

GROWING UP ON DEATH ROW

THE DEATH PENALTY AND JUVENILE
OFFENDERS IN IRAN

AMNESTY
INTERNATIONAL



۰۹۱۱-۰

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

AMNESTY
INTERNATIONAL



First published in 2016 by
Amnesty International Ltd
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

©Amnesty International 2016

Index: MDE 13/3112/2016 English
Original language: English
Printed by Amnesty International, International Secretariat,
United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale.

The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission, or for any other inquiries, please contact copyright@amnesty.org

Cover photo: "Unhappy birthday" by © Kianoush Ramezani,
www.kianoush.fr

amnesty.org

CONTENTS

EXECUTIVE SUMMARY	6
METHODOLOGY	14
1. LEGAL BACKGROUND	16
1.1 Scope of the death penalty	16
1.2 <i>Hodud</i>	17
1.3 <i>Qesas</i>	19
1.4 <i>Ta'zir</i>	20
1.5 Age of criminal responsibility	22
1.6 Juvenile justice system	23
2. EXECUTIONS OF JUVENILE OFFENDERS	27
2.1 Trends	29
2.2 Disregard of international law and standards	33
3. PIECEMEAL REFORMS, PERVASIVE THREATS	38
3.1 Retrial of cases of juvenile offenders	40
3.2 Ineffective implementation of Article 91	53
3.3 Drug-related offences	55
4. UNFAIR TRIALS: COMPOUNDING THE VIOLATIONS	59
4.1 Lack of access to legal counsel	61
4.2 Lack of protection against coerced statements including those made as a result of torture or other ill-treatment	63
4.3 Torture and other ill-treatment	66
4.4. Violation of the right to appeal	69

4.5 Pardon and commutation	70
5. CONCLUSIONS AND RECOMMENDATIONS.....	72
Appendix I: Executions of juvenile offenders reported from 2005 to 2015.....	78
Appendix II: List of juvenile offenders on death row	89

EXECUTIVE SUMMARY

Two decades after Iran ratified the Convention on the Rights of the Child, the authorities continue to show contempt for one of its core principles – the prohibition of the death penalty for juvenile offenders (people younger than 18 at the time of the crime). Indeed, Iran tops the grim global table of executioners of juvenile offenders. Between 2005 and 2015, Amnesty International recorded 73 such executions, including at least four in 2015. A UN report issued in August 2014 stated that more than 160 juvenile offenders were on death row. Amnesty International understands that some of them have been in prison for over a decade.

Most known executions were for murder, followed by rape, drug-related offences and the vaguely worded and overly broad national security-related offence of “enmity against God” (*moharebeh*).

Successive Iranian governments and parliaments have failed to undertake the fundamental reforms that are sorely needed to put an end to this grave violation of human rights. As judicial bodies inside the country have continued to consign juvenile offenders to the gallows, the authorities, responding to international bodies, have resorted to different, and sometimes contradictory, techniques to distract attention from the practice, deny it is happening or distort the image of its reality. Sometimes, they have sought to dilute the debate by focusing their public statements on the age of the offender at the time of the execution, even though under international human rights law, it is the age of the individual at the time of the crime that is crucial, not the age at trial or implementation of the sentence. In April 2014, for example, the Head of the Judiciary, Ayatollah Sadeq Amoli Larijani, stated: “In the Islamic Republic of Iran, we have no execution of people under the age of 18.” At other times, they have refused to acknowledge that the individuals executed were under 18 years of age at the time of the crime or denied the scale of the problem by highlighting efforts that occasionally succeed in securing a pardon from the family of the murder victim.

As a state party to the Convention on the Rights of the Child, Iran is legally obliged to treat everyone under the age of 18 as a child. This is a different concept from the minimum age of criminal responsibility, which is the age below which children are deemed not to have the capacity to infringe the penal law at all. This age varies around the world, but it must not be below 12, according to the UN Committee on the Rights of the Child, the body of independent experts established under the Convention to monitor states’ compliance with their obligations under that treaty. Individuals above the minimum age of criminal responsibility but lower than 18 who have broken the law may be considered as criminally responsible, be prosecuted, tried and punished. However, as they are still considered a child under international law, the full gamut of special juvenile justice protections under the Convention on the Rights of the Child must apply to them. In particular, they should never be subject to the death penalty or life imprisonment without possibility of release.

Up until recently, however, Iran’s substantive criminal law made no distinction between the minimum age of criminal responsibility and the age at which individuals are considered to have full criminal responsibility in the same way as adults; both were conflated into the

concept of “maturity” (*bolugh*), which is linked to the onset of puberty (such as pubic hair growth in boys and the start of menstruation in girls) and set at 15 lunar years for boys and nine lunar years for girls. Once children reached this age, they were generally judged to have full criminal responsibility and sentenced to the same punishments as adults, including the death penalty. This approach is encapsulated in a provincial court judgement from November 2011 that stated:

The age of bolugh [maturity] is 15 lunar years for boys and nine lunar years for girls. When individuals who have become mature commit a crime, penalties defined in Iranian criminal law including the death penalty are enforceable against them, regardless of whether they have reached 18 or not. [Such individuals] fall outside the scope of the Convention on the Rights of the Child.

Iran's Supreme Court confirmed this judgement in 2012.

Somewhat contradictorily, Iran's procedural criminal law has established, since 1999, a Court for Children and Adolescents with jurisdiction over offences committed by children under 18 years of age, thereby recognizing the needs of such children for special care and protection. However, until recently, the law excluded from the jurisdiction of juvenile courts a wide range of serious crimes including those that were punishable by the death penalty, and placed them under the jurisdiction of adult Provincial Criminal Courts. The only exception was drug-related offences which the Supreme Court stated in October 2000 fell under the jurisdiction of the Court for Children and Adolescents when committed by children under the age of 18 and the Revolutionary Courts when committed by adults. Accordingly, juvenile offenders accused of capital crimes were generally prosecuted by adult courts, without special juvenile justice protections, and sentenced to death in the same way as adults.

Recent changes to the Islamic Penal Code

In May 2013, Iran adopted a new Islamic Penal Code, which sparked guarded hopes that juvenile offenders would no longer be subject to the death penalty. The Code introduces a number of fundamental changes to the treatment of juvenile offenders in Iran's criminal justice system. This treatment, however, differs depending on the category of crime of which a juvenile offender is convicted.

Juvenile offenders – boys and girls – convicted of *ta'zir* crimes (crimes that attract discretionary punishments as they do not have a pre-determined definition and punishment under Islamic law (Shari'a)) are divided into three age groups of 9-12, 12-15 and 15-18, and given alternative sentences depending on where the crime sits within the severity grading scale outlined in the 2013 Islamic Penal Code for *ta'zir* crimes. These measures aim to remove juvenile offenders from the criminal justice system and place them into the care of social services or correctional centres, with the maximum period of detention in a juvenile correctional facility being limited to five years.

Juvenile offenders convicted of *hodud* crimes (ones that have fixed definitions and punishments under Islamic law) or *qesas* crimes (ones punishable by retribution in kind), which are the crimes for which juvenile offenders are most sentenced to death, remain, however, subject to a different regime that still sets nine and 15 lunar years as the age at

which girls and boys may be, respectively, sentenced, in the same way as adults. For the first time, the Islamic Penal Code has, however, granted judges discretionary power to replace the death penalty with an alternative punishment if one of the following two conditions is proven: 1) the juvenile offender did not comprehend the nature of the crime or its consequences; 2) the juvenile offender's "mental growth and maturity" (*roshd va kamal-e aghli*) at the time of the crime was in doubt (Article 91).

The Islamic Penal Code falls far short of Iran's international obligations, under which judges or courts must not under any circumstances have the authority to sentence juvenile offenders to death. Nevertheless, lawyers and human rights defenders have expressed hope that the Islamic Penal Code will improve the situation of juvenile offenders accused and convicted of capital offences, at least in practice.

Following the adoption of the new Islamic Penal Code, dozens of juvenile offenders sentenced to death under the previous Islamic Penal Code submitted a special request to the Supreme Court known as an "application for retrial" (*e'adeyeh-e dadresi*) under Article 9 of the Code. Such retrials are not full trials but their outcomes are open to appeal. In cases of juvenile offenders, these retrials generally focus on whether or not there are any doubts about the individual's "mental growth and maturity" at the time of the crime as outlined in Article 91.

Between May 2013 and January 2015, some branches of the Supreme Court granted such applications but others did not. Such inconsistency led several lawyers in 2014 to apply to the General Board of the Supreme Court for a "pilot judgement" (*ra'ye vahdat-e ravieh*). The General Board ruled on 2 December 2014 that all those on death row for crimes committed when they were under 18 are entitled to request a retrial based on Article 91. Subsequently, branches of the Supreme Court began granting "applications for retrial" of juvenile offenders, quashing their death sentences and sending their cases back to differently constituted courts of first instance for retrial.

This could be seen as an improvement on the previous situation that allowed no consideration of adolescence-related issues in capital sentencing. However, the individualized approach still allows trial judges to conclude that a girl as young as nine and a boy as young as 15 had sufficient mental maturity at the time of the crime to merit a death sentence, in defiance of international human rights law. This risk is heightened when legal representatives and judges involved in the retrial are not adequately trained about issues related to the development of children, their dynamic and continuing growth, and the impact of violence on their well-being.

At the time of writing, the majority of juvenile offenders known to Amnesty International were still awaiting the outcome of their retrials. Amnesty International was, however, aware of at least six juvenile offenders – **Salar Shadizadi** and **Hamid Ahmadi** from northern Gilan Province, **Fatemeh Salbehi** from southern Fars Province, **Sajad Sanjari** from western Kermanshah Province, **Siavash Mahmoudi** from western Kordestan Province, and **Amir Amrollahi** from southern Fars Province – who had been retried, found to have sufficient "mental growth and maturity" at the time of the crime and sentenced to death again. The execution of Fatemeh Salbehi, who was 17 years old at the time of the commission of the crime, was carried out in October 2015.

The organization was also aware of the case of at least one juvenile offender, who was sentenced to death for the first time after the adoption of the new Islamic Penal Code: **Milad Azimi**, from western Kermanshah Province, was sentenced in December 2015 on the grounds that there was “no doubt about his mental growth and maturity at the time of the commission of the crime”. He was 17 years old at the time of the crime.

Criteria used to prove ‘mental growth and maturity’

Judges may seek expert opinion from the Legal Medicine Organization of Iran (a state forensic institution under the supervision of the judiciary that conducts diagnostic and clinical examinations in relation to criminal cases) or rely on their own assessment even though they may lack adequate knowledge and expertise on issues of child psychology.

In cases researched by Amnesty International, judges often focused on whether the juvenile offender knew right from wrong and could tell, for example, that it is wrong to kill a human being. For example, in the case of **Fatemeh Salbehi**, who was executed in October 2015, the three-hour retrial focused on whether she prayed, studied religious textbooks at school and understood that killing someone was “religiously forbidden” (*haram*). She had been sentenced to death for murdering her 30-year-old husband whom she was forced to marry when she was 16. She was 17 at the time of killing her husband.

Judges also tended to conflate the issue of lesser culpability of juveniles because of their lack of maturity with the diminished responsibility of individuals with intellectual disabilities or mental illness, concluding that the juvenile offender was not “afflicted with insanity” and therefore deserved the death penalty. This is well illustrated in the separate cases of **Hamid Ahmadi**, **Milad Azimi** and **Siavash Mahmoudi**, where courts acknowledged that the offenders were under 18 at the time of the crime, but nevertheless imposed death sentences on the basis that they understood the nature of the crime and were not considered to have diminished responsibility because of mental illness or intellectual impairment.

Efforts to ascertain juvenile offenders’ level of mental maturity at the time of the crime are particularly problematic where there has been a lapse between the crime and the time of assessment. By the time experts from the Legal Medicine Organization of Iran meet juvenile offenders, they are often significantly different from the individuals who committed the crime. This renders efforts to determine the mental maturity of juvenile offenders years after the criminal act inherently unreliable and defective. In the case of **Salar Shadizadi**, for instance, who has been sentenced to death for a crime committed in 2007 when he was 15, the Legal Medicine Organization of Iran said that no sufficiently reliable means existed to judge his maturity seven years after the crime. The Supreme Court stated in 2014:

The prima facie presumption is that individuals who have passed the age of bolugh have attained full mental maturity... A claim to the contrary requires proof, which has not been established here... The applicant’s request is, thereby, denied and the [death] sentence is final.

These approaches contravene international law, which requires principles of juvenile justice to be applied fully to anybody who was under 18 at the time of the alleged crime. This is precisely because such offenders are, to use the words of the Inter-American Commission on

Human Rights, “children when they commit the offence and therefore the blame that attaches to them and, by extension, the penalty, should be less in the case of children than it would be for adults.” Accordingly, as noted under international law, juvenile offenders must never be sentenced to death and Iranian law should be urgently revised to reflect this prohibition.

Over the past decade, interdisciplinary social science studies on the relationship between adolescence and crime, including neuroscientific findings on brain maturity, have been cited in support of arguments for considering juveniles less culpable than adults due to their developmental immaturity and cognitive limitations, and were invoked in support of arguments for abolishing the death penalty in the landmark case of *Roper v. Simmons* in which the US Supreme Court, finding that evidence persuasive, held that it is unconstitutional to impose the death penalty for crimes committed while under the age of 18.

Lack of awareness of rights

Many juvenile offenders on death row are unlikely to be able to pursue the possibility of retrial under Article 91. The application of Article 91 to juvenile offenders on death row is not automatic; it relies on the individual taking the initiative. This is troubling as many juvenile offenders on death row have low levels of literacy, low status, few social connections, and are, therefore, unaware of their right to submit an “application for retrial” or do not have the means to retain a lawyer to submit the application for them.

Amnesty International has identified numerous cases where juvenile offenders and their families were unaware of their legal right to seek retrial based on Article 91. This lack of awareness can result in tragic consequences, as illustrated by the case of **Samad Zahabi**, who was executed on 5 October 2015 without being informed of his right to file an application for a retrial, which might have saved his life.

Drug-related offences

Drug-related offences in Iran are codified in Iran’s Anti-Narcotics Law, which prescribes a mandatory death sentence for a range of drug-related offences. The Anti-Narcotics Law is silent on the sentences that should apply to drug-related offences committed by children under the age of 18. In principle, until the adoption of the Islamic Penal Code in 2013, this silence could have meant that the imposition of the death penalty was allowed for drug-related offences committed by girls above the age of nine and boys above the age of 15. In practice, however, it seems that juvenile offenders were rarely convicted of capital drug-related offences and sentenced to death as long as they were prosecuted and convicted by the Court for Children and Adolescents. As noted earlier, these courts have had jurisdiction over juvenile drug-related offences since 2000 and according to several lawyers interviewed by Amnesty International, they have been generally more lenient towards juvenile offenders.

However, human rights groups have reported that some juvenile offenders, particularly Afghan nationals, have been sentenced to death by Revolutionary Courts (which have exclusive jurisdiction over non-juvenile drug-related offences) because they could not prove their age or did not understand that their age might be relevant to the proceedings. The

Iranian authorities generally fail to ensure that, if there is doubt about whether an individual was under 18 at the time of the crime, the individual is presumed to be a child.

