



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
and

Iran Human Rights

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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.

EXECUTIVE SUMMARY

1. Iran begins its response to the Committee by asserting that “since the ratification of the Convention on the Rights of the Child in 1994 by the Parliament, no cases of incompatibility of the text of the Convention with Islamic standards and domestic law of the country have been reported to the executive bodies and organizations.” This report seeks to draw the attention of the Committee to some of the ways Iranian law has been and continues to be incompatible with the Convention, and in the process, highlight some of the inaccuracies of the Iranian government’s response. It offers a brief update to the report the authors submitted to the Committee earlier in 2015.¹
2. The new penal code’s age of criminal responsibility does not satisfy Iran’s commitments under the CRC and ICCPR. Iran’s differentiated criminal policy tries to resolve the conflicts, but the policy is vaguely defined and arbitrarily applied.
3. Though Iranian officials assert they have protections in place, children continue to attend public executions.

I. The number of executions in Iran continues to rise.

4. Iran executes more people per capita than any other country in the world.² As of mid-October 2015, the government has carried out more than 800 executions this year alone, marking the highest number of executions carried out by Iran in the past 25 years.³ Last year, for instance, human rights organizations reported more than 750 executions.⁴

II. Iran’s “differentiated criminal policy” violates prohibitions against discrimination and fails to protect child offenders from the death penalty.

5. Iran asserts that, under the New Islamic Penal Code, “non-mature children have no criminal responsibility,” but it continues to define the age of maturity as nine years of age for girls and fifteen for boys.⁵ Though Iran claims that its “constitution... prohibits discrimination”⁶ based on gender, the penal code’s definition of a child is discriminatory; the age of criminal responsibility should not differ across genders, and must, under international law, be 18 years of age.⁷

¹ The Advocates for Human Rights and Iran Human Rights. “Iran’s Compliance with Article 37(a) of the Convention on the Rights of the Child.” Feb. 27, 2015. http://www.theadvocatesforhumanrights.org/un_and_other_submissions.

² Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, U.N. Doc. A/70/411, Oct. 6, 2015, ¶ 10.

³ Iran Human Rights. “Iran: More executions reported in 2015 than any other time in 25 years.” Oct. 8, 2015. <http://www.iranhr.net/en/articles/2335/>, last visited Dec. 3, 2015.

⁴ The Advocates for Human Rights and Iran Human Rights. “Iran’s Compliance with Article 37(a) of the Convention on the Rights of the Child.” Feb. 27, 2015, http://www.theadvocatesforhumanrights.org/un_and_other_submissions, ¶ 3.

⁵ Iran Penal Code, Art. 146, <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#32>.

⁶ Convention on the Rights of the Child, “Replies of the Islamic Republic of Iran to the list of issues,” U.N. Doc CRC/C/IRN/Q/3-4/Add.1, Nov. 13, 2015, ¶ 41.

⁷ Article 37(a) states that “neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.” Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

6. In its response to the Committee, Iran cites a chapter in the new penal code that articulates how “decisions and sentences have been based on gradual criminal liability” for children under the age of 18 but above the age of criminal responsibility (9 for girls and 15 for boys).⁸ The new “differentiated criminal policy” pertains primarily to *Ta’zir* crimes that do not normally carry the death penalty.⁹ *Qesas* and *Hodood* crimes are addressed only in Article 91, which states that “if mature people under eighteen years do not realize the nature of the crime committed or its prohibition, or of there is uncertainty about their full mental development, according to their age, they shall be sentenced” to a more lenient punishment.¹⁰

