⁰ The new law was published in the Official Gazette on May 27, 2013, entered into force on June 12, 2013,²¹ and has been approved for implementation for five years.²² The new Penal Code retains the death penalty for nearly all capital offenses in the previous Penal Code, and it even expands its scope, giving judges authority to order death in additional cases based on Sharia law.²³
10. In its 2005 Concluding Observations, the Committee on the Rights of the Child urged the Government of Iran “to review its legislation so that the age of majority is set at 18 years of age and that minimum age requirements conform with all the principles and provisions of the Convention . . . , and in particular that they are gender neutral”²⁴ The new Penal Code retains gender distinctions and allows courts to hold girls over nine years old and boys over fifteen years old criminally responsible. It explicitly defines the “age of

Center (<http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html>, last visited Feb. 12, 2015).

¹³ 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.

¹⁴ Also spelled *qisas*.

¹⁵ Iran Penal Code (2013), Art. 15.

¹⁶ *Id.*, 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).

¹⁷ See, e.g., Iran Human Rights, “Two Prisoners Executed Publicly in Northern Iran,” Oct. 5, 2013, <http://iranhr.net/2013/10/two-prisoners-executed-publicly-in-northern-iran/>, last visited Feb. 12, 2015.

¹⁸ Iran Penal Code (2013), Art. 17.

¹⁹ International Federation for Human Rights, *Iran: Death Penalty* (2009), 10, http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf, last visited Feb. 12, 2015.

²⁰ For purposes of this report, the authors have relied on unofficial translations of the Iran Penal Code found here: <http://rc.majlis.ir/fa/law/show/845048>.

²¹ Tabnak, “Penal Code was promulgated by the President,” accessed Feb. 24, 2014.

²² Public Relations Research Center of the Iranian Parliament, “Penal Code was promulgated to implement full,” <http://rc.majlis.ir/fa/news/show/845002>, last visited Feb. 12, 2015.

²³ 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; 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).

²⁴ Committee on the Rights of the Child, 38th Session, Concluding observations: The Islamic Republic of Iran (Mar. 31, 2005), U.N. Doc. CRC/C/15/Add.254, ¶ 23.

criminal responsibility” for children as the age of maturity under *shari’a* law, meaning that girls over nine years old and boys over fifteen years of age are eligible for execution if convicted of “crimes against God” (such as apostasy) or “retribution crimes” (such as “intentional murder”).²⁵

11. The new Penal Code purports to reduce the number of death-eligible crimes for which child offenders may be executed.²⁶ Child offenders under the age of 18 years who commit *hodood* or *qesas* offenses may not be sentenced to death if the judge determines, based on forensic evidence, that the offender lacked “adequate mental maturity and the ability to reason.”²⁷ The accompanying legislative note allows, but does not mandate, the judge to seek an expert forensic opinion or other source, to make that determination.²⁸ Article 88 provides that child offenders who commit “discretionary crimes,” are not eligible for capital punishment.²⁹ The new Penal Code did not clarify whether the exclusion of the death penalty for “discretionary” (*ta’zir*) crimes committed by persons under the age of 18 extends to drug-related offences, which are considered *ta’zir* crimes punishable by death under Iran’s Anti-Narcotics Law. In an advisory opinion dated 31 May 2014, the Legal Office of the Judiciary held that children convicted of capital drug-related offences must be sentenced in accordance with the alternative measures set out in the new Penal Code.³⁰ However, it is not yet clear if Iran’s revolutionary courts, which have jurisdiction over drug-related offences, have adopted this interpretation.
12. In January 2015, the judiciary issued a ruling that required all courts to review death sentences for child offenders imposed prior to the new Penal Code if the defendants petitioned for review.³¹ As discussed below, however, child offenders convicted of drug-related offenses are still being scheduled for execution.

IV. Iran violates Article 37(a) of the Convention on the Rights of the Child

A. Iran executes more child offenders than any other country in the world.

13. The Committee on the Rights of the Child in 2005, in its Concluding Observations following its consideration of Iran’s second periodic report, welcomed “information provided by the delegation [of the Government of Iran] that the Bill on the Establishment of Juvenile Courts has been approved by the Council of Ministers,”—a bill which would have “abolishe[d] the death penalty for crimes committed by persons under 18.”³² The Committee urged the Iranian Government to “take, as a matter of the highest priority, all

²⁵ Iran Penal Code, Art. 147, (2013); Human Rights Watch, *Codifying Repression: An Assessment of Iran’s New Penal Code* (2012), 21-22. The ages of 9 and 15 years are determined according to the lunar calendar.