The 2013 Islamic Penal Code has not clarified what sentencing regime should apply to juvenile offenders convicted of drug-related offences that attract the death penalty under the Anti-Narcotics Law. The lack of clarity results from an uncertainty in Iran's legal system about whether such drug-related offences fall under the category of *hodud* or *ta'zir*.

If they are classified as *ta'zir*, then the alternative juvenile sentencing regime which categorizes juvenile offenders into different age groups would apply and the juvenile offenders convicted of capital drug-related offences would receive the alternative sentences applicable to *ta'zir* crimes of the most severe grade. The alternative sentences for this grade include detention in a juvenile correction facility for between three months and one year for juvenile offenders aged 12-15, and for between two and five years for juvenile offenders aged 15-18.

If they are classified as *hodud* though, juvenile offenders convicted of such offences would be subject to the death penalty unless they could prove, pursuant to Article 91 of the Islamic Penal Code, that they did not comprehend the nature of the crime or its consequences or there were doubts about their "mental growth and maturity" (*roshd va kamal-e aghli*) at the time of the crime.

At the time of writing, the practice of the judiciary in this regard remained unclear though a criminal court judge in Tehran stated in a media interview in 2014 that juvenile offenders convicted of drug-related offences would be sentenced in accordance with the alternative sentencing measures outlined in the Islamic Penal Code for *ta'zir* crimes.

Fair trial concerns

The Iranian authorities claim that they apply the death penalty only after thorough and fair judicial proceedings. In reality, however, basic fair trial guarantees are violated in death penalty cases, including those involving juveniles. Major fair trial concerns include: denial of access to legal counsel; incommunicado detention and solitary confinement; torture or other ill-treatment aimed primarily at obtaining "confessions"; the use of adult courts for juvenile offenders; and the absence of fair and adequate procedures for seeking pardon and commutation of death sentences from state authorities.

In June 2015, a new Code of Criminal Procedure entered into force, introducing long overdue reforms to Iran's criminal justice system, including with respect to the treatment of juvenile offenders.

After years of pressure, the Code of Criminal Procedure finally moved to ensure that all offences committed by individuals under 18 years of age are dealt with by specialized juvenile courts. The Code of Criminal Procedure establishes special juvenile branches in Provincial Criminal Courts (renamed Criminal Courts 1) with jurisdiction over capital and other serious offences committed by people under 18 years of age which ordinarily fall, when committed by adults, under the jurisdiction of Provincial Criminal Courts or Revolutionary Courts. Less serious offences committed by people aged below 18 were placed under the

jurisdiction of the Court for Children and Adolescents (Article 304).

Other reforms introduced by the Code of Criminal Procedure included: the establishment of special prosecution units for juvenile crimes; the enhancement of the right to access a lawyer during investigations; and stricter regulations governing the questioning and interrogation of juveniles accused of a crime. It remains to be seen to what extent the authorities implement these important reforms to safeguard the fair trial rights of juvenile suspects and prevent their torture or other ill-treatment. Regrettably, the new Code of Criminal Procedure fails to rule inadmissible evidence gathered without a lawyer present. This, combined with the failure of Iranian law to define a specific crime of torture, and the absence of clear laws and procedures to test a confession for signs of torture and other forms of ill-treatment or coercion, can render juveniles vulnerable to confessing guilt or providing coerced self-incriminating statements.

Methodology

Conducting human rights research on Iran is fraught with challenges. The Iranian authorities generally do not allow human rights groups or international experts to visit the country to conduct research, and use various repressive measures to silence independent activists in a bid to stop evidence of human rights violations from reaching the outside world. Nevertheless, Amnesty International is confident that its research, which included analysing numerous court documents, collecting information from reliable sources in Iran and interviewing well-placed and reliable individuals, has allowed it to accurately summarize patterns of human rights violations in relation to the use of death penalty against juvenile offenders. As part of this research, the organization has compiled a list of 73 juvenile offenders executed between 2005 and 2015 (Appendix I) and a list of 49 juvenile offenders known to be under sentence of death (Appendix II).

Conclusion and recommendations

Amnesty International opposes the death penalty in all cases without exception, regardless of the nature of the crime, the characteristics of the offender, or the method used by the state to carry out the execution. The death penalty violates the right to life as proclaimed in the Universal Declaration of Human Rights and it is the ultimate cruel, inhuman and degrading punishment. Amnesty International calls on all countries that still retain the death penalty to join the growing list of states that have abolished this punishment in full.

Pending the full abolition of the death penalty in Iran, Amnesty International is calling on the Iranian authorities to:

- Immediately halt the execution of juvenile offenders;
- Commute, without delay, the death sentences imposed on all juvenile offenders in line with Iran's obligations under international law;
- Urgently amend Article 91 of the 2013 Islamic Penal Code to explicitly prohibit the use of the death penalty for all crimes committed by people below 18 years of age;

- Urgently revise Article 147 of the 2013 Islamic Penal Code to increase the minimum age of criminal responsibility for girls to that for boys, which is currently set at 15;
- Ensure that no individual under 18 years of age is held culpable as an adult, in line with Article 1 of the Convention on the Rights of the Child.

METHODOLOGY

Amnesty International's research for this report involved detailed analysis of the court documents of the cases of over 20 juvenile offenders from before and after May 2013, when the new Islamic Penal Code was adopted. Furthermore, the organization received information from reliable sources about the cases of two dozen other juvenile offenders at risk of execution. For these cases, Amnesty International was unable to obtain documentary evidence to verify the age of the offenders at the time of the crime; it did, however, conduct interviews with reliable sources who maintained that the persons were juvenile offenders and gave details of their arrest, detention, conviction and sentencing. Amnesty International also reviewed information about the use of the death penalty against juvenile offenders made available by the Iranian authorities as well as unofficial sources including independent human rights monitors.

The information collected forms the basis of the statistics highlighted in the report as well as Appendix I, which lists cases of executions of juvenile offenders recorded between 2005 and 2015, and Appendix II, which lists cases of juvenile offenders at risk of facing the death penalty. Amnesty International did not have the capacity to independently verify the details of every case of executions of juvenile offenders reported between 2005 and 2015, but all the information presented was cross-checked with various reliable sources. Where there were doubts about the age of offenders at the time of the crime, their names were not included in the appendices. It is worth noting that the actual total number of executions of juvenile offenders during that period is likely to have been higher than the number of cases in Appendix I, as the authorities do not announce figures for the use of the death penalty in the country, and some executions are carried out in secret or do not come to the attention of independent monitors. Similarly, the number of juvenile offenders at risk of facing the death penalty is likely to be much higher than the 49 identified in Appendix II.

The Iranian authorities have not granted Amnesty International access to Iran to conduct human rights research for more than 30 years. Amnesty International has frequently written to the authorities to raise human rights concerns, including on the use of the death penalty, and to propose meetings. To date, the organization has not received a positive reply. Amnesty International continues to seek opportunities to discuss its concerns and recommendations with the authorities and to be allowed to visit the country for research purposes.

The challenges related to lack of access are compounded by the repressive environment in the country, which makes it risky to reach out to and gather information from lawyers and families of victims of human rights violations. Many lawyers fear harassment and imprisonment if they contact international organizations to publicize cases or criticize the judicial system. In numerous cases, the judicial authorities have described the efforts of human rights defenders who oppose the death penalty as "un-Islamic" and charged them with offences, such as "insulting Islamic sanctities", "spreading propaganda against the system" and "gathering and colluding against national security".

Family members are similarly afraid of attracting the wrath of security bodies if they approach international organizations or give public interviews about the plight of their loved

ones. They are often led to believe that international advocacy and campaigning efforts will only complicate the situation and undermine their efforts to obtain a pardon from the family of the deceased. Sometimes, they are reluctant to share information because the authorities have assured them that, if they do not publicize the case, their loved ones might be spared the gallows.

Despite the challenges, dedicated lawyers and human rights activists in Iran have driven the momentum for change in the treatment of juvenile offenders. They have represented juvenile offenders facing the death penalty and prevented executions. They have engaged in lobbying and advocacy efforts for the abolition of the death penalty against juvenile offenders. They have pushed for juvenile-friendly interpretations of new laws. Amnesty International hopes that this report will shed further light on the situation of juvenile offenders who have grown up on death row, contribute to their struggle for justice, and speed up the day when no juvenile offender will ever again face the gallows.

1. LEGAL BACKGROUND

“Opposition to the death penalty is in reality opposition to the rule of Islam.”

Iran's Head of the Judiciary, Ayatollah Sadeq Amoli Larijani, December 2013

The International Covenant on Civil and Political Rights, to which Iran is a party, states, in Article 6(2), that in countries, which have not abolished the death penalty, it may be imposed only for the “most serious crimes”. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions (UN Special Rapporteur on extrajudicial executions) has clarified that the expression “most serious crimes” should be understood to mean that crimes punishable by death must be limited to those in which there was an intention to kill and which resulted in loss of life.¹ This chapter provides relevant background on the scope of the death penalty in Iranian law, which prescribes the death penalty for crimes that are not among “the most serious”. The chapter describes the main categories of crimes punishable by death and the applicability of pardons and commutations to some of them. The chapter also includes two brief sections on the age of criminal responsibility in Iranian law and the nature of Iran's juvenile justice system, both of which provide important context to the main discussion of the report concerning the use of death penalty against juvenile offenders.

1.1 SCOPE OF THE DEATH PENALTY

Iran remains a prolific executioner, second only to China. The authorities do not provide statistics on the use of the death penalty and it appears that many executions are not announced. Nevertheless, available information does indicate the scale. In 2014, the authorities or state-associated media announced 289 executions. Reliable sources confirmed a further 454, bringing the total that year to at least 743. In 2015, Amnesty International has recorded a staggering execution rate, with nearly 700 people put to death in the first half of the year alone.²

¹ Special Rapporteur on extrajudicial, summary or arbitrary executions (Special Rapporteur on extrajudicial executions), *Civil and political rights, including the questions of disappearances and summary executions*, A/HRC/4/20, paras 53, 65, available at www.extrajudicialexecutions.org/application/media/A_HRC_4_20.pdf; Special Rapporteur on extrajudicial executions, *Report to the General Assembly, A/67/275*, para. 67, available at www.un.org/Docs/journal/asp/ws.asp?m=A/67/275

² Each year Amnesty International reports the number of officially acknowledged executions in Iran and the number of unacknowledged executions it has been able to confirm. When calculating the annual global total number of executions, Amnesty International used to only count executions officially

The majority of executions in Iran are for drug-related offences. Other common offences for which people are put to death include rape, murder and vaguely worded offences relating to national security, such as “enmity against God” (*moharebeh*) and “corruption on earth” (*efsad-e fel-arz*). Many of these offences do not meet the threshold of the “most serious crimes”, the only category of crime for which international law allows the death penalty. International human rights bodies have interpreted the “most serious crimes” as being limited to crimes involving intentional killing. Moreover, many of the offences under Iranian law which can be punished by the death penalty are for activities which should not be criminal offences at all, such as “insulting the Prophet of Islam” (*sabbo al-nabi*) or having consensual extra-marital sexual relations, or consensual sexual relations between individuals of the same sex.

1.2 HODUD

Hodud refers to offences which have fixed definitions and punishments under Islamic law. The death penalty is invoked for the following *hodud* offences: “adultery” (*zena* – Article 225);³ rape (Article 224);⁴ conviction for the fourth time for fornication (Articles 225 and 136); conviction for the fourth time for consumption of alcohol (Articles 264 and 136); “male-male anal penetration” (*Javat* – Article 234);⁵ conviction for the fourth time for “same-sex sexual conduct between men without penetration” (*tafkhez* – Articles 236 and 136);⁶ and conviction for the fourth time for “same-sex sexual conduct between women” (*mosaheqeh* –

acknowledged by Iran. The organization reviewed this approach in July 2015 and concluded that it fails to reflect fully the scale of executions in Iran. Since then, it has decided to use the combined figure of officially acknowledged executions and those not acknowledged but confirmed by reliable sources.

³ In order for adultery to attract the death penalty, the accused woman and man must meet the condition of *ehsan*. According to Article 226 of the 2013 Islamic Penal Code, the condition of *ehsan* is met for a man if he has a permanent, mature wife; has had vaginal intercourse with his wife after she has reached puberty and while she has been sane; and can have vaginal intercourse with her whenever he desires to. A woman meets the condition of *ehsan* if she is in a permanent marriage with a mature man; has had vaginal intercourse with her husband after he has reached puberty and while he has been sane; and is able to have vaginal intercourse with her husband. Article 227 states: “Married couples do not meet the conditions of *ehsan* in such times: travelling, imprisonment, menstruation, lochia [bleeding/discharge after birth], diseases preventing intercourse or illnesses that would endanger the other party such as AIDS and syphilis.”

⁴ The 2013 Islamic Penal Code restricts the scope of rape to forced sexual intercourse with someone to whom one is not married. This means that marital rape is not criminalized under Iranian law.

⁵ The 2013 Islamic Penal Code differentiates, for the first time, between the “active” and the “passive” partners of same-sex sexual conduct. According to Article 234 and its Note, the “active” partner shall be sentenced to death only if he meets the conditions of *ehsan* (see note 3 above), if the intercourse is by force, or if he is not a Muslim and the “passive” partner is a Muslim. The “passive” partner shall, however, be sentenced to death regardless of whether he meets the conditions of *ehsan* unless the intercourse has been forced on him.

⁶ According to Article 235 of the 2013 Islamic Penal Code, *tafkhez* is committed when “a man places his sexual organ between the thighs or buttocks of another man”. The punishment for *tafkhez* is 100 lashes for the first three convictions.

Articles 237 and 136).⁷

The law of *hოდud* also provides for the death penalty as one of four possible punishments for “corruption on earth” (*efsad-e fel-arz*) and “enmity against God” (*moharebeh*) – the other three punishments are crucifixion, amputation of the right arm and the left leg, and banishment. The Islamic Penal Code leaves it to the judge to choose which punishment is appropriate (Articles 282 and 283).

The old Islamic Penal Code did not distinguish between the crimes of “enmity against God” (*moharebeh*) and “corruption on earth” (*efsad-e fel-arz*). Its Article 183 stated: “Any person resorting to arms to cause terror, fear or to breach public security and freedom will be considered an ‘enemy of God’ [*mohareb*] and a ‘corrupter on earth’ [*mofsed fel-arz*].”

The 2013 Islamic Penal Code differentiates between the two and defines them in separate provisions. Article 279 defines “enmity against God” (*moharebeh*) as “taking up arms with the intention of [taking] people’s lives, property or honour or in order to cause fear among them in a manner that causes insecurity in the atmosphere”. The same article clarifies:

Whenever a person takes up arms against one or a few specific individuals because of personal disputes and his acts are not directed at the public and whenever a person takes up arms but due to his inability does not cause insecurity, they shall not be considered as [an enemy of God].

This definition is more restrictive than that in the previous Islamic Penal Code, which considered all members or supporters of an organization that sought to overthrow the Islamic Republic by procuring arms as an “enemy of God” simply on the basis of their membership in the organization, and even if they did not take part in the military activities of the organization. “Effective efforts and activities” of such individuals towards furthering the goals of the organization resulted in them being considered as an “enemy of God” as long as they had knowledge of the organization’s positions (Article 189).