III. Article 91 is vaguely worded and inconsistently and arbitrarily applied.

7. In recent months, Iranian state media has reported at least 3 cases of juvenile offenders having their death sentences converted to prison terms under the mental maturity clause of Article 91:
- A juvenile offender was resentenced under Article 91 after being sentenced to death in 2010.¹¹ He was convicted of murder after killing a thief with a machete in self-defense.¹² He said when protesting his sentence, “We were just sitting in a park and drinking alcohol when a young man approached us and attempted to take our phones from us. I refused, so he drew out a machete to stab me. I was able to use his machete to stab him, and also managed to get the weapon out of his hand and stab him a few more times. I was the one who delivered him to the hospital.”¹³ His sentence was changed to five years in prison and lashings for consuming alcohol.¹⁴
 - Arman was accused of murder at age 16, and was resentenced under Article 91 on September 22, 2015.¹⁵ His sentence was lessened to a five year prison term and the payment of blood money to the victim’s family.¹⁶

⁸ Convention on the Rights of the Child, “Replies of the Islamic Republic of Iran to the list of issues,” U.N. Doc CRC/C/IRN/Q/3-4/Add.1, Nov. 13, 2015, ¶ 29.

⁹ Iran defines the “differentiated criminal policy” in Convention on the Rights of the Child, “Replies of the Islamic Republic of Iran to the list of issues,” U.N. Doc CRC/C/IRN/Q/3-4/Add.1, Nov. 13, 2015, ¶¶ 16, 33, 36.; *Ta’zir* crimes hold punishments that are left to the discretion of the judges and are not prescribed by Sharia law. These punishments include lashings, fines, and imprisonment. *Hodood* punishments are prescribed by Sharia law. *Qesas*, which translates to ‘retaliation,’ are punishments which are equal to the crime committed. The death penalty is most frequently applied under the *Hodood* section and the *qesas* section in cases of murder. See: The Advocates for Human Rights. “Iran’s Compliance with Article 37(a) of the Convention on the Rights of the Child.” ¶ 8.

¹⁰ Iran Penal Code, Art. 91. <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#32>

¹¹ Iran Human Rights. “Life of Juvenile Offender on Death Row Spared.” Sept. 18, 2015, <http://www.iranhr.net/en/articles/2322/>, last visited Dec. 3, 2015.

¹² Iran Human Rights. “Life of Juvenile Offender on Death Row Spared.” Sept. 18, 2015, <http://www.iranhr.net/en/articles/2322/>, last visited Dec. 3, 2015.

¹³ Iran Human Rights. “Life of Juvenile Offender on Death Row Spared.” Sept. 18, 2015, <http://www.iranhr.net/en/articles/2322/>, last visited Dec. 3, 2015.

¹⁴ Iran Human Rights. “Life of Juvenile Offender on Death Row Spared.” Sept. 18, 2015, <http://www.iranhr.net/en/articles/2322/>, last visited Dec. 3, 2015.

¹⁵ Iran Human Rights. “Juvenile Prisoner Spared from Execution.” Sept. 22, 2015, <http://www.iranhr.net/en/articles/2326/>, last visited Dec. 3, 2015.

- After seven years in prison, Somayeh, who was arrested at the age of 12 along with her mother for participating in the murder of her father, has been released under Article 91.¹⁷ She had been sentenced to death twice by Branch 74 of Tehran’s Criminal Court, and her sentence was confirmed by Iran’s Supreme Court.¹⁸ Somayeh’s mother remains on death row.¹⁹
8. These resentencings represent a positive step away from the execution of juvenile offenders, but they are ad hoc and do not constitute the systematic change needed to align the Iranian legal system with Iran’s obligations under international human rights law. These three cases represent a new phenomenon and do not appear to be indicative of a sustained, broader move toward a prohibition against the death penalty for juvenile offenders.
 9. Article 91 is vaguely worded, and courts apply the evaluation process inconsistently. The Iranian response to the Committee stipulates that “the court may ask the opinion of forensic medicine or resort to any other method that it sees appropriate in order to establish the full mental development.”²⁰ The new penal code does not specify the procedure for determining mental maturity, however, and as a result, courts apply Article 91 arbitrarily.
 10. Iran has continued to execute juvenile offenders since the Committee drafted the List of Issues:
 - On Oct. 6, 2015, Samad Zahabi was secretly executed in Kermanshah’s Dizel Abad Prison in Kermashah province for shooting a fellow shepherd during an argument.²¹ He was 17 years old at the time of the alleged crime.²² Zahabi was sentenced to death in March 2013, despite the fact that he said the shooting was unintentional and in self-defence.²³ No one gave notice to Zahabi’s family, and his lawyer did not receive the required 48-hour notice prior to his execution.²⁴

¹⁶ Iran Human Rights. “Juvenile Prisoner Spared from Execution.” Sept. 22, 2015.