²⁶ 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.

²⁷ *Situation of human rights in the Islamic Republic of Iran: Report of the Secretary-General*, ¶ 17, U.N. Doc. A/68/377 (Sept. 10, 2013); Iran Penal Code (2013), Art. 91.

²⁸ Iran Human Rights, *Annual Report on the Death Penalty in Iran – 2013*, 18.

²⁹ Iran Penal Code (2013), Art. 88.

³⁰ Advisory opinion, Legal Office of the Judiciary, May 31, 2014, <http://edarehoquy.ir/Default.aspx?tabid=4988&articleType=ArticleView&articleId=87698>

³¹ Child Rights International Network, *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).

³² Committee on the Rights of the Child, 38th Session, Concluding observations: The Islamic Republic of Iran (Mar. 31, 2005), U.N. Doc. CRC/C/15/Add.254, ¶ 8.

possible measures to secure the final official approval of this new law and to ensure its full implementation.”³³ The Iranian Government’s 2013 Third Periodic Report concedes that this bill has still not been enacted.³⁴ The Iranian Government continues to sentence child offenders to death and to execute individuals for crimes committed as children. As the Committee noted in its Concluding Observations, despite assurances from the delegation that “executions of persons for having committed crimes before the age of 18 ha[d] been suspended” in light of the pending bill, “such executions have continued . . . , including one such execution on the day the second report was being considered.”³⁵

14. The Committee urged the Iranian Government “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 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.”³⁶
15. Notably, the Iranian Government’s Third Periodic Report, in its discussion of Iran’s obligations under Article 37(a),³⁷ makes no reference to the second sentence of that provision: “Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.”
16. Elsewhere in the Third Periodic Report, the Iranian Government asserts in passing:

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.³⁸

This statement is not consistent with reality on the ground in Iran.

17. There are currently about 160 child offenders on death row in Iranian prisons. In practice, the Government of Iran typically holds child offenders on death row until they reach the age of majority before executing them.³⁹
18. 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, the Third Periodic Report states that “[t]he Head of the Judiciary has issued a circular to prohibit applying

³³ *Id.*, ¶ 9.

³⁴ Islamic Republic of Iran, Third Periodic Report on the Convention on the Rights of the Child (Mar. 2013), 80–81.

³⁵ Committee on the Rights of the Child, 38th Session, Concluding observations: The Islamic Republic of Iran (Mar. 31, 2005), U.N. Doc. CRC/C/15/Add.254, ¶ 29.

³⁶ *Id.*, ¶ 30.

³⁷ Islamic Republic of Iran, Third Periodic Report on the Convention on the Rights of the Child (Mar. 2013), 25–26.

³⁸ *Id.*, at 91.

³⁹ International Federation for Human Rights, *Iran: death penalty*, (April 2009), 28; Iran Human Rights, *Annual Report on the Death Penalty in Iran – 2013*, 19.

qisas (death or corporal punishment for the crime of murder) on children and adolescents.”⁴⁰

19. Iranian media reports confirm that Iran has executed at least eight child offenders since 2010.⁴¹ Iranian media do not report all executions, but human rights organizations supplement these media reports through independent monitoring.
20. In 2014, the Iranian Government executed at least 14 child offenders—one of the highest rates in more than a decade.⁴² 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 2008.⁴³
21. Executions of two child offenders—Hasan Gholami and Mehras Rezaei—have been announced by the media inside Iran, while the rest have been announced by human rights organizations and confirmed by at least two different sources. Mehras Rezaei (Blohnews) was convicted of murdering his cousin when he was 17 year old.⁴⁴ He was hanged in Jouybaran. Hassan Gholami was 14 year 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 the prison of Shiraz. His family was not informed about the execution.⁴⁵

B. Despite Article 88 of the new Penal Code, Iran continues to execute individuals for drug-related offenses committed as children.

22. One of the child offenders executed in 2014 was convicted of drug trafficking⁴⁶ which falls under Article 88 of the new Iranian Penal Code and, contrary to typical practice, was executed while still a child. The rest were convicted of murder and sentenced to *qesas* (retribution in kind). The Dari section of Radio Liberty (Radio Azadi) reported that a 15-year old Afghan boy named Jannat Mir was among six Afghan citizens executed in the Dastgerd prison of Isfahan in April 2014.⁴⁷ According to this report, Mir and the five others were all convicted of drug-related charges.⁴⁸ Jannat Mir’s execution was also mentioned by the UN High Commissioner for Human Rights and in the report of the UN Secretary-General.⁴⁹

⁴⁰ Islamic Republic of Iran, Third Periodic Report on the Convention on the Rights of the Child (Mar. 2013), 91 (underlining added).