For years, the authorities resorted to this provision in order to sentence to death members, supporters and sympathizers of armed opposition groups who had not personally taken up arms against the state.⁸ This violated Iran’s obligation under international law to restrict the use of the death penalty to the “most serious crimes”. Furthermore, imposing penalties merely for an individual’s membership in an organization may not be legitimate under international law if it does not prove the intent of the individual to commit an offence.

⁷ According to Article 238 of the 2013 Islamic Penal Code, *mosaheqeh* is committed when “a woman places her sexual organ on another woman’s sexual organ”. The punishment for *mosaheqeh* is 100 lashes for the first three convictions.

⁸ For example, see Amnesty International, Urgent Action, *Iran: Gholamreza Khosravi Savadjani executed* (Index: MDE 13/030/2014), 3 June 2014, available at www.amnesty.org/en/documents/mde13/030/2014/en/

The 2013 Islamic Penal Code has addressed this serious concern. However, it fails to clarify how armed activity must be carried out in order to “cause insecurity in the atmosphere” as stipulated under Article 279. The criteria for “causing insecurity” remain subject to the discretion of judges. Moreover, the Islamic Penal Code, in contravention of international law and standards, provides for the death penalty in circumstances where an individual’s actions did not result in intentional killing.

The capital crime of “corruption on earth” (*efsad-e fel-arz*) applies to those who, in a widespread manner, commit crimes against national security or someone’s physical integrity, disrupt the economy, commit arson and destruction, distribute poisonous or dangerous substances, or run corruption and prostitution centres, in a manner that causes severe disruption to public order or extensive damage to the physical integrity of individuals or private and public property, or spreads corruption or prostitution on large scale (Article 286).

While this definition contains a number of very serious offences that are internationally recognizable as crimes, it fails to meet the requirements for clarity and precision needed in criminal law. The use of vaguely worded and broadly defined phrases such as “in a manner that... spreads corruption” grants judges wide interpretative powers, in breach of the principle of legality and legal certainty, which imposes on states an obligation to define criminal offences precisely within the law so that an individual can know from the wording of the relevant legal provision, as interpreted by the courts, what acts will make him or her criminally liable.

In the 2013 Islamic Penal Code, “insulting the Prophet of Islam” (*sabbo al-nabi*) is also considered a *hodud* crime attracting the death penalty (Article 262).⁹

As *hodud* offences are regarded as crimes against God, they are not open to pardon by the Supreme Leader. However, in cases where a *hodud* crime has been proven by confession, if the person utters a “statement of repentance” (*tobeh*), the judge may ask the Supreme Leader via the Head of the Judiciary to pardon the convict (Article 114).

1.3 QESAS

In Islamic law, *qesas* refers to a theory of equivalent retaliation in the case of murder and other crimes committed against the bodily integrity of a human being. Such offences are punishable by “retribution in kind”, which involves inflicting on the guilty party the same treatment suffered by the victim of the crime. In cases of murder, this power rests with the relatives of the murder victim, who are authorized to demand and carry out the death sentence. They also have the power to pardon the offender and accept financial compensation, known as “blood money” (*diyah*), instead.

The principle of *qesas*, as practised in Iran, gives rise to serious human rights concerns. In cases of murder, the principle of absolute, equivalent retaliation is applied without the

⁹ According to Article 263: “An accused [person] who claims that their statements were made under duress, as a result of negligence, or in a state of intoxication”, among other things, would not be sentenced to death. In these cases, the law prescribes the punishment of flogging, which violates the prohibition of cruel and inhuman punishment under international law.

possibility of seeking appeal, pardon or commutation from the state authorities. This gives rise to a mandatory death penalty, removing the ability of the courts to consider relevant evidence and potentially mitigating circumstances when sentencing an individual.¹⁰

The practice of “blood money” (*diyah*) raises concerns with respect to discrimination on the basis of wealth, social origin or property in the sense that “a wealthy offender can effectively buy freedom in a way which is not open to poor offenders”.¹¹ In the Iranian legal context, the practice is also discriminatory; the amount of “blood money” (*diyah*) is more for male victims than for female victims (Article 388).¹²

The *qesas* procedures also violate guarantees of due process under international law, including the right to seek pardon or commutation from state authorities.¹³ The UN Special Rapporteur on extrajudicial executions has stated: “Where the *diyah* pardon is available it must be supplemented by a separate, public system for seeking an official pardon or commutation.”¹⁴

1.4 TA'ZIR

The 2013 Islamic Penal Code defines *ta'zir* as offences not covered by *hodud*, *qesas* and *diyah*. The rules governing their definition, scope and punishment are prescribed by law (Article 18). Examples of *ta'zir* crimes include the financial offences of corruption, bribery and money laundering as well as national security-related offences such as “working with hostile governments” and “gathering and colluding against national security”. These crimes are typically punishable with imprisonment but they may attract the death penalty if they are judged to amount to “corruption on earth” (*efsad-e fel-arz*) due to their scale, severity and organized nature.

Other *ta'zir* crimes that attract the death penalty include those covered in Iran’s Anti-Narcotics Law. This law, which was introduced in January 1989 and amended in 1997 and 2011, prescribes a mandatory death sentence for trafficking more than 5kg of narcotics acquired from opium and specified synthetic, non-medical psychotropic substances (Article 4.4); and trafficking or possessing more than 30g of heroin, morphine, cocaine or their derivatives as well as specified synthetic, non-medical psychotropic drugs (Article 8.6).¹⁵

¹⁰ Special Rapporteur on extrajudicial executions, *Report to the General Assembly, A/61/311*, para. 57, available at www.extrajudicialexecutions.org/application/media/Report%20A_61_311.pdf (Special Rapporteur on extrajudicial executions, A/61/311).

¹¹ Special Rapporteur on extrajudicial executions, A/61/311, para. 60.

¹² The High Council for Human Rights in Iran, “The situation of religious minorities as accounted by their representatives in Parliament”, 25 December 2013, available at www.humanrights-iran.ir/news-35831.aspx (accessed 4 November 2015).

¹³ International Covenant on Civil and Political Rights, Article 6(4); UN Economic and Social Council, Resolution 1984/50 of 25 May 1984, para. 7, available at www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx (ECOSOC, Resolution 1984/50).

¹⁴ Special Rapporteur on extrajudicial executions, A/61/311, para. 61.

¹⁵ These include lysergic acid diethylamide (LSD), 3,4-methylenedioxymethamphetamine (MDMA or ecstasy), gamma-hydroxybutyric acid (GHB), flunitrazepam, amphetamine and methamphetamine (“crystal meth”).

Recidivist offenders found in possession of amounts that cumulatively add up to these amounts would also receive a mandatory death sentence, as would those convicted for a fourth time of growing poppies or cannabis for the purpose of drug production (Article 2). Armed drug smuggling of any illegal substances (Article 11), recruiting or hiring people to commit any of the crimes under the law, or organizing, running, financially supporting or investing in such activities in cases where the crime is punishable with life imprisonment (Article 18), also attract the death penalty.

Some scholars and jurists of Islamic law have concluded that the use of the death penalty for drug-related offences is against the principles of Shari'a. They argue that, as drug-related offences are not mentioned in Shari'a, they fall into the category of *ta'zir* and should therefore attract a lesser punishment than death, which is in their view reserved for an exhaustive list of offences classified under the category of *hodud*.¹⁶ Other jurists of Islamic law have argued that, as drug-related offences can severely harm society, they can amount to "corruption on earth" (*efsad-e fel-arz*) and therefore attract the death penalty, but this requires case-specific, individualized assessment, and renders a standardized mandatory death sentence as religiously unjustified.¹⁷

The UN Human Rights Committee has on numerous occasions emphasized that drug-related offences do not meet the criterion of the "most serious crimes".¹⁸ The UN Special Rapporteur on extrajudicial executions has reiterated that international law requires that the death penalty for drug-trafficking be abolished and that death sentences already imposed for drug-trafficking be commuted to prison terms.¹⁹

¹⁶ See Adel Sarikhani and Ismail Aghabababani, "Deconstructing the bases of *ta'zir* death penalty in Islamic jurisprudence" (Winter 2015), *Faslnameyeh Pajouhesh Hoghough-e Keyfary* [Criminal Law Research Quarterly], vol. 3(8), p. 32, available at jclr.atu.ac.ir/article_838_196.html (accessed 24 September 2015); "The opposition of the Guardian Council to mandatory death penalty laws for drug traffickers", *Fater News*, available at bit.ly/1KLMggn (accessed 28 September 2015).

¹⁷ Ali Ahmad Rezai, "Foundations of drug-related punishments in Islamic jurisprudence" (Fall 2014) *Faslnameyeh Elmi-Pajouheshi-e Andishe-yeh Khatam*, vol. 1, available at bit.ly/1LL3aRs (accessed 24 September 2015); Gholam Alvari, "The degree of death penalty and the method to obtain a commutation in the Islamic Penal Code", available at bit.ly/1KOJlo7 (accessed 28 September 2015).

¹⁸ Human Rights Committee, *Concluding observations: Thailand*, CCPR/CO/84/THA, para. 14, available at bit.ly/100Uaf8; Human Rights Committee, *Concluding observations: Sudan*, CCPR/C/SDN/CO/3, para. 19, available at bit.ly/1Pb22U9; UN Economic and Social Council, Resolution 1984/50 of 25 May 1984, available at www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx and endorsed by the UN General Assembly, Resolution 39/118 of 14 December 1984.

¹⁹ Special Rapporteur on extrajudicial executions, *Report to the General Assembly, Addendum: Summary of cases transmitted to governments and replies received*, A/61/311, A/HRC/11/2/Add.1, p. 188, available at www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.2.Add.1.pdf

1.5 AGE OF CRIMINAL RESPONSIBILITY

As a state party to the Convention on the Rights of the Child, Iran is legally obliged to treat everyone under the age of 18 as a child (Article 1). This is a different concept from the minimum age of criminal responsibility, which is the age below which children are deemed not to have the capacity to infringe the penal law at all (Article 40). The minimum age of criminal responsibility varies around the world but, according to the UN Committee on the Rights of the Child, it should not be below the age of 12: “States parties are encouraged to increase their lower minimum age of criminal responsibility to the age of 12 years as the absolute minimum age and to continue to increase it to a higher age level.”²⁰

Children above the minimum age of criminal responsibility but lower than 18 who have broken the law may be considered as criminally responsible, be prosecuted, tried and punished. However, the state’s punitive response to these juvenile offenders must be different from its response to adult offenders, precisely because they are children when they commit the offence and therefore the blame that attaches to them, and the penalty, should be less than it would be for adults. Under international law, the death penalty, as well as life imprisonment without possibility of release, are explicitly prohibited as punishments for offences committed by those under the age of 18.

Up until recently, however, Iran’s substantive criminal law made no distinction between the minimum age of criminal responsibility and the age at which individuals are considered to have full criminal responsibility in the same way as adults; both were conflated into the concept of “maturity” (*bolugh*), which is linked to the onset of puberty, and set at 15 for boys and nine for girls. Once children reached this age, they were generally judged to have full criminal responsibility and sentenced to the same punishments as adults, including the death penalty. Children under the age of “maturity” were referred to as “immature” (*na-balegh*) or a “child” (*tefl*) and are exempt from criminal responsibility.²¹ An extreme example of this approach could be found in the case of **Sajad Sanjari** where the court found him to have gained the maturity of an adult, referring to religious rulings that identify “pubic hair development” and the “attainment of age of 15” as indicators of maturity. Sajad Sanjari was 15 at the time of the crime of which he was convicted.

As a result of this approach, children in Iran transitioned abruptly from a protected status of childhood where they were completely exempt from criminal responsibility to a status of adulthood where they are held fully liable for their criminal actions as adults. This approach stands in contrast with principles of international law that recognize a spectrum between the minimum age of criminal responsibility and the age at which individuals are treated as adults within the criminal justice system, and treat individuals who fall within that spectrum as children who are not exempt from criminal responsibility but have lesser culpability than adults.

The use of puberty as the determining factor for criminal responsibility results from

²⁰ Committee on the Rights of the Child, General Comment 10, *Children’s Rights in Juvenile Justice*, CRC/C/GC/10, para. 32, available at www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf (CRC, General Comment 10, CRC/C/GC/10).

²¹ See the previous Islamic Penal Code, Article 49 and the new Islamic Penal Code, Article 146.

traditional rulings in Islamic jurisprudence that identify puberty as the age at which religious practices such as praying and fasting become mandatory. Over the past decade, some Islamic jurists and scholars have challenged the use of puberty as a decisive age in the sphere of criminal law, noting that “mental maturity” must be the criterion for sentencing.²² However, the dominant view in Islamic jurisprudence is that adult maturity is attained upon puberty, which is typically judged to start at nine lunar years for girls and 15 lunar years for boys.

In response to years of criticism, the 2013 Islamic Penal Code slightly improved its approach to the treatment of juvenile offenders who fall within the spectrum between the minimum age of criminal responsibility and the age at which individuals are treated as adults within the criminal justice system.

Juvenile offenders – boys and girls – convicted of *ta'zir* crimes are divided into three age groups of 9-12, 12-15 and 15-18, and given alternative sentences depending on where the crime sits within the severity grading scale outlined in the 2013 Islamic Penal Code for *ta'zir* crimes. These measures aim to remove juvenile offenders from the criminal justice system and place them into the care of social services or correctional centres, with the maximum period of detention in a juvenile correctional facility being limited to five years.

However, juvenile offenders convicted of *hodud* or *qesas* crimes remain subject to a different regime that still sets nine and 15 as the age at which girls and boy may be held culpable as adults. For the first time, the Islamic Penal Code has, however, granted judges discretionary power to replace the death penalty with an alternative punishment if one of the following two conditions is proven: 1) the juvenile offender did not comprehend the nature of the crime or its consequences; 2) the juvenile offender’s “mental growth and maturity” (*roshd va kamal-e aghli*) at the time of the crime was in doubt (Article 91). As the cases discussed in chapter 3 illustrate though, there are no policies and established practices on the types of evidence and the standards of proof needed to rebut the presumption of maturity.

1.6 JUVENILE JUSTICE SYSTEM

Iran’s failure to establish a comprehensive juvenile justice system has been the subject of long-standing concern.

INTERNATIONAL STANDARDS ON ADMINISTRATION OF JUVENILE JUSTICE

International law requires that individuals under 18 who are accused of criminal conduct are subject to a separate “child-oriented” juvenile justice system and, in particular, different courts than those for adults. The UN Committee on the Rights of the Child has called on states parties to establish juvenile courts either as separate units or as part of existing regional or district courts. Where that is not immediately feasible for practical reasons, the Committee calls on states parties to ensure the appointment of specialized judges or magistrates for dealing with juveniles.²³

²² Emadeddin Baghi, “The Issue of Executions of Under-18 in Iran”, 9 July 2007, available at www.emadbaghi.com/en/archives/000924.php (accessed 22 September 2015).