<http://www.iranhr.net/en/articles/2326/>, last visited Dec. 3, 2015.

¹⁷ Iran Human Rights. “Girl on Death Row Since Age 12 Saved from Execution.” Nov. 5, 2015.

<http://www.iranhr.net/en/articles/2356/>, last visited Dec. 3, 2015

¹⁸ Iran Human Rights. “Girl on Death Row Since Age 12 Saved from Execution.” Nov. 5, 2015.

<http://www.iranhr.net/en/articles/2356/>, last visited Dec. 3, 2015

¹⁹ Iran Human Rights. “Girl on Death Row Since Age 12 Saved from Execution.” Nov. 5, 2015.

<http://www.iranhr.net/en/articles/2356/>, last visited Dec. 3, 2015

²⁰ Convention on the Rights of the Child, “Replies of the Islamic Republic of Iran to the list of issues,” U.N. Doc CRC/C/IRN/Q/3-4/Add.1, Nov. 13, 2015, ¶ 31.

²¹ Amnesty International. “Iran: Execution of two juvenile offenders in just a few days makes a mockery of Iran’s juvenile justice system.” Oct. 14, 2015. <https://www.amnesty.org/en/latest/news/2015/10/iran-juvenile-offenders-executed/>, last visited Nov. 12, 2015.

²² Amnesty International. “Iran: Execution of two juvenile offenders in just a few days makes a mockery of Iran’s juvenile justice system.” Oct. 14, 2015. <https://www.amnesty.org/en/latest/news/2015/10/iran-juvenile-offenders-executed/>, last visited Nov. 12, 2015.

²³ Amnesty International. “Iran: Execution of two juvenile offenders in just a few days makes a mockery of Iran’s juvenile justice system.” Oct. 14, 2015. <https://www.amnesty.org/en/latest/news/2015/10/iran-juvenile-offenders-executed/>, last visited Nov. 12, 2015.

²⁴ OHCHR. “Iran: UN rights experts outraged at the execution of two juvenile offenders.” Oct. 16, 2015.

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16611&LangID=E>, last visited Dec. 3, 2015.

There is no information to suggest that Zahabi had an assessment under Article 91.

- Following a reevaluation of her mental maturity, the court upheld Fatemeh Salbehi's conviction.²⁵ Salbehi was convicted of murdering her husband—whom she was forced to marry at the age of 16—when she was 17 years old.²⁶ She was executed on October 13, 2015, in the Adelabad prison of Shiraz.²⁷ During her original trial in 2010, a state medical organization expert found Salbehi had exhibited severe depression and suicidal thoughts at the time of her husband's death.²⁸ These expert findings appear to have played little role in the court's recent reevaluation of her mental maturity. The assessment under Article 91 consisted of three hours of questions focused on how frequently she prayed, whether she studied religious texts at school, and whether or not she understood that killing was "haram."²⁹ No psychology experts participated in the evaluation.³⁰ On the basis of this flawed assessment, the court ruled Salbehi mature enough to be sentenced as an adult.
- Javad Saberi was arrested at age 17 for an alleged murder and was sentenced to death.³¹ He was executed on April 16, 2015 in the Rajaishahr prison of Karaj, despite having a serious mental illness and having spent time in Amin Abad mental hospital.³² Like in Salbehi's case, the court does not appear to have taken Saberi's mental state into account when determining his mental maturity.