⁴¹ Child Rights International Network, *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).

⁴² 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.

⁴³ Iran Human Rights, “Iran Human Rights: at least 350 executions in 2008 in Iran,” Feb. 24, 2009,

<http://iranhr.net/2009/02/iran-human-rights-at-least-350-executions-in-2008-in-iran/>, last visited Feb. 12, 2015.

⁴⁴ Iran Human Rights, “Execution of a minor offender in Iran,” Mar. 7, 2014, <http://iranhr.net/2014/03/execution-of-a-minor-offender-in-iran/>, last visited Feb. 12, 2015.

⁴⁵ Fedagh news website, *Gholami was executed in Shiraz today*, Mach 2, 2014, <http://fedagh.ir/archives/7560>.

⁴⁶ 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.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ U.N. High Commissioner for Human Rights, “Iran: Execution of juvenile offenders breaches international law – Pillay,” June 26, 2014,

23. Yet another recent report involves Saman Naseem, who was first sentenced to death in January 2012 on the offenses of “enmity against God” (*moharebeh*) and “corruption on earth” (*ifsad fil-arz*) resulting from alleged armed activities against Iran’s Revolutionary Guard.⁵⁰ Originally sentenced by the Revolutionary Court of Mahabad, Naseem’s sentence was actually 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.⁵¹ Naseem’s case was remanded to Branch 2 of the Criminal Court of the West Azerbaijan Province, and he was again sentenced to death in April 2013.⁵² Branch 32 of the Supreme Court upheld this death sentence in December 2013.⁵³

24. Naseem’s attorney told Human Rights Watch that he has 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 unanswered.⁵⁴ In February 2015, Saman Naseem’s attorney of record received an official letter suggesting that the judiciary has cleared the path for Naseem to be executed on or about February 19, 2015.⁵⁵

C. Child offenders are denied due process and access to counsel and are tortured to extract confessions.

25. In 2005, the Committee on the Rights of the Child in its Concluding Observations said that it “deplore[d]” that “torture and other cruel, inhuman or degrading treatment or punishment of persons for having committed crimes before the age of 18 . . . have continued” in Iran, despite assurances of the delegation to the contrary.⁵⁶ The Committee expressed its continuing concern about “the existing poor quality of the rules and practices in the juvenile justice system, reflected, inter alia, in the lack of statistical data, the limited use of specialized juvenile courts and judges, the low age of criminal responsibility, the lack of adequate alternatives to custodial sentences, and the imposition of torture and other cruel or inhuman punishment and in particular of the death penalty.”⁵⁷ The Committee called on the Iranian Government “[t]o ensure that persons under 18 are provided with legal assistance of good quality throughout the [criminal justice] process.”⁵⁸

<http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=14780&LangID=F>, last visited Feb. 12, 2015.

⁵⁰ 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.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Child Rights International Network, *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).

⁵⁵ *Id.*

⁵⁶ Committee on the Rights of the Child, 38th Session, Concluding observations: The Islamic Republic of Iran (Mar. 31, 2005), U.N. Doc. CRC/C/15/Add.254, ¶ 72.

⁵⁷ *Id.*, ¶ 72.

⁵⁸ *Id.*, ¶ 73(e).