²³ CRC, General Comment 10, CRC/C/GC/10, para. 93, available at

The setting and conduct of juvenile proceedings must take into account the child's age and maturity, and intellectual and emotional capacity, and allow the child to participate freely.²⁴ The Committee has stated that a child cannot effectively exercise the right to be heard where the environment is intimidating, hostile, insensitive or age-inappropriate: "Proceedings must be both accessible and child-appropriate. Particular attention needs to be paid to the provision and delivery of child-friendly information, adequate support for self-advocacy, appropriately trained staff, design of courtrooms, clothing of judges and lawyers, sight screens, and separate waiting rooms."²⁵

The first time that Iran officially established juvenile courts was in November 1959, when the Law on Formation of the Court for Child Offenders was enacted.²⁶ This court was authorized to process all offences committed by children aged between six and 18 (Article 4). Following the 1979 revolution, Iran's justice system underwent a swift and fundamental transformation. All laws and regulations deemed incompatible with Islamic law were considered void, either by law or in practice, as a result of which the Court for Child Offenders was also abolished. Some special procedures for juvenile proceedings, however, survived, at least in law, until 1985.²⁷ In that year, Iran's Supreme Court issued a "pilot judgement" which ruled that crimes committed by individuals above the age of "maturity" (*bolugh*) (nine lunar years for girls and 15 lunar years for boys) should be assigned to different divisions of ordinary criminal courts as per the amendments that had been introduced to the country's Code of Criminal Procedure in 1982.²⁸ For the next 15 years, Iran remained without a juvenile justice system, with its criminal procedural laws failing to make any distinction whatsoever between children above the age of criminal responsibility and adults.

www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf

²⁴ Committee on the Rights of the Child, General Comment 12, *The right of the child to be heard*, CRC/C/GC/12, para. 60, available at www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf (CRC, General Comment 12, CRC/C/GC/12); Human Rights Committee, General Comment 32, *Article 14: Right to equality before courts and tribunals and to a fair trial*, CCPR/C/GC/32, para. 42, available at www.refworld.org/docid/478b2b2f2.html (HRC, General Comment 32, CCPR/C/GC/32); European Court of Human Rights (ECtHR), *Adamkiewicz v. Poland*, Application no. 54729/00, (Judgement) para. 70; Inter-American Court of Human Rights (IACHR), Advisory Opinion OC-17/2002, para. 101; ECtHR, *T. v. United Kingdom*, Application no. 24724/94 (Judgement), para. 86; ECtHR, *V. v. United Kingdom*, Application no. 24888/94 (Judgement), para. 84.

²⁵ CRC, General Comment 12, CRC/C/GC/12, paras 34, 42-43, 132-34.

²⁶ The Law on Formation of the Court for Child Offenders, 19 November 1959, available at rc.majlis.ir/fa/law/show/94806 (accessed 8 January 2016).

²⁷ See Note to Article 12 of the Law on Formation of General Courts, 2 October 1979, available at rc.majlis.ir/fa/law/show/98297 (accessed 8 January 2016). This Note stated that juvenile crimes should be dealt with by adult criminal courts, but in accordance with the procedures previously outlined in the Law on Formation of the Court for Child Offenders.

²⁸ Iran's Supreme Court Pilot Judgement No. 6 - 64/2/23, 13 May 1985, reproduced in Hassan Ali Moazzen Zadegan, "The Evolution of Criminal Laws for the Protection of Children and Adolescents in Iranian Law" (Spring/Summer 2008) *Hoquq Dadgostari Journal*, vol. 62-63, pp. 26-27, available at www.ensani.ir/storage/Files/20120329153432-5067-11.pdf (accessed 8 January 2016).

Juvenile courts were only re-introduced to Iran's justice system in 1999, when the Code of Criminal Procedure for General and Revolutionary Courts was adopted, creating a Court for Children and Adolescents with jurisdiction over offences committed by children under 18 years of age (Note to Article 220).²⁹ Within a year, however, the long-overdue reform was undermined by amendments to a different law, the Law on Formation of General and Revolutionary Courts, which granted exclusive jurisdiction to Provincial Criminal Courts in respect of crimes punishable by death; crimes punishable by life imprisonment; crimes punishable by amputation; and political and press crimes (Note to Article 20), without making any reference to the age of the accused.³⁰ A subsequent "pilot judgement" by Iran's Supreme Court in 2006 confirmed that these amendments removed the jurisdiction of the Court for Children and Adolescents over the crimes listed above, and placed them exclusively within the remit of Provincial Criminal Courts.³¹ The verdicts issued by these courts were appealed to the Supreme Court.

For the next 15 years, juvenile offenders accused of crimes punishable by the death penalty were, therefore, prosecuted by adult courts, without special juvenile justice protections. The only exception was drug-related offences, which fell under the jurisdiction of the Court for Children and Adolescents when committed by children under the age of 18 and the Revolutionary Courts when committed by adults.

During these years, international human rights bodies including the UN Committee on the Rights of the Child repeatedly raised concerns about Iran's failure to comply with fundamental principles of juvenile justice. In its Concluding Observations on Iran in 2000, the Committee expressed concern that "persons under 18 may be prosecuted for crimes in the same manner as adults, without special procedures" and recommended that Iran:

*[E]stablish a system of juvenile justice, fully integrating into its legislation and practice the provisions of the Convention, in particular Articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the UN Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System.*³²

As Iran failed to implement these recommendations, the Committee stated in its next Concluding Observations on Iran in 2005 that it "remains concerned at the existing poor quality of the rules and practices in the juvenile justice system, reflected, inter alia, in... the

²⁹ The Code of Criminal Procedure for General and Revolutionary Courts, 22 September 1999, Chapter 5, Articles 219-231, available at rc.majlis.ir/fa/law/show/93219 (accessed 8 January 2016).

³⁰ Amendments to the Law on Formation of General and Revolutionary Courts, 3 November 2002, available at rc.majlis.ir/fa/law/show/93837 (accessed 8 January 2016).

³¹ Iran's Supreme Court Pilot Judgement No. 687 - 1387/3/2, 23 May 2006, available at rc.majlis.ir/fa/law/show/133797 (Iran's Supreme Court Pilot Judgement No. 687 - 1387/3/2) (accessed 26 September 2015).

³² Committee on the Rights of the Child, *Concluding Observations on the Islamic Republic of Iran*, CRC/C/15/Add.123, paras 53-54, available at bit.ly/1I5ZezP (CRC *Concluding Observations on Iran*, CRC/C/15/Add.123).

limited use of specialized juvenile courts and judges.”³³

This recommendation remained unheeded for another decade but in June 2015 the authorities finally moved to set the troubling situation aright, by adopting into law a new Code of Criminal Procedure. Article 315 of the Code of Criminal Procedure calls for the establishment of one or several special juvenile branches in Provincial Criminal Courts (renamed Criminal Courts 1 under the Code of Criminal Procedure), with jurisdiction over all offences committed by people under 18 years of age which ordinarily fall, when committed by adults, under the jurisdiction of Provincial Criminal Courts or Revolutionary Courts. These include crimes punishable by life imprisonment or amputation; crimes involving forms of physical assault which are punishable by payment of half or more of a full “blood money” (*diyyah*); and certain discretionary (*ta'zir*) crimes; political and press crimes which fall under the jurisdiction of Criminal Courts 1 (Article 302); national security-related offences; “enmity against God” (*moharebeh*); “corruption on earth” (*efsad-e fel-arz*); insulting the founder of the Islamic Republic of Iran and the Supreme Leader; and drug-related offences which fall under the jurisdiction of Revolutionary Courts (Article 303). All other offences committed by people aged below 18 fall under the Court for Children and Adolescents (Article 304).

Trials before the juvenile branches of Criminal Courts 1 are supposed to convene with two judges and one advisor with expertise in fields such as behavioural science, psychology, criminology and social work (Articles 315 and 410). The advisor must be a woman if the accused is a girl (Note 2 to Article 410).

Trials before the Court for Children and Adolescents are supposed to convene with one presiding judge and one advisor (Article 298). The judges, who are directly appointed by the Head of the Judiciary, must have at least five years of judicial experience. Other criteria such as their marital status, age, and whether or not they are parents themselves are assessed in determining their eligibility for the position (Article 409).

The Code of Criminal Procedure, if implemented properly, can address former flaws within Iran’s juvenile justice system and bring it closer to the standards required by international law but it is still too early to assess its implementation in practice, particularly in so far as the use of death penalty against juvenile offenders is concerned.

³³ Committee on the Rights of the Child, *Concluding Observations on the Islamic Republic of Iran*, CRC/C/15/Add.254, para. 72, available at www.un.org/ga/search/view_doc.asp?symbol=CRC/C/15/Add.254&Lang=E (CRC, *Concluding Observations on Iran*, CRC/C/15/Add.254).

2. EXECUTIONS OF JUVENILE OFFENDERS

“In the Islamic Republic of Iran, we have no execution of people under the age of 18.”

Iran's Head of the Judiciary, Ayatollah Sadeq Amoli Larijani, April 2014

Successive Iranian governments and parliaments have failed to undertake the fundamental reforms that are sorely needed to put an end to the grave violation of human rights, that is executing juvenile offenders. Instead, they have resorted to different, and sometimes contradictory, techniques to distract attention from the practice, deny it is happening or distort the image of its reality.

Sometimes, the authorities have sought to dilute the debate by focusing their public statements on the age of the offender at the time of the execution, even though under international human rights law, it is the age of the individual at the time of the crime that is crucial, not the age at trial or implementation of the sentence. In April 2014, for example, Iran's Head of the Judiciary, Ayatollah Sadeq Amoli Larijani, responded to a European Parliament resolution condemning the high number of executions, including of juvenile offenders, in Iran. He said: “In the Islamic Republic of Iran, we have no execution of people under the age of 18. This is a blatant lie by the European Parliament.” He also challenged the European Parliament to name the victims.³⁴ A decade earlier in May 2005, spokesperson for the judiciary Jamal Karimi-Rad said: “Amnesty International's sources of information are not reliable... people under 18 are not executed.”³⁵

At other times, the authorities have refused to acknowledge that the individuals executed were under 18 years of age at the time of the crime or denied the scale of the problem by highlighting efforts that occasionally succeed in securing a pardon from the family of the murder victim.

For example, in their 2015 response to the report of the UN Secretary-General on the situation of human rights in Iran, the High Council for Human Rights of the Islamic Republic of Iran stated: “The policy of the Islamic Republic of Iran in dealing with cases of intentional homicide relating to offenders that have reached the age of maturity but are under the age of

³⁴ Iranian Students' News Agency, “We do not have execution of people under the age of 18”, 9 April 2014, available at bit.ly/1ENw90x

³⁵ *Kayhan* newspaper, 8 May 2005.

18 is to encourage reconciliation, even by providing financial aid to offenders to enable them to pay [blood money].”

The High Council added that “the allegation of the executions, in 2014, of 13 juveniles under the age of 18 is false” and went on to provide information challenging the details of five cases mentioned in the report of the UN Secretary-General: Janat Mir “does not have a criminal record with the Department of Justice of Esfahan Province” and that Ahmad Rahimi, Hadi Veysi, Osman Dahmarde and Mohsen Sarani “were over the age of 18 when they perpetrated their crimes.”³⁶ The High Council did not, however, provide any comment on the cases of the eight other juvenile offenders who were mentioned as having been executed in the report of the UN Secretary-General.

Despite such denials and obfuscations, the execution of juvenile offenders has continued unabated, with 73 recorded by Amnesty International between January 2005 and November 2015. The real number is likely to be much higher as many death penalty cases are believed to go unreported.³⁷ The Iranian authorities refuse to publish comprehensive data on the use of the death penalty, including against juvenile offenders. Each year they announce a certain number of executions, but many more are documented by independent human rights monitors. Of the 73 executions of juvenile offenders recorded by Amnesty International between 2005 and 2015, none was officially announced.

Amnesty International has recorded 49 juvenile offenders as having been sentenced to death and therefore at risk of execution. However, the true number is likely to be much higher. A UN report issued in August 2014 stated that more than 160 juvenile offenders were on death row. Amnesty International understands that some of them have been in prison for over a decade.

Lack of freedom of expression and undue restrictions on the reporting of death penalty cases by media outlets make it difficult for Iranian civil society to challenge official narratives on the use of the death penalty, and undermine public discussion on the issue. The authorities frequently claim that the public supports the death penalty but then deliberately withhold relevant information that could influence public opinion against the punishment.

NEED FOR TRANSPARENCY

Transparency is recognized by the international community as an important factor in limiting abuses relating to the death penalty. Indeed, the UN General Assembly has called on all UN member states “to make available relevant information with regard to their use of the death penalty, which can contribute to possible informed and transparent national debates.”³⁸

³⁶ Permanent Representative of the Islamic Republic of Iran to the United Nations, *Letter dated 15 October 2015 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General, A/C.3/70/5*, p. 5, available at www.un.org/ga/search/view_doc.asp?symbol=A/C.3/70/5

³⁷ UN Secretary-General, Report to the General Assembly, *Situation of human rights in the Islamic Republic of Iran, A/70/352*, para. 7, available at www.un.org/en/ga/search/view_doc.asp?symbol=A/70/352

³⁸ UN General Assembly, *Moratorium on the use of the death penalty, A/RES/65/206*, 28 March 2011,

This echoes the UN Economic and Social Council, which has urged states to:

[P]ublish, for each category of offence for which the death penalty is authorized, and if possible on an annual basis, information about the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted, and to include information on the extent to which the safeguards referred to above are incorporated in national law.³⁹

The UN Special Rapporteur on extrajudicial executions stated in a 2006 report:

The public is unable to determine the necessary scope of capital punishment without key pieces of information. In particular, public opinion must be informed by annual information on: (a) the number of persons sentenced to death; (b) the number of executions actually carried out; (c) the number of death sentences reversed or commuted on appeal; (d) the number of instances in which clemency has been granted; (e) the number of persons remaining under sentence of death; and (f) each of the above broken down by the offence for which the person was convicted. Many States, however, choose secrecy over transparency, leaving the public without the requisite information.⁴⁰

The UN Special Rapporteur stated: "A lack of transparency undermines public discourse on death penalty policy, and sometimes this may be its purpose". He added:

Informed public debate about capital punishment is possible only with transparency regarding its administration. There is an obvious inconsistency when a State invokes public opinion on the one hand, while on the other hand deliberately withholding relevant information on the use of the death penalty from the public. How can the public be said to favour a practice about which it knows next to nothing? If public opinion really is an important consideration for a country, then it would seem that the Government should facilitate access to the relevant information so as to make this opinion as informed as possible.⁴¹

2.1 TRENDS

Surges and drops in the recorded rate of executions of juvenile offenders is common in Iran (see Appendix I). As the chart below demonstrates, between 2005 and 2015, the lowest number of executions of juvenile offenders was seen in 2010 with only one execution reported. The next four years saw a rise, but in 2015 there was again a drop. In the absence of a transparent and fair criminal justice system, the reasons for the variations are not known,

available at www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/65/206

³⁹ UN Economic and Social Council, *Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty*, Resolution 1989/64 of 24 May 1989, available at www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/1980-1989/1989/ECOSOC/Resolution_1989-64.pdf

⁴⁰ Special Rapporteur on extrajudicial executions, *Civil and political rights, including the questions of Disappearances and summary executions: Extrajudicial, summary or arbitrary executions*, E/CN.4/2006/53/Add.3, para. 20, available at daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/120/57/PDF/G0612057.pdf?OpenElement (Special Rapporteur on extrajudicial executions, E/CN.4/2006/53/Add.3).