11. As Zahabi, Salbehi, and Saberi's cases illustrate, Iran's differentiated criminal system does not guarantee child offenders will not be executed. In order to comply with international law, Iran must halt the execution of juvenile offenders altogether and alter its definition of a child to include all people under the age of 18.

²⁵ Amnesty International. "Iran: Execution of two juvenile offenders in just a few days makes a mockery of Iran's juvenile justice system." Oct. 14, 2015. <https://www.amnesty.org/en/latest/news/2015/10/iran-jvenile-offenders-executed/>, last visited Nov. 12, 2015.

²⁶ Salbehi married her husband at the age of 16.

²⁷ Amnesty International. "Iran: Execution of two juvenile offenders in just a few days makes a mockery of Iran's juvenile justice system." Oct. 14, 2015. <https://www.amnesty.org/en/latest/news/2015/10/iran-jvenile-offenders-executed/>. last visited Nov. 12, 2015; Iran Human Rights. "Juvenile Offender Fatemeh Salbehi Hanged in Iran." Oct. 13, 2015. <http://www.iranhr.net/en/articles/2341/#>, last visited Dec. 3, 2015.

²⁸ Amnesty International. "Iran: Execution of two juvenile offenders in just a few days makes a mockery of Iran's juvenile justice system." Oct. 14, 2015. <https://www.amnesty.org/en/latest/news/2015/10/iran-jvenile-offenders-executed/>, last visited Nov. 12, 2015.

²⁹ Amnesty International. "Iran: Execution of two juvenile offenders in just a few days makes a mockery of Iran's juvenile justice system." Oct. 14, 2015. <https://www.amnesty.org/en/latest/news/2015/10/iran-jvenile-offenders-executed/>, last visited Nov. 12, 2015.

³⁰ Amnesty International. "Iran: Execution of two juvenile offenders in just a few days makes a mockery of Iran's juvenile justice system." Oct. 14, 2015. <https://www.amnesty.org/en/latest/news/2015/10/iran-jvenile-offenders-executed/>, last visited Nov. 12, 2015.

³¹ Iran Human Rights. "Javad Saberi: Juvenile Offender Executed in April in Iran." May 3, 2015. <http://iranhr.net/en/articles/1192/>, last visited Dec. 3, 2015.

³² Iran Human Rights. "Javad Saberi: Juvenile Offender Executed in April in Iran." May 3, 2015. <http://iranhr.net/en/articles/1192/>, last visited Dec. 3, 2015.

IV. Despite Iranian officials' claims to the contrary, children continue to attend public executions.

12. Dr. Mohammad Javad Larijani, head of the High Council for Human Rights in Iran, told the UN that Iran takes measures to prevent minors from witnessing executions.³³ Photos from multiple public executions in May and June of 2015, however, show children in the crowds.³⁴ Iranian media reported that over 4,000 people were in attendance at one execution in June,³⁵ making it difficult for anyone to prevent children from being present. Rather than trying to monitor enormous crowds, Iran should halt the practice of public executions, which remain a frequent occurrence. In the first half of 2015, Iran carried out 34 public executions.³⁶

V. Updates concerning child offenders on death row

13. The Iranian response states that Saman Naseem's case is "going through retrial procedures" and "the execution of his death sentence has been stopped."³⁷

14. In fact, after five months of silence, family members were able to talk to Naseem, who disappeared suddenly before his execution date.³⁸ The day before his execution was set to take place, Naseem was transported from the Urmia prison where he was being held to Zanjan prison.³⁹ No one informed his family members of the transfer, and after Naseem's disappearance, some outlets reported that he had been executed as planned.⁴⁰ After being arrested in 2013 at age 17, Naseem was denied access to his lawyer while in prison and has reported being tortured as well.⁴¹ He was sentenced to death for "enmity against

³³ Iran Human Rights. "13 People Executed- Three Public Executions in Front of Children." June 10, 2015. <http://www.iranhr.net/en/articles/1214/>, last visited Dec. 3, 2015; Iran Human Rights. "Six Executions in Iran- One Public Executions in Front of Children." June 2, 2015. <http://www.iranhr.net/en/articles/1209/>, last visited Dec. 3, 2015.; Iran Human Rights. "Three Men Executed in Front of Children - Four Executed in Prison in Iran." May 28, 2015. <http://www.iranhr.net/en/articles/1205/>, last visited Dec. 3, 2015.