- 26.** The Third Periodic Report concedes that Article 37(a) recognizes the right of children not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.⁵⁹ It outlines prohibitions against torture and inhuman treatment in the Constitution of the Islamic Republic of Iran and criminal sanctions in the Islamic Punishment Act for such treatment.⁶⁰ The Report further asserts that “no one can be forced to confess or to testify against himself/herself. Such a confession is not valid and the violator of this rule is liable for prosecution The justice administration bailiffs are also properly trained to know that forcing the accused, [e]specially children and adolescents, to confess or give evidence is prohibited.”⁶¹
- 27.** The Third Periodic Report further asserts that because “most of the proceedings are held in the presence of parents or legal guardian of the child and his/her attorney, it is practically impossible to force a child to confess or give testimony against himself/herself.”⁶² It further states that “where there is an allegation against a child, the justice administration bailiffs and police are required to immediately inform judicial authorities and take appropriate measures to bring the accused child before the judge. At a time other than working hours, they are required to release the child upon the pledge made by parents/guardians to bring the child to the court when he/she is called for.”⁶³
- 28.** The Third Periodic report further contends that “Article 220 of the Penal Procedure Act requires the courts, when considering a child’s offence, to call the accused child’s legal guardian to attend the court in personal or appoint him/her an attorney. If they fail to do so, the court itself will appoint an attorney for the child.”⁶⁴ It goes on to say that legal “safeguards are intended to guarantee a fair hearing by a competent, independent and impartial authority or judicial body, in the presence of legal or other appropriate assistance.”⁶⁵
- 29.** Despite these *de jure* prohibitions, several case studies demonstrate that persons under 18, and individuals convicted of crimes committed while under age 18, are denied due process, access to attorneys, and are subjected to torture and other forms of ill-treatment.
- 30.** Saman Naseem’s attorney of record reports that officials in the judiciary’s implementation division have unlawfully prevented him from thoroughly reviewing the case file for information about the impending execution.⁶⁶ A source close to Naseem’s family says that agents tortured Naseem during the first few months after his arrest, when he was held incommunicado. The source says he was beaten and lashed and that his fingernails were pulled out.⁶⁷ Naseem’s “confession” was later aired on state television, although court documents suggest that at trial Naseem denied his involvement.⁶⁸

⁵⁹ Islamic Republic of Iran, Third Periodic Report on the Convention on the Rights of the Child (Mar. 2013), 25–26.

⁶⁰ *Id.* at 25.

⁶¹ *Id.* at 73.

⁶² *Id.*

⁶³ *Id.* at 73–74.

⁶⁴ *Id.* at 74.

⁶⁵ *Id.* at 75.

⁶⁶ Child Rights International Network, *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).

⁶⁷ *Id.*

⁶⁸ *Id.*

- 31.** In an interview with Radio Azadi, Jannat Mir’s brother Nazok Mir said that “Jannat Mir was a 9th grade school boy who left Afghanistan for Iran two years ago. He was arrested by the Iranian authorities and sentenced to death for drug-trafficking. He didn’t have access to lawyer⁶⁹ and the Iranian authorities didn’t allow the family to take the body back to Afghanistan. His family was forced to bury Mir in Isfahan.
- 32.** A July 2014 report indicates that Rasoul Holoumi, then aged 22, was at risk for being executed by hanging for a 2010 conviction of killing another boy during a group fight.⁷⁰ At the time of the conviction, Holoumi was only 17 years old.⁷¹ The conviction was reportedly based on allegations that Holoumi had thrown a “hard object” at Nasim Nouri Maleki, resulting in fatal head injuries.⁷² The crime is punishable in Iran under the concept of *qesas*, which translates to “retaliation” and proscribes that the criminal’s punishment shall be sentenced and is equal to his/her crime.⁷³ A family member of the offended may and does sometimes carry out the execution.⁷⁴ In the case of murder, therefore, the punishment is considered *qesas* as retribution for life. Similar to the case of Mir above, reports are that Holoumi was not given access to a lawyer during the investigation, nor given adequate time or resources to prepare a defense during trial.⁷⁵ The report also indicates that, although Holoumi initially confessed to the crime “because he felt sorry for another child who had confided to him that he had hit Nasim Nouri Maleki during the fight,” Holoumi later denied throwing the object.⁷⁶ Nonetheless, Iran’s Supreme Court upheld Holoumi’s death sentence without explanation in 2010.⁷⁷
- 33.** The Holoumi story is remarkably similar to another regarding Iranian Ali Mahin Torabi, who was accused of murder at age 16 years and given the death sentence as *qesas* retribution.⁷⁸ Torabi was transferred to Rajae-Shahr prison in Karaj, tortured, and kept in a cell with two other inmates that measured only 5 x 5 meters in area.⁷⁹ Torabi’s family was only allowed to visit him once every 45 days for only 20 minutes at a time.⁸⁰ Torabi

⁶⁹ 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.

⁷⁰ 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.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*; Penal Code, 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).

⁷⁴ See, e.g., Iran Human Rights, “Two Prisoners Executed Publicly in Northern Iran,” Oct. 5, 2013, <http://iranhr.net/2013/10/two-prisoners-executed-publicly-in-northern-iran/>, last visited Feb. 12, 2015.