⁴¹ Special Rapporteur on extrajudicial executions, E/CN.4/2006/53/Add.3, para. 21.

although the drop seen in 2015 is probably because many juvenile death penalty cases are undergoing retrial pursuant to the 2013 Islamic Penal Code (see chapter 3). It must be stressed that the statistical picture does not reflect the actual number of executions of juvenile offenders as this is not known.

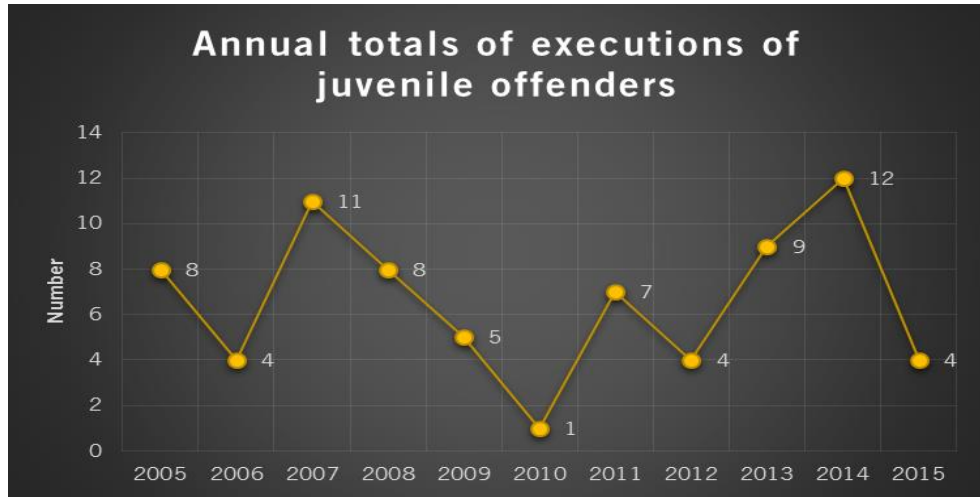


Figure 1: Trends in executions of juvenile offenders in Iran.

The majority of juvenile offenders were executed for murder under the Islamic principle of *qesas*. After murder, rape – including “forced male-male anal penetration” (*lavat be onf*) – was the main offence for which juvenile offenders were executed. Other offences which resulted in the execution of juvenile offenders included the vaguely worded or overly broad offence of “enmity against God” (*moharebeh*) and drug-related offences.



Figure 2: Breakdown of capital offences for which juvenile offenders were executed between January 2005 and December 2015.

Of the 73 juvenile offenders recorded as having been executed in the past decade, 51 were

apparently between 15 and 17 at the time of the offence and eight between the ages of 12 and 14, which is even below the minimum age of criminal responsibility for boys in Iranian law. The exact age of the others at the time of the offence was not reported.

With regard to their age at the time of execution, at least seven are believed to have been under 18 while others were either kept on death row until they turned 18 or were convicted and sentenced after reaching the age of 18. In general, it seems that, in recent years, the authorities have deferred executions until juvenile offenders turn 18, possibly in order to attract less criticism. However, during their review session before the UN Committee on the Rights of the Child in January 2016, the Iranian delegation confirmed that there is no legal requirement to postpone an execution until a juvenile offender turns 18 if the death sentence has been finalized and the family of the murder victim asks for the execution to be carried out.

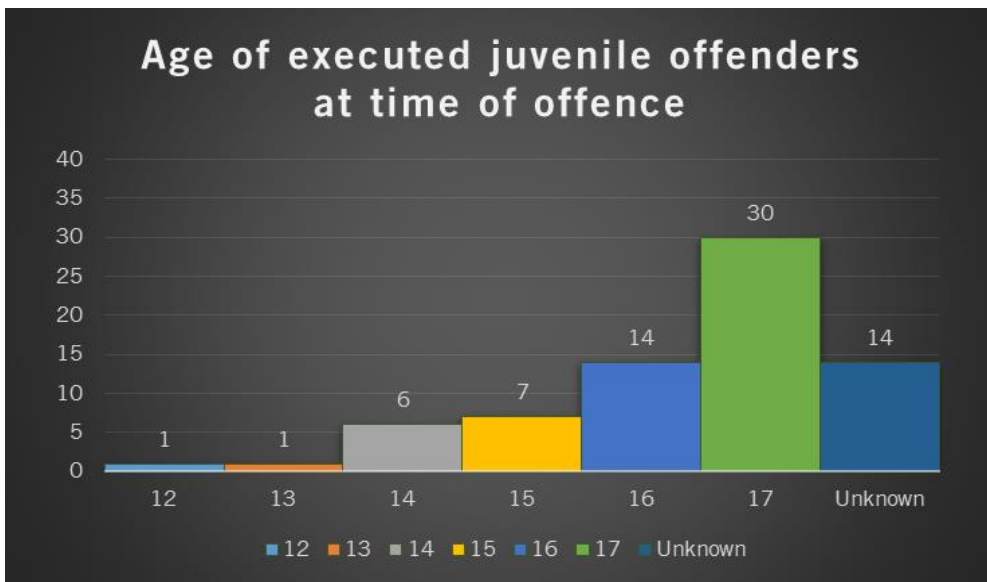


Figure 3: Age of executed juvenile offenders at the time of the offence

Of the 49 juvenile offenders who have been identified as currently being on death row, in 20 cases there is no sufficient information about when the juvenile offender received the final sentencing and, therefore, the number of years in prison cannot be calculated. In the remaining 29 cases, however, juvenile offenders spent, on average, about seven years in prison and, in at least three cases, the number of years in prison exceeded a decade.

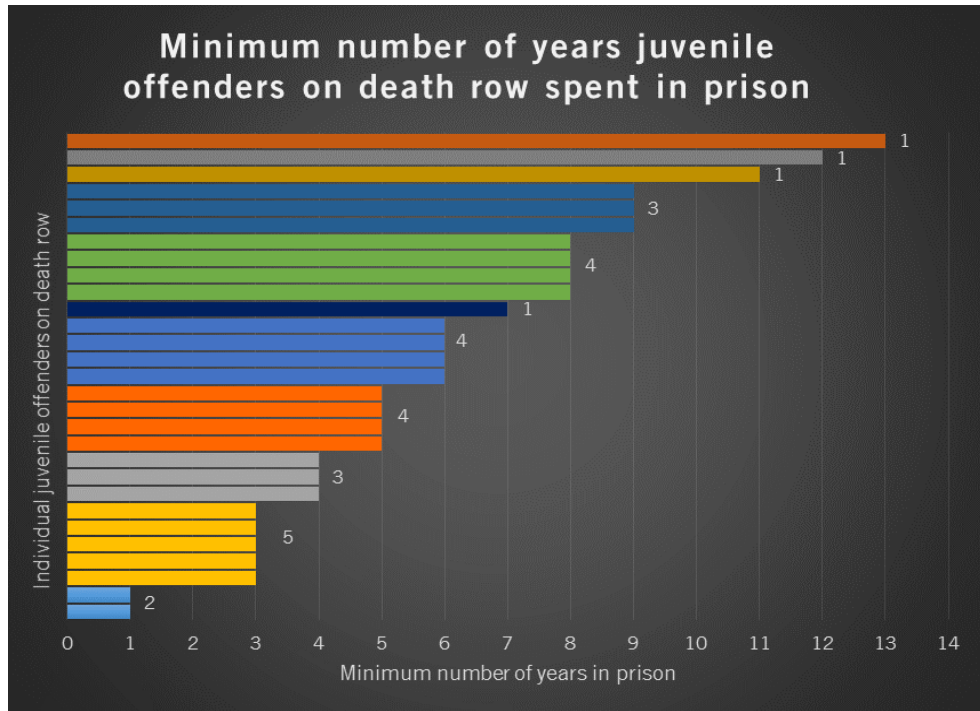


Figure 4: Minimum number of years juvenile offenders on death row spent in prison, excluding those without sufficient information

UN human rights experts and human rights organizations have persistently reiterated that, under international law, the age of the individual at the time of the crime is decisive, not the age at trial, sentencing or implementation of the sentence.⁴² The international consensus reflects the widespread recognition that by virtue of their age, vulnerability and capacity for rehabilitation,⁴³ the lives of juvenile offenders should never be written off – however heinous the crimes for which they were convicted.

International law requires that people under 18 years of age receive special care and protection in all proceedings, including criminal proceedings, and their treatment must take into account their age and maturity, and intellectual and emotional capacity. Their treatment should also promote their reintegration, rehabilitation and ability to assume a constructive role in society. Treating juvenile offenders as culpable in the same way as adults and then

⁴² CRC, General Comment 10, CRC/C/GC/10, para. 75, available at www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf

⁴³ The issue of amenability to rehabilitation was explicitly addressed in the negotiations over the drafting of the International Covenant on Civil and Political Rights, which, in text finally adopted, prohibits the use of the death penalty for crimes committed by persons below 18 years of age. Negotiating states in favour of accorded preferential treatment to persons below 18 years of age believed that “under firm moral and intellectual guidance, the delinquent minor could become a useful member of the society.” See M.J. Bossuyt, *Guide to the ‘Travaux Préparatoires’ of the International Covenant on Civil and Political Rights*, M. Nijhoff Publications, 1986, p. 141.

executing them is the ultimate denial of these principles.⁴⁴

2.2 DISREGARD OF INTERNATIONAL LAW AND STANDARDS

By using the death penalty against juvenile offenders, Iran is responsible for a grave and irreparable violation of children's right to life, which is protected by the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The International Covenant on Civil and Political Rights provides in its Article 6: "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age". The Convention on the Rights of the Child provides in Article 37: "Neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by persons below eighteen years of age". Iran is a state party to both of these treaties, and is therefore obliged to uphold their provisions.

Iran ratified the International Covenant on Civil and Political Rights, without reservations, in 1975. According to Article 9 of Iran's Civil Code: "The provisions of treaties agreed between the government of Iran and other governments in compliance with the Constitution have the force of law." However, as the UN Human Rights Committee observed in 2011 in relation to Iran: "The status of international human rights treaties in domestic law is not specified in the legal system, which hinders the full implementation of the rights contained in the Covenant."⁴⁵

Iran ratified the Convention on the Rights of the Child in 1994 but reserved "the right not to apply any provisions or articles of the Convention that are incompatible with Islamic laws and the international legislation in effect." The UN Committee on the Rights of the Child, which monitors implementation of the Convention on the Rights of the Child, has previously expressed its concern that "the broad and imprecise nature of the State party's general reservation potentially negates many of the Convention's provisions and raises concern as to its compatibility with the object and purpose of the Convention."⁴⁶ At its periodic review of Iran's application of the Convention on the Rights of the Child in 2005, the Committee called on Iran to amend its general reservation. Ten years later, the Iranian authorities have taken no steps to comply.⁴⁷

In its General Comment on reservations, the UN Human Rights Committee states clearly that

⁴⁴ HRC, General Comment 32, CCPR/C/GC/32, paras 42-44, available at www.refworld.org/docid/478b2b2f2.html; UN General Assembly, *Twelfth United Nations Congress on Crime Prevention and Criminal Justice*, Resolution 65/230 on 21December 2010, A/RES/65/230, Annex, para. 26, available at www.unodc.org/documents/justice-and-prison-reform/AGMs/General_Assembly_resolution_65-230_E.pdf; UN General Assembly, *Human rights in the administration of justice*, Resolution 65/213 of 21December 2010, A/RES/65/213, para. 15, available at www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/65/213

⁴⁵ Human Rights Committee, *Concluding Observations on the Islamic Republic of Iran*, CPRC/IRN/CO/3, para. 6, available at www.refworld.org/docid/4ef9a38f2.html

⁴⁶ CRC, *Concluding Observations on Iran*, CRC/C/15/Add.123, para. 7, available at bit.ly/1I5ZezP

⁴⁷ CRC, *Concluding Observations on Iran*, CRC/C/15/Add.123, para. 8, available at bit.ly/1I5ZezP; CRC, *Concluding Observations on Iran*, CRC/C/15/Add.254, para. 7, available at www.un.org/ga/search/view_doc.asp?symbol=CRC/C/15/Add.254&Lang=E

there can be no reservations to non-derogable human rights, and explicitly mentions the prohibition of the arbitrary deprivation of life as an example.⁴⁸ Since the provision prohibiting arbitrary deprivation of life in the International Covenant on Civil and Political Rights explicitly includes the imposition of the death penalty for “crimes committed by persons below eighteen years of age” (Article 6(5)), Iran’s reservation, inasmuch as it pertains to imposing the death penalty on juvenile offenders, is manifestly unlawful.

In its General Comment, which also deals more generally with reservations to human rights treaties, the UN Human Rights Committee explains the legal repercussions of such reservations:

Because of the special character of a human rights treaty, the compatibility of a reservation with the object and purpose of the Covenant must be established objectively, by reference to legal principles, and the Committee is particularly well placed to perform this task. The normal consequence of an unacceptable reservation is not that the Covenant will not be in effect at all for a reserving party. Rather, such a reservation will generally be severable, in the sense that the Covenant will be operative for the reserving party without benefit of the reservation.⁴⁹

On the basis of these general principles, and in light of the observations of the UN Human Rights Committee and the UN Committee on the Rights of the Child on Iran specifically, it is clear that Iran’s reservation to the Convention on the Rights of the Child, at least to the extent that it relates to the imposition of the death penalty for crimes committed by persons below 18 years of age, are severable, that is, legally untenable. Therefore, irrespective of Iran’s reservation, the relevant provisions prohibiting the imposition of the death penalty on juvenile offenders in both the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights continue to apply to and legally oblige Iran in full, in addition to the identical prohibition under customary international law.

A judgement by Branch 3 of the Provincial Criminal Court of Golestan Province, northern Iran, in December 2011 invoked Iran’s reservation to allow the use of the death penalty against **Milad Bashghareh**, who has been convicted of murder. He was 17 years old at the time of the crime. The judgement, upheld by the Supreme Court in July 2012, stated: “As a rule, in cases of conflict between Iran’s domestic laws and the standards of the Convention on the Rights of the Child, Iran’s domestic laws prevail.”

⁴⁸ Human Rights Committee, General Comment 24, *Issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant*, CCPR/C/21/Rev.1/Add.6, para. 10, available at [daccess-dds-ny.un.org/doc/UNDOC/GEN/G94/199/34/PDF/G9419934.pdf?OpenElement](https://www.unhcr.org/doc/UNDOC/GEN/G94/199/34/PDF/G9419934.pdf?OpenElement) (HRC, General Comment 24, CCPR/C/21/Rev.1/Add.6).

⁴⁹ HRC, General Comment 24, CCPR/C/21/Rev.1/Add.6, para. 8.

Based on this, the court stated:

The age of maturity is 15 lunar years for boys and nine lunar years for girls. When individuals who have become mature commit a crime, penalties defined in Iranian criminal law including the death penalty are enforceable against them, regardless of whether they have reached 18 or not. [Such individuals] fall outside the scope of the Convention on the Rights of the Child.