³⁴ Iran Human Rights. "13 People Executed- Three Public Executions in Front of Children." June 10, 2015. <http://www.iranhr.net/en/articles/1214/>, last visited Dec. 3, 2015.; Iran Human Rights. "Six Executions in Iran- One Public Executions in Front of Children." June 2, 2015. <http://www.iranhr.net/en/articles/1209/>, last visited Dec. 3, 2015.; Iran Human Rights. "Three Men Executed in Front of Children - Four Executed in Prison in Iran." May 28, 2015. <http://www.iranhr.net/en/articles/1205/>, last visited Dec. 3, 2015.

³⁵ Iran Human Rights. "13 People Executed- Three Public Executions in Front of Children." June 10, 2015. <http://www.iranhr.net/en/articles/1214/>, last visited Dec. 3, 2015.

³⁶ Iran Human Rights. "First Half of 2015: More Than 570 Prisoners Hanged to Death in Iran." Jul. 1, 2015. <http://www.iranhr.net/en/articles/1226/>, last visited Dec. 3, 2015.

³⁷ Committee on the Rights of the Child, "Replies of the Islamic Republic of Iran to the list of issues," U.N. Doc CRC/C/IRN/Q/3-4/Add.1, Nov. 13, 2015, ¶ 34.

³⁸ Iran Human Rights. "Saman Naseem Reportedly Not Executed." July 13, 2015. <http://www.iranhr.net/en/articles/1230/>, last visited Dec. 3, 2015.

³⁹ Amnesty International. "Iran: Whereabouts of juvenile offender on death row emerge five months after scheduled execution." July 13, 2015. <https://www.amnesty.org/en/latest/news/2015/07/iran-whereabouts-of-juvenile-offender-on-death-row-emerge-five-months-after-scheduled-execution/>, last visited Nov. 3, 2015.

⁴⁰ Iran Human Rights. "Saman Naseem Reportedly Not Executed." July 13, 2015. <http://www.iranhr.net/en/articles/1230/>, last visited Dec. 3, 2015.

⁴¹ Iran Human Rights. "Saman Naseem Reportedly Not Executed." July 13, 2015. <http://www.iranhr.net/en/articles/1230/>, last visited Dec. 3, 2015.

God” (*moharebeh*) and “corruption on earth” (*ifsad fil-arz*) because of his participation in armed opposition against the Revolutionary Guard.⁴²

15. Iran asserts that Barzan Nasrollahzadeh’s case “is being examined for cancellation of death sentence.”⁴³ Iran Human Rights reported in October that Nasrollahzadeh was one of 40 prisoners in Ward 4 of Rajai Shahr prison who are “sentenced to death and in danger of execution.”⁴⁴ Just because Nasrollahzadeh and Naseem are being given a retrial, however, does not guarantee they will not be sentenced to death again.

⁴² Iran Human Rights. “Saman Naseem Reportedly Not Executed.” July 13, 2015. <http://www.iranhr.net/en/articles/1230/>, last visited Dec. 3, 2015.

⁴³ Committee on the Rights of the Child, “Replies of the Islamic Republic of Iran to the list of issues,” U.N. Doc CRC/C/IRN/Q/3-4/Add.1, Nov. 13, 2015, ¶ 34.

⁴⁴ Iran Human Rights. “Sunni Man in Danger of Imminent Execution in Rajai Shahr Prison.” Oct. 29, 2015. <http://iranhr.net/en/articles/2349/>, last visited Dec. 3, 2015.