⁷⁵ 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.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Saeed Kamali Dehghan, *Iranian who spent seven years on death row tells of ordeal*, *The Guardian*, Mar. 26, 2012, <http://www.theguardian.com/world/2012/mar/27/iranian-death-row-tells-ordeal>, last visited Feb. 12, 2015.

⁷⁹ *Id.*

⁸⁰ *Id.*

was further subject to the psychological duress of not knowing when his death sentence would be carried out, stating that the prison carried out executions every Tuesday, and so “[e]very Tuesday, I was thinking it would be my last.”⁸¹

V. Public executions harm children who witness them.

34. Most executions are now reportedly carried out within prisons, but many hangings are still public. In 2014, at least 53 people were hanged in public.⁸² There were least 60 reported cases of public hangings in 2012,⁸³ and a report of the Secretary-General notes at least 63 public executions in 2013.⁸⁴
35. Public hangings are often announced locally and people are encouraged to attend as spectators.⁸⁵ As there are no age limits, children are often observed watching public executions, including as recently as January 2015.⁸⁶
36. There are several reports of children who have died while imitating executions during play.⁸⁷ In September 2013, for example, an eight-year-old boy died during a playtime execution “game.”⁸⁸

VI. Suggested Recommendations

37. The Government of Iran should:

- a. abolish the death penalty altogether, and in the meantime impose a moratorium on the death penalty and immediately cease all public executions;

⁸¹ *Id.*; see also Death Penalty Worldwide (citing International Federation for Human Rights, *Death Penalty in Iran: A State Terror Policy- Special Update for 11th World Day Against the Death Penalty*, (Oct. 9, 2013)).

⁸² Written communication with Iran Human Rights, Feb. 12, 2015, on file with The Advocates for Human Rights.

⁸³ Ensemble contre la peine de mort and Iran Human Rights, *Annual Report on the Death Penalty in Iran: 2012*, 2, http://www.abolition.fr/sites/default/files/rapport_iran_2012-gb-270313-mdb.pdf, last visited Feb. 12, 2015; Death Penalty Worldwide (citing Iran Human Rights, *Annual Report on the Death Penalty in Iran-2012*, (April 2013), 11 http://iranhr.net/wp-content/uploads/2013/04/FINAL-Rapport_iran_2012-GB-250313-HD.pdf, last visited Feb. 12, 2015).

⁸⁴ *Situation of human rights in the Islamic Republic of Iran: Report of the Secretary-General*, ¶ 15, U.N. Doc. A/68/377, (Sept. 10, 2013); Death Penalty Worldwide (citing Amnesty International, *Annual Report 2013- Iran*, accessed Feb. 10, 2014, <http://www.amnesty.org/en/region/iran/report-2013>, last visited Feb. 12, 2015). Iran Human Rights documents 59 public executions in Iran in 2013. Iran Human Rights, *Annual Report on the Death Penalty in Iran-2013*, 12.

⁸⁵ Written communication with Iran Human Rights, Feb. 12, 2015, on file with The Advocates for Human Rights.

⁸⁶ 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-international-community-to-act-immediately/>, 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.

⁸⁷ Written communication with Iran Human Rights, Feb. 12, 2015, on file with The Advocates for Human Rights.

⁸⁸ 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, <http://www.roozonline.com/persian/news/newsitem/archive/2013/september/04/article/-de12bcf75b.html>).

- b. expand the prohibition on capital punishment for offenses committed by individuals under 18 years of age to include all offenses, and immediately direct all judicial authorities to cease imposing death sentences on such individuals;
- c. ensure that all individuals who commit crimes when under the age of 18 are forever ineligible for imposition of a death sentence for such crimes;
- d. immediately commute the death sentences of all individuals so sentenced for offenses committed while under 18 years of age to sentences that conform with the principles and provisions of the Convention;
- e. in the absence of outright abolition, restrict the use of the death penalty to the “most serious” crimes, and immediately remove punishment by death for crimes such as adultery, homosexuality, and drug trafficking;
- f. ensure that all persons accused of crimes committed under the age of 18 have access to counsel throughout all phases of criminal investigation, trial, and appeal, and ensure that the accused has unrestricted access to the case file and any evidence against the accused;
- g. vacate all convictions based on confessions obtained under torture or cruel, inhuman, or degrading treatment; enforce prohibitions against use of such confessions in criminal proceedings; and hold accountable the individuals responsible for inducing such confessions.