This judgement is contrary to international law. Article 27 of the Vienna Convention on the Laws of Treaties clearly states that a party to a treaty may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

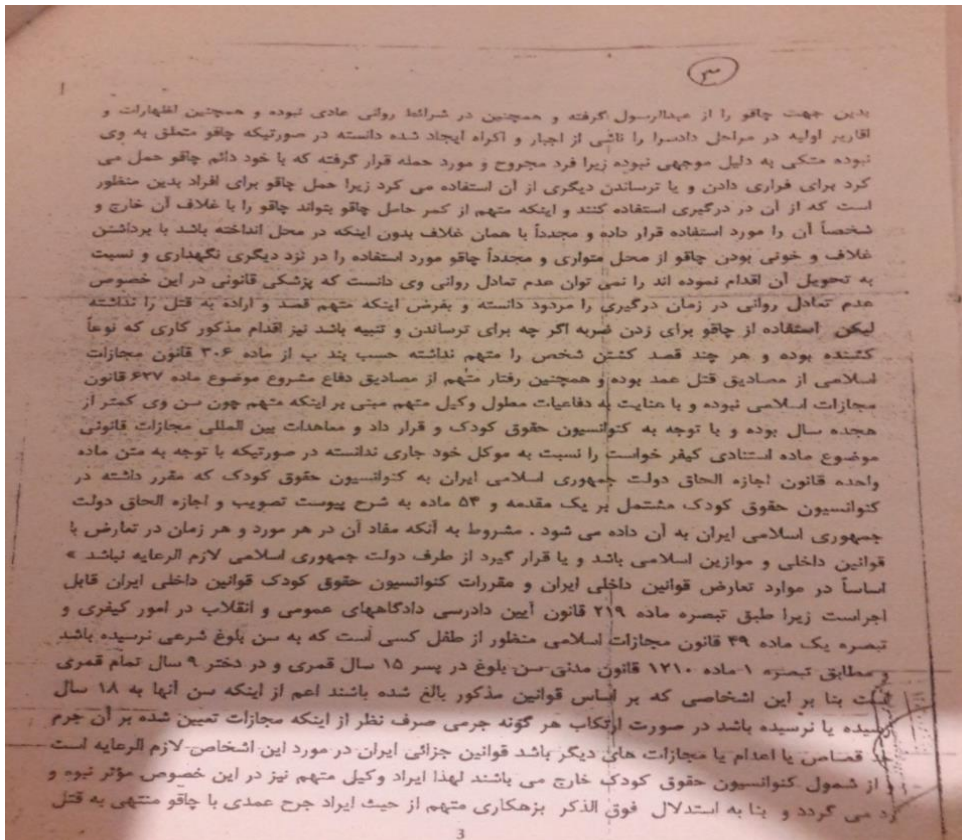


Figure 4: Excerpt from the judgement by the Provincial Criminal Court of Golestan Province in November 2011 sentencing juvenile offender Milad Bashghareh to death for murder

Iran has also acted contrary to customary international law and a peremptory norm of general international law (*jus cogens*) by using the death penalty against juvenile offenders. Customary international law, one of the sources of general international law, is described in Article 38 of the Statute of the International Court of Justice as “international custom, as evidence of a general practice accepted as law”. It is generally held to consist of two elements: a widespread or general state practice, and a general recognition that this practice is a matter of law (*opinio juris*). Article 53 of the Vienna Convention on the Law of Treaties

defines a peremptory norm of general international law as “a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of international law having the same character.”

LAGGING BEHIND GLOBAL TREND

Iran is swimming against the global current as the majority of countries – 140 – have now rejected the death penalty in law or practice. Of the 58 states, which retain the death penalty for ordinary crimes, the vast majority have rejected its use for juvenile offenders, including in the last two decades. Below are some of the countries that still retain the death penalty but have abolished the punishment for juvenile offenders:

1997 – **China**, following an amendment to its criminal law, prohibited the use of the death penalty against juvenile offenders.

2005 – **The United States of America** outlawed executions of juvenile offenders after the Supreme Court ruled in *Roper v. Simmons* that they violated the US Constitution.

2013 – **Zimbabwe** in its new 2013 constitution prohibited the imposition of the death penalty on persons below the age of 21 years old when the offence was committed.

Over the years, the prohibition on the use of death penalty against juvenile offenders has gained such widespread acceptance that it has been recognized as a rule of customary international law and a peremptory norm of general international law (*jus cogens*).⁵⁰

In August 2000, the UN Sub-Commission on the Promotion and Protection of Human Rights adopted a resolution affirming that the imposition of the death penalty on those aged under 18 at the time of the commission of the crime is contrary to customary international law and invited the UN Commission on Human Rights to confirm the affirmation.⁵¹ In April 2003 the UN Commission on Human Rights “reaffirmed” the Sub-Commission’s resolution 2000/17 “on international law and the imposition of the death penalty on those aged under 18 at the time of the commission of the offence”.⁵²

⁵⁰ See Amnesty International, *The exclusion of child offenders from the death penalty under general international law* (Index: ACT 50/004/2003), available at

www.amnesty.org/en/documents/document/?indexNumber=ACT50%2F004%2F2003&language=en

⁵¹ UN Sub-Commission on the Promotion and Protection of Human Rights, Resolution 2000/17 of 17 August 2000, E/CN.4/Sub.2/RES/2000/17, reproduced in Amnesty International, *Children and the death penalty: Executions worldwide since 1990* (Index: ACT 50/007/2002), Appendix 3., available at

www.amnesty.org/en/documents/act50/007/2002/en/

⁵² UN Commission on Human Rights, Resolution 2003/67 of 24 April 2003, E/CN.4/RES/2003/67, para. 2, available at www.refworld.org/topic.50ffbce582.50ffbce59d.43f3134a12.0.UNCHR...html

In October 2002, the Inter-American Commission on Human Rights held:

[S]ince 1987 and consistent with events prior to that date, there has been concordant and widespread development and ratification of treaties by which nearly all of the world states have recognized, without reservation, a norm prohibiting the execution of individuals who were under 18 years of age at the time of committing their offense.

Furthermore, “the United Nations bodies responsible for human rights and criminal justice have consistently supported” this norm, and “Domestic practice over the past 15 years... evidences a nearly unanimous and unqualified international trend toward prohibiting the execution of offenders under the age of 18 years.”⁵³

⁵³ Inter-American Commission on Human Rights, *Michael Domingues v. United States*, Case 12.285, Merits, Report No. 62/02, 22 October 2002, paras 84, 85.

3. PIECEMEAL REFORMS, PERVASIVE THREATS

“The prima facie presumption is that individuals who have passed the age of *bolugh* [15 lunar years for boys and nine lunar years for girls] have attained full mental maturity... A claim to the contrary requires proof...”

Excerpt from a 2015 judgement by Branch 13 of the Supreme Court, which denied the request of juvenile offender Salar Shadizadi for a judicial review of his death sentence pursuant to Article 91 of the 2013 Islamic Penal Code

The adoption of the 2013 Islamic Penal Code sparked guarded hopes among lawyers and human rights defenders that juvenile offenders would no longer be subject to the death penalty. This was due to Article 91, which grants judges discretionary power to apply an alternative punishment in cases of *qesas* and *hodud* offences if one of the following two conditions is proven: 1) the juvenile offender did not comprehend the nature of the crime or its consequences; 2) the juvenile offender’s “mental growth and maturity” (*roshd va kamal-e aghli*) at the time of the crime was in doubt.

Before the 2013 Islamic Penal Code, juvenile offenders were generally sentenced in the same way as adults if they were, at the time of commission of the offence, above the age that the majority of Shari’a jurists consider to be the age of “maturity” (*bolugh*). Individuals under the age of “maturity”, referred to as “immature” (*na-balegh*), are not deemed to have criminal responsibility.⁵⁴ In Iranian criminal law, this age continues to be 15 lunar years for boys and nine for girls.⁵⁵ However, at least eight executions of juvenile offenders who were

⁵⁴ This was the case under the previous Islamic Penal Code (Article 49) and remains so under the new Islamic Penal Code (Article 146).

⁵⁵ The previous Islamic Penal Code did not stipulate the age of “maturity”. However, judges generally referred to Article 1210 of Iran’s Civil Code, which defines this age as nine lunar years for girls and 15 lunar years for boys. The 2013 Islamic Penal Code has filled this gap and explicitly sets the age of “maturity” as nine lunar years for girls and 15 lunar years for boys (Article 147).

below the age of “maturity” at the time of the offence have been reported in the past decade.⁵⁶

MAKWAN MOLOUDZADEH

Makwan Moloudzadeh, a member of Iran’s Kurdish minority, was executed in Kermanshah Central Prison on 4 December 2007 for “forced male-male anal penetration” (*lavat be onf*) with a 13-year-old boy. Makwan Moloudzadeh was also aged 13 at the time of the offence.

Makwan Moloudzadeh’s trial before Branch 1 of the Criminal Court in Kermanshah Province was grossly unfair. He retracted a pre-trial “confession” that he had engaged in a sexual relationship with a 13-year-old boy in 1999, saying that interrogators had extracted the statement using torture and other ill-treatment. During the trial, two boys who had earlier complained that Makwan Moloudzadeh had also had forced sex with them withdrew their accusations, saying that they had lied or had been forced by police to lodge complaints. Despite this and the absence of evidence of an offence, the court convicted Makwan Moloudzadeh.

The Supreme Court upheld the death sentence in August 2007. In November 2007, the then Head of the Judiciary, Ayatollah Mahmoud Hashemi Shahroudi, granted a temporary stay of execution pending further review by the Supreme Court. The following month, the Supreme Court found no fault with the verdict. Makwan Moloudzadeh was subsequently executed, without any notice given to his lawyer.

No investigation is known to have been conducted into Makwan Moloudzadeh’s allegations of torture and other ill-treatment or the allegations of coercion made by complainants. According to media interviews given by Makwan Moloudzadeh’s family and lawyer at the time, the authorities paraded Makwan Moloudzadeh through the streets of Paveh riding on a donkey with his head shaved shortly after his arrest on 1 October 2006.

The 2013 Islamic Penal Code continues to allow boys above the age of 15 and girls above the age of nine who are convicted of *hodud* and *qesas* offences to be sentenced in the same way as adults, and therefore face the death penalty (and other cruel and inhuman punishments, such as stoning, amputation and flogging). However, Article 91 of the Code provides for these punishments to be replaced with alternative sentences if it is proven that the juvenile offender did not comprehend the nature of the crime or its consequences or that his or her “mental growth and maturity” (*roshd va kamal-e aghli*) at the time of the crime was in doubt.⁵⁷

During Iran’s periodic review session before the UN Committee on the Rights of the Child in January 2016, the Iranian authorities put forward an inverted reading of Article 91, claiming that it makes the use of the death penalty (and other adult punishments) against juvenile

⁵⁶ See Figure 3 in section 2.1 above.

⁵⁷ The 2013 Islamic Penal Code responds differently to juvenile offenders charged with offences that are considered *ta’zir* and are arguably less serious than murder and *hodud* offences (see section 3.3 below). Processes that deny individuals aged under 18 charged with more serious offences the protections given to children charged with less serious offences have been described as processes in which “[t]he psychological, social and legal construction of ‘childhood’ can be lost, understated, ignored or overshadowed by the notion of ‘crime’.” See also Penal Reform International, *When the crime overshadows the child: International standards and national practice in reconciling serious crime and childhood*, 2014, pp. 2-3, available at unicef.in/Uploads/Publications/Resources/pub_doc99.pdf

offenders subject to proving that the juvenile offender comprehended the nature of the crime or its consequences and there are no doubts about the juvenile offender's "mental growth and maturity" (*roshd va kamal-e aghli*) at the time of the crime and that these are "extremely difficult conditions" to prove. This inverted reading wrongly implies that the burden is on the prosecution to establish these conditions when in reality, the burden is on the defence.⁵⁸

Iranian lawyers have told Amnesty International that the legislative reforms have improved the treatment of juvenile offenders charged with murder. They noted that courts generally accept the requests of lawyers for the referral of their juvenile clients for psychological assessment and try to apply Article 91 to avoid sentencing juveniles convicted of murder to death. While this is a positive development, it remains to be seen how fully it will be implemented.

Juvenile offenders who have been on death row since before the adoption of the 2013 Islamic Penal Code face, however, a more perilous situation, for reasons that will be explained below in detail.

3.1 RETRIAL OF CASES OF JUVENILE OFFENDERS

After the 2013 Islamic Penal Code came into force, many juvenile offenders under sentence of death submitted an "application for retrial" (*e'adeyeh-e dadresi*) to the Supreme Court.⁵⁹ Retrials granted pursuant to these applications are not full trials as they are confined to considering those aspects of the defendant's case which, according to the Supreme Court, must be retried. Their outcomes are, nevertheless, open to appeal in the same way as decisions of the initial trial. In cases of juvenile offenders, these retrials generally focus on

⁵⁸ During the session, the Iranian authorities also stated that the 2013 Islamic Penal Code excludes both female and male children aged between 12 and 15 from punishments that ordinarily apply to *qesas* and *hodud* offences, including the death penalty. However, the provisions of the Islamic Penal Code contradict this statement in so far as it relates to girls. The only article in the Islamic Penal Code where the age bracket of 12 to 15 is mentioned in relation to *qesas* and *hodud* offences is Note 2 to Article 88 of the Islamic Penal Code. This Note provides for a range of alternative sentencing measures for "non-mature" (*na-baleq*) children who commit *qesas* or *hodud* offences when they are between the ages of nine and 12, on the one hand, and between 12 and 15, on the other. However, by referring to "non-mature" (*na-baleq*) children, the Note effectively excludes girls from its scope because girls are considered mature once they reach nine lunar years. With regard to boys whose ages fall within the brackets mentioned in the Note, they were exempt from all criminal punishments, including the death penalty, even prior to the adoption of the 2013 Islamic Penal Code, as the minimum age of criminal responsibility for boys is 15 lunar years.

⁵⁹ Until June 2015 when the new Code of Criminal Procedure came into effect, these applications were made on the ground specified in Article 272(7) of Iran's 1999 Code of Criminal Procedure, which allowed judicial review of judgements deemed final if, subsequent to the judgement, a new law had been adopted that provided for a lighter penalty. This provision has been removed from the list of grounds provided for retrial under the new Code of Criminal Procedure. However, Article 474(7) of the new Code still allows access to retrial "where the conduct for which someone has been sentenced is not a criminal offence or the punishment imposed exceeds the legal maximum."

whether the offender satisfies the maturity conditions outlined in Article 91 of the new Islamic Penal Code.

Between May 2013 and January 2015, some branches of the Supreme Court granted the Applications for Retrial submitted by juvenile offenders on death row, and referred their cases to differently constituted courts of first instance for retrials focused on the fulfilment of the conditions in Article 91. Other Supreme Court branches, however, ruled that Article 91 does not provide a valid ground for the Supreme Court to order a retrial, and that any request for commuting the sentence based on Article 91 must be made to the court that initially issued the death sentence. This latter approach referenced a Note to Article 10 of the 2013 Islamic Penal Code, which allows courts of first instance to commute a sentence which they have already issued when a new law comes into effect that provides for a lighter penalty.

Such inconsistency led several lawyers in 2014 to apply to the General Board of the Supreme Court for a “pilot judgement” (*ra'ye vahdat-e ravieh*).⁶⁰ The General Board ruled on 2 December 2014 that all those on death row for crimes committed when they were under 18 are entitled to request a retrial of their cases based on Article 91.⁶¹

In their replies to a list of issues published by the UN Committee on the Rights of the Child, in advance of Iran’s fourth periodic review by the Committee, the Iranian authorities have claimed that since the Supreme Court’s “pilot judgement”, “the retrial of all adolescents who were under 18 at the time of committing the crime is accepted and their previous verdicts have been annulled by the Supreme Court.”⁶² According to Amnesty International’s research, however, although most of the “applications for retrial” of juvenile offenders have been accepted by the Supreme Court, this has not been true in all cases. This is well illustrated by the case of **Salar Shadizadi**, discussed below, where Branch 13 of the Supreme Court has twice denied his application for an Article 91 retrial.

Article 91 has enabled judges to consider the situation of individual juvenile offenders and to decide whether or not they merit execution. The individualized approach allows the presentation of mitigating evidence in relation to the juvenile offender’s capacities and maturity at the time of the offence. This is an improvement on the previous juvenile justice

⁶⁰ Unlike many other legal systems, the Supreme Court in Iran does not comprise a single panel of judges whose decisions constitute precedents. Iran’s Supreme Court is composed of various branches, some of which are in Qom, central Iran, and some in Mashhad, Khorasan Province. Similar to courts of first instance, different branches of the Supreme Court may issue contradictory opinions on identical issues. In such cases, the General Board of the Supreme Court convenes a session to review the case and issue a “pilot judgement” which is binding on all courts. The General Board consists of the Head of the Supreme Court or his deputy, the Prosecutor General or his representative, and at least a third of the head of its branches, associate judges and deputies.

⁶¹ Iranian Students’ News Agency, “The Judgement of the Supreme Court on [the availability of] retrial for under 18 people sentenced to *qesas*”, 21 January 2015, available at bit.ly/1utqGWZ (accessed 30 January 2015).

⁶² Committee on the Rights of the Child, *List of issues in relation to the combined third and fourth periodic reports of the Islamic Republic of Iran Addendum Replies of the Islamic Republic of Iran*, CRC/C/IRN/Q/3-4/Add.1, para. 33, available at bit.ly/1ZZQKtG

system in Iran, which allowed no consideration of adolescence-related issues in capital sentencing. However, the individualized approach still allows judges to conclude that a girl as young as nine and a boy as young as 15 years old had sufficient mental maturity at the time of the crime to merit a death sentence. This risk is heightened when legal representatives and judges involved in the retrial are not “knowledgeable about child development, the dynamic and continuing growth of children, what is appropriate to their well-being, and the pervasive forms of violence against child.”⁶³

In March 2015, the *Shargh Daily* newspaper reported that until the December 2014 “pilot judgement”, 10 juvenile offenders were spared execution after they were granted retrial in light of Article 91.⁶⁴ *Shargh Daily* anticipated that this number would increase following the “pilot judgement”. In September 2015, the newspaper reported that the life of another juvenile offender had been spared after Branch 2 of the Criminal Court in Tehran Province relied on Article 91 to commute his death sentence to five years’ imprisonment.⁶⁵ *Shargh Daily* noted, however, that detailed information was not available about the progress and outcome of the retrial of juvenile death penalty cases in courts outside Tehran.⁶⁶

During the review session of Iran before the UN Committee on the Rights of the Child in January 2016, the Iranian delegation stated that the death sentences of eight juvenile offenders – **Mohsen Mahmoudi, Taher Rahimi, Amir Rahayeean, Maedeh Roustayee, Samira and Somayyeh Mokri, Arman Farid and Reza Yazdani** – had been commuted after they underwent a retrial based on Article 91 of the 2013 Islamic Penal Code. At the time of writing, Amnesty International had been able to gather information on three of them: Maedeh Roustayee, Samira and Somayyeh Mokri. The information available on these cases is provided below.

MAEDEH ROUSTAYEE

Maedeh Roustayee was first sentenced to death in 2009, after Branch 74 of the Provincial Criminal Court of Tehran Province found her guilty of causing her husband’s death by leading him to take aluminium phosphide pills, commonly known in Iran as “rice pills”. She was 15 years old at the time of her husband’s death. The sentence was subsequently upheld by the Supreme Court. Maedeh Roustayee had married her husband, who was seven years older than her, at the age of 12. Police investigations found that the relationship was tense, and fraught with explosive arguments.

Following the adoption of the 2013 Islamic Penal Code, Maedeh Roustayee requested a retrial of her case, which was granted by the Supreme Court in August 2014. Branch 71 of the Provincial Criminal Court of Tehran Province commuted Maedeh Roustayee’s death sentence to five years in prison and the payment of “blood

⁶³ See CRC, General Comment 10, CRC/C/GC/10, para. 13, available at www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf

⁶⁴ *Shargh Daily*, “The Saviour Article”, 20 March 2015, available at bit.ly/1Poe6li (*Shargh Daily*, “The Saviour Article”) (accessed 22 September 2015).

⁶⁵ *Shargh Daily*, “The juvenile accused of murder is saved from execution”, 17 September 2015, available at sharghdaily.ir/Modules/News/PrintVer.aspx?Src=Main&News_Id=73567 (accessed 22 September 2015).

⁶⁶ *Shargh Daily*, “The Saviour Article”.

money” (*dijah*) in April 2015.

During her retrial, Maedeh Roustayee denied that she had intended to kill her husband and said that her earlier “confessions” at the police station were obtained through coercion. According to local reports, she added that her husband took the “rice pills” to ease his abdominal pains because she had told him some time earlier that they were herbal medicine, but that she had in reality purchased the pills to threaten suicide. She said that she was contemplating suicide in order to threaten her husband, who had wrongly accused her of having an extramarital affair based on a video clip of a man and a girl engaging in sex and his belief that the girl in the clip was Maedeh Roustayee. This accusation was found to be untrue after Maedeh Roustayee convinced her husband to make a complaint to the police against the relative who had given him the video clip.

Maedeh Roustayee is currently held in a juvenile correction centre in Tehran.

SAMIRA AND SOMAYYEH MOKRI

Samira and Somayyeh Mokri were sentenced to death by Branch 74 of the Provincial Criminal Court of Tehran Province after they were convicted, along with their mother, of killing their father by suffocating him. They were 14 and 12 years old, respectively, at the time of the crime in March 2009.

In January 2013, Samira and Somayyeh Mokri and their mother received a retrial after Branch 15 of the Supreme Court quashed their death sentence on grounds of “incomplete investigations”. During the retrial, Samira Mokri expressed her strong dislike for her father, who she said caused her to attempt suicide by pressuring her to marry an old man for whom she had no feelings. She said, however, that she was not involved in the killing. Branch 74 of the Provincial Criminal Court of Tehran Province accepted Samira Mokri’s claim and acquitted her of the charge of murder. Somayyeh Mokri and her mother were, however, resentenced to death.

Following the adoption of the 2013 Islamic Penal Code, Somayyeh Mokri was granted a retrial based on Article 91 of the Code. During her retrial in November 2015, Somayyeh Mokri said:

The night before the killing of my father, my father and mother had another fight and my father beat my mother. When my mother suggested that we kill my father, I accepted it because I did not want my mother to receive beatings any more and my sister to commit suicide. I was, however, a kid... I did not understand the nature of murder. I thought that killing my father was just a joke. I did not even know the punishment of someone who commits murder.

Following the retrial, Branch 4 of the Provincial Criminal Court of Tehran Province commuted Somayyeh Mokri’s death sentence to five years in prison and ordered her release, as she had already spent six years in prison.

Amnesty International welcomes the news about the commutation of the death sentences of these juvenile offenders and wishes to see the authorities commuting without delay the death sentences of all other juvenile offenders.

Of the remaining juvenile offenders known to Amnesty International whose “applications for retrial” have been accepted, the majority were still awaiting the outcome of their retrials at the time of writing. However, Amnesty International is aware of at least six juvenile offenders

– **Salar Shadizadi** and **Hamid Ahmadi** from northern Gilan Province, **Fatemeh Salbehi** from southern Fars Province, **Sajad Sanjari** from western Kermanshah Province, **Siavash Mahmoudi** from western Kordestan Province, and **Amir Amrollahi** from southern Fars Province – who have been retried, found to have sufficient “mental growth and maturity” at the time of the crime and sentenced to death again. The organization is also aware of the case of at least one juvenile offender who was sentenced to death for the first time after the adoption of the new Islamic Penal Code; **Milad Azimi**, from western Kermanshah Province, was sentenced in December 2015 on the grounds that there was “no doubt about his mental growth and maturity at the time of the commission of the crime”. Fatemeh Salbehi’s execution was carried out in October 2015.

FATEMEH SALBEHI



Fatemeh Salbehi was executed at the age of 23 in Shiraz’s Adel Abad Prison in Fars Province on 13 October 2015 for a crime she committed when she was 17 years old. She was sentenced to death by Branch 5 of the Provincial Criminal Court of Fars Province in May 2010 for the murder of her 30-year-old husband, Hamed Sadeghi, whom she had been forced to marry at the age of 16. The sentence was upheld by the Supreme Court in August 2010. An official medical examination following her arrest found her to have had severe depression and suicidal thoughts around the time of her husband’s death.

Following the adoption of the 2013 Islamic Penal Code, Fatemeh Salbehi submitted an “application for retrial”. The Supreme Court granted the application in September 2013 and sent her case back to a different branch of the Provincial Criminal Court of Fars Province for retrial.

In May 2014, Branch 4 of the Provincial Criminal Court resentenced Fatemeh Salbehi to death without analysing her mental maturity at the time of the crime. As this was against the instructions of the Supreme Court, Fatemeh Salbehi’s appeal to the Supreme Court was accepted. The Supreme Court quashed her death sentence in February 2015 and instructed Branch 4 of the Provincial Criminal Court to consider the issue of her mental maturity at the time of her crime.

Branch 4 retried Fatemeh Salbehi in a session that lasted only a few hours and focused on whether she had understood the nature of the crime when she committed it; whether she had studied religious textbooks in school and prayed and read the Qur’an; and whether she understood that killing another human being is “religiously forbidden” (haram). Based on her answers to these questions, and an opinion from the Legal Medicine Organization of Iran in 2009 that said she was “not insane”, the court concluded in March 2015 that Fatemeh Salbehi was mentally mature and understood the nature of the crime at the time it was committed. The Supreme Court refused to consider a subsequent request for appeal in May 2015, holding, in a departure from established practice, that the decision could not be appealed.⁶⁷ The execution was carried out without advance notice to Fatemeh Salbehi’s lawyer.

⁶⁷ Under Iranian law, the decisions of Provincial Criminal Courts, which act as courts of first instance in murder cases, are open to appeal in the Supreme Court. The Supreme Court has exclusive appellate jurisdiction to uphold a verdict that these Provincial Criminal Courts issue or to quash it and order a retrial. The retrial outcome is open to appeal in the same way as initial trial decisions are.

SALAR SHADIZADI



Salar Shadizadi, now aged 24, was sentenced to death by Branch 11 of the Provincial Criminal Court of Gilan Province in December 2007 for murdering a friend. He was 15 years old at the time of the crime. The sentence was upheld by Branch 37 of the Supreme Court in March 2008 and approved by the Head of the Judiciary in May 2013. Since then, Salar Shadizadi has been subjected to the mental anguish of being transferred to solitary confinement in preparation for his execution and then told, at the last minute, that it has been postponed three times.

Salar Shadizadi was transferred to solitary confinement on 7 July 2013 in preparation for execution. The authorities halted the execution at the last minute, after Salar Shadizadi requested a commutation of his death sentence based on Article 91. This led to his case being sent back and forth between the Provincial Criminal Court of Gilan Province and the Supreme Court.

The Provincial Criminal Court of Gilan Province initially referred Salar Shadizadi to the Legal Medicine Organization of Iran to examine whether Salar Shadizadi had attained “mental maturity” at the time of the crime and understood the nature and consequences of his conduct. The Legal Medicine Organization of Iran found that “there is no evidence to conclude that Salar Shadizadi was insane at the time of the crime but examining his mental growth seven years after the event is impossible.” Faced with this finding and unclear about the appropriate process for applying the 2013 Islamic Penal Code to juvenile offenders sentenced to death before the Code was adopted, the Gilan Provincial Criminal Court made a request to the Supreme Court to decide the question of commutation based on the 2013 Islamic Penal Code. Branch 13 of the Supreme Court ruled in November 2014 that any request to commute the sentence based on the 2013 Islamic Penal Code had to be made to the court that had handed down the death sentence.

Salar Shadizadi’s case came before Branch 13 of the Supreme Court in April 2015 again. This was after the General Board of Iran’s Supreme Court issued its “pilot judgement” that all those on death row for crimes committed when they were under 18 are entitled to request a retrial of their cases. Despite this ruling, Branch 13 of the Supreme Court denied Salar Shadizadi’s request for a retrial, citing the opinion of the Legal Medicine Organization of Iran that had stated Salar Shadizadi was “sane” at the time of the crime but his mental maturity years after the commission of his alleged crime could not be assessed. The court stated: “The prima facie presumption is that individuals who have passed the age of *bolugh* have attained full mental maturity... A claim to the contrary requires proof, which has not been established here... The applicant’s request is, thereby, denied and the [death] sentence is final.”

Salar Shadizadi was scheduled for execution on 1 August 2015. The execution was postponed after an international outcry and he was transferred to the general ward of Rasht’s Lakan Prison after spending 41 days in solitary confinement.

Salar Shadizadi was subsequently rescheduled for execution on Saturday 28 November. This time, the Prosecutor General of Gilan Province confirmed less than two days before the scheduled date that his execution had been postponed to January to allow efforts to get the murder victim’s family to pardon him. At the time of writing, he remained at risk, as the authorities had not yet granted Salar Shadizadi a fair retrial, in accordance with principles of juvenile justice and without recourse to the death penalty.

MILAD AZIMI



Milad Azimi was sentenced to death by Branch 3 of the Provincial Criminal Court of Kermanshah Province in May 2015 for involvement in a fatal stabbing during a fight involving several young men in December 2013. He was 17 years old at the time of the crime. His trial was grossly unfair and relied on “confessions” extracted using torture, including flogging, and which he retracted before the prosecutor and during the trial.

In its verdict, the court acknowledged that Milad Azimi had been under 18 at the time of the crime but said there was “no doubt about his mental growth and maturity and that he understood the nature of his crime and the dangers of using a knife”. The court further acknowledged that he had not intended to kill but said that he was aware of the fatal nature of his conduct. The death sentence was upheld in August 2015 by Branch 17 of the Supreme Court.

Milad Azimi subsequently requested a retrial based on Article 91 of the Penal Code, which is currently pending before Branch 30 of the Supreme Court. In October 2015, concerns were raised that the Supreme Court had rejected the request. The authorities have since confirmed, however, that the Supreme Court has not yet reached a decision, pending which a stay of Milad Azimi’s execution has been ordered.

SAJAD SANJARI

Sajad Sanjari was first sentenced to death in January 2012 after Branch 1 of the Provincial Criminal Court of Kermanshah Province convicted him of murder for fatally stabbing a man. He was 15 years old at the time of the crime. Branch 27 of the Supreme Court quashed the death sentence in January 2013 due to various flaws in the investigation process and reverted the case to the same branch of the Provincial Criminal Court of Kermanshah Province for further investigation. The court subsequently resented Sajad Sanjari to death in July 2013. The sentence was upheld by Branch 27 of the Supreme Court in February 2014.

Sajad Sanjari was arrested on 2 August 2010. He admitted that he had stabbed the man but maintained that he did so in self-defence after the man tried to rape him. He said that the man had warned him the previous day that he would come to rape him, so he took a kitchen knife to scare him away. The court rejected Sajad Sanjari’s claims based on the testimony of several witnesses who attested to the good character of the deceased. The court added, however, that even if the rape threats and the attack indeed took place, Sajad Sanjari could not invoke self-defence because the attack was predictable from at least a day before and he had had ample time to raise the matter with the authorities or seek help from residents of the village in order to prevent the attack from happening.

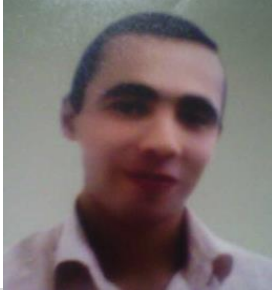
The Court also rejected the defence argument that he had not yet attained the maturity of an adult, referring to religious rulings that identify “pubic hair development” and the “attainment of age 15” as indicators of maturity.

Following the adoption of the 2013 Islamic Penal Code, Sajad Sanjari sought a retrial, which was granted in early 2015. He subsequently had a retrial session before Branch 3 of the Provincial Criminal Court of Kermanshah Province in October 2015. The court focused on whether he could distinguish right from wrong at the time of the crime. His lawyer highlighted that Sajad Sanjari had not had access to proper schooling as he

worked as a shepherd, and his parents were poor and illiterate.

On 21 November 2015, Branch 3 of the Provincial Criminal Court of Kermanshah Province resented Sajad Sanjari to death, with little explanation. The verdict, which has been reviewed by Amnesty International, simply states that Sajad Sanjari merits the death penalty as he “understood the nature of his crime and there is no doubt or uncertainty about his mental maturity and development at the time of the commission of the crime”.

HAMID AHMADI



Hamid Ahmadi, now aged 24, was sentenced to death in August 2009 after Branch 11 of the Provincial Criminal Court of Gilan Province convicted him of murder. The conviction was in connection with the fatal stabbing of a young man during a fight that took place among five boys in the city of Siahkal, northern Gilan Province. Hamid Ahmadi was 17 years old at the time.

Branch 27 of the Supreme Court overturned the verdict in November 2009 on the grounds that it was entirely based on testimony from witnesses whose credibility was in doubt. The case was subsequently sent back to Branch 11 of the Provincial Criminal Court of Gilan for retrial. During the retrial, Hamid Ahmadi stated that police had tortured and otherwise coerced him into “confessing”. It appears the court did not investigate his allegations of torture and instead relied on his “confession” and circumstantial evidence to convict him, in March 2010, of murder and sentence him to death. The court used the principle in Iranian law of “knowledge of the judge”, which allows judges to convict an accused based on their subjective view, even when facts do not satisfy the threshold of “guilt beyond reasonable doubt”, the internationally recognized standard of proof in criminal cases. Branch 27 of the Supreme Court upheld the verdict in November 2010.

Between May 2014 and February 2015, Hamid Ahmadi twice requested the Supreme Court to quash his sentence and send his case back for retrial, once after a witness retracted his testimony and another time when a new witness stepped forward. Both requests were denied.

In May 2015, Hamid Ahmadi was taken to the Legal Medicine Organization of Iran for an assessment of his maturity at the time of his alleged crime. The assessment was apparently arranged by his family after the authorities in Rasht Prison told juvenile offenders on death row to contact their families and ask that they book an appointment for them with the Legal Medicine Organization of Iran. The Legal Medicine Organization of Iran concluded that it could not determine Hamid Ahmadi’s level of maturity at the time of his alleged crime seven years previously.

Hamid Ahmadi subsequently requested the Supreme Court to order a retrial under Article 91 of the 2013 Islamic Penal Code. Branch 35 of the Supreme Court agreed to the request on 25 June 2015, leading to a retrial before a differently constituted court in the Provincial Criminal Court of Gilan Province. Amnesty International learned in December 2015 that the Provincial Criminal Court of Gilan Province had resented Hamid Ahmadi to death but had not yet issued the written verdict.

SIAVASH MAHMOUDI



Siavash Mahmoudi was sentenced to death in May 2013 by the Provincial Criminal Court of Kordestan Province after he was convicted of the murder of a man 10 years older than him. The man was fatally stabbed during a group fight in March 2013, that Siavash Mahmoudi said started when the deceased attempted to make sexual advances on him and threatened him with rape. Branch 24 of the Supreme Court quashed the death sentence in November 2014 and sent the case back to the Provincial Criminal Court of Kordestan Province for retrial in light of Article 91 of the 2013 Islamic Penal Code.

In February 2015, the Provincial Criminal Court of Kordestan Province resented Siavash Mahmoudi to death, after concluding that he “understood the nature and consequences of his conduct” and “there are no doubts about his mental maturity and growth” at the time of the crime.

The reasoning of the court is confined to a few questions and answers aimed at finding out if Siavash Mahmoudi understood whether killing another human being is permitted or not. Following Siavash Mahmoudi’s response that he understood that killing is “religiously forbidden” (*haram*), the court proceeded to ask why he was carrying a knife. He replied: “I carried a knife because I wanted to hear my friends saying that Siavash has a knife. I had never seen someone getting killed with a knife though I had heard about it.” In response, the court asked why he stabbed the victim if he had heard that knife stabbings can be deadly. Siavash Mahmoudi replied, “I was scared. He had a knife too... I was sad after the murder. I cried and regretted it. I so wish that I had not caused his death.”

Based on this brief exchange, the Court concluded that Siavash Mahmoudi had mental maturity at the time of the crime, understood the consequences of his actions, and therefore deserved the death penalty. He has appealed the sentence to the Supreme Court. At the time of writing, the appeal was pending.

Article 91 gives trial judges wide discretion to determine the mental maturity of those they convict as juvenile offenders. Judges may seek expert opinion from the Legal Medicine Organization of Iran or rely on their own assessment even though they may lack adequate knowledge and expertise on issues of child psychology.

In cases researched by Amnesty International, judges often focused on whether the juvenile offender knew right from wrong and could tell, for example, that it is wrong to kill a human being. Sometimes, they conflated the issue of lesser culpability of juveniles because of their lack of maturity, with the diminished responsibility of individuals with intellectual disabilities or mental illness, concluding that the juvenile offender was not “afflicted with insanity”, and therefore deserved the death penalty.

Efforts to capture juvenile offenders’ level of mental maturity at the time of the crime are particularly problematic where there has been a lapse between the crime and the time of assessment. By the time experts from the Legal Medicine Organization of Iran meet juvenile offenders, they are often significantly different from the individuals who committed the crime. This renders efforts to determine the mental maturity of juvenile offenders, years after the criminal act, inherently unreliable and defective.

These approaches contravene international law, which requires principles of juvenile justice to be applied fully to anybody who was under 18 at the time of the alleged crime.⁶⁸ This is precisely because such offenders are, to use the words of the Inter-American Commission on Human Rights, “children when they commit the offence and therefore the blame that attaches to them and, by extension, the penalty, should be less in the case of children than it would be for adults.”⁶⁹

In their replies to the UN Committee on the Rights of the Child, the Iranian authorities have stated: “In order to establish the uniform judicial precedent, the new Islamic Penal Code, especially Article 91, is focused on educational workshops on children and adolescents’ trial to prevent the verdict of Qisas sentence for persons above puberty age and under 18.” Amnesty International does not have any information about the content, progress and geographical scope of these training workshops and whether they are aimed at ensuring that all individuals who commit offences when they are under 18 are spared the death penalty.

RASOUL HOLOUMI



Rasoul Holoumi, now aged 23, was sentenced to death in October 2010, after Branch 17 of the Provincial Criminal Court of Khuzestan Province convicted him of murder. He was 17 at the time of the crime. The conviction was based on allegations that, during a fight involving multiple people in September 2009, he had thrown a hard object at a young man, resulting in fatal head injuries. The allegations appear to have been made by several of the people involved in the fight.

Rasoul Holoumi was scheduled to be executed on 4 May 2014 but the execution was stayed after the family of the victim agreed to forgo their request for “retribution-in-kind” (*qesas*) if Rasoul Holoumi’s family transferred the deeds of their house and farm to them and paid them 3.5 billion rials (around US\$135,300) as “blood money” (*diyah*).

Rasoul Holoumi subsequently applied for retrial under Article 91 of the 2013 Islamic Penal Code. The Supreme Court granted the request in January 2015. His first retrial session before the Provincial Criminal Court of Khuzestan Province took place on 22 February 2015 and lasted around 20 minutes. The court asked whether he knew that it was wrong to kill someone and whether he felt upset when he threw a hard object at the head of the victim. Rasoul Holoumi answered yes to both questions. The lawyer introduced into evidence Rasoul Holoumi’s transcripts from grade 7, which showed poor marks, to prove that he lacked the requisite mental state to be culpable as an adult.

Rasoul Holoumi was not given access to a lawyer during the investigation nor was he given adequate time and resources to prepare and defend himself before and during trial. Although he admitted to the charges when he

⁶⁸ See CRC, General Comment 10, CRC/C/GC/10, paras 36-37, available at www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf; Human Rights Committee, General Comment 17, *Article 24 (Rights of the Child)*, 7 April 1989, para. 4, available at www.refworld.org/docid/45139b464.html (HRC, General Comment 17, *Article 24*).

⁶⁹ Inter-American Commission Rapporteurship on the Rights of the Child, *Juvenile Justice and Human Rights in the Americas*, OEA/Ser.LN/II, July 2011, para. 34, available at www.oas.org/en/iachr/children/docs/pdf/JuvenileJustice.pdf

was first summoned by the police, he later retracted this admission and made statements that raised doubts about whether he was even at the scene of the crime. Additional doubts were raised by reports that there was a history of hostility between the family of Rasoul Holoumi and the principal witness in the case who testified against him. Despite all these doubts, the Supreme Court upheld Rasoul Holoumi's death sentence in 2010 without explanation.

Rasoul Holoumi was referred for a psychological examination to the Legal Medicine Organization of Iran, which found that it could not assess his "mental maturity" years after the commission of the crime. At the time of writing, he was awaiting the outcome of his retrial.

RAZIEH EBRAHIMI

Razieh Ebrahimi was sentenced to death in 2010 by Branch 17 of the Provincial Criminal Court of Khuzestan, which found her guilty of killing her husband earlier that year when she was 17. She said that she did so after years of being abused, physically and psychologically. Razieh Ebrahimi was married to her husband at the age of 14. Razieh Ebrahimi's execution was scheduled for 1 April 2014, but was stopped at the last minute when she told the judge overseeing the implementation of the execution that she had committed the crime when she was 17. Her lawyer subsequently submitted a retrial request to the Supreme Court based on Article 91. Branch 35 of the Supreme Court initially refused the request, reasoning that the application of Article 91 is within the remit of the court of first instance that issued the death sentence originally. After a national and international outcry, Branch 35 of the Supreme Court accepted the request and sent the case back to a different branch of the Provincial Criminal Court of Khuzestan for retrial.

Razieh Ebrahimi's retrial took place in December 2014. The court focused on whether she understood that killing is wrong and can lead to a death sentence. According to his lawyer's interviews with local media, the court asked Razieh Ebrahimi if she understood what happens when a human body is shot at. In response, Razieh Ebrahimi said: "I understood that shooting someone can result in his death but I did not know that the punishment for doing so is death and I thought that after a few months, everything will be forgotten." She apparently added: "Faced with my husband's abuses, I did not appreciate that I should not kill my husband and should confront him in a different way. I really was not aware of what I was doing."

Razieh Ebrahimi was referred to the Legal Medicine Organization of Iran for psychological examination and at the time of writing was awaiting the outcome of her retrial.

SAMAN HAIDARY



Saman Haidary, now aged 25, was sentenced to death in July 2012, after Branch 2 of the Provincial Criminal Court of Kermanshah Province found him guilty of stabbing his father in February 2008. He was 17 years old at the time of the murder. Court records indicate that he stabbed his father after years of physical and mental abuse by him. The Supreme Court upheld the death sentence in March 2013.

In the first round of police questioning, which was conducted in the absence of a lawyer, Saman Haidary admitted to stabbing his father multiple times after he threatened to slit his throat.

He described the chain of events as follows:

I arrived home from my evening Arabic class at around 11 o'clock at night. My father asked me where I was, while calling me a bastard. I ignored his question and went to the living room... I changed my clothes and went to my room. I saw that my father was there and had put his sleeping mattress and sheets there. He told me: "Come and sleep beside me; I will slit your neck while you are asleep." When I told him off and tried to take my sleeping stuff to leave the room, he came toward me with a wooden stick and tried to hit me. We got into a physical fight and I managed to get the stick out of his hand. He said: "I am going to bring a knife now and slit your throat." He then walked toward the kitchen. I was shaking in fear. He soon returned with a knife in his hand. As he came close to me, I hit him on his hands and face with the wooden stick. At some point, the stick broke, my father was thrown to the ground, and the knife fell out of his hand. As he tried to pick up the knife and get off, I took it and started stabbing him.

In subsequent rounds of questioning, Saman Haidary denied his early admission and attributed the responsibility of the murder to his brother and maternal uncle. The court, however, rejected these claims in light of numerous inconsistencies and various pieces of alibi evidence which were in favour of Saman Haidary's brother and maternal uncle.

With regard to the question of self-defence, the court acknowledged that "the behaviour and conduct of the deceased was not without influence" but concluded that the "claim of self-defence is without merit in light of the method of stabbing."

In August 2014, Saman Haidary asked the Supreme Court to quash his sentence and grant him a retrial pursuant to Article 91. The Supreme Court did so in November 2014.

In August 2015, Saman Haidary had his retrial session before Branch 1 of Criminal Court 1 of Kermanshah Province. The court focused on whether Saman Haidary understood that it was wrong to kill a human being. Saman Haidary apparently stated that he understood the wrongfulness of killing but did not know the legal consequences of his actions. The court subsequently referred Saman Haidary to the Legal Medicine Organization of Iran for psychological examination. The Legal Medicine Organization of Iran has stated that it cannot assess the mental maturity of Saman Haidary at the time of his crime seven years before. At the time of waiting, he was awaiting the outcome of his retrial.

Amnesty International understands from the court verdicts that the history of abuse, family dysfunction, substance abuse, and poor and inappropriate supervision was not taken into account in Saman Haidary's trial and sentencing.

Some legal jurisdictions over the past decade have taken account of psychological studies including neuroscientific research on brain development as providing additional data consistent with juvenile justice rules that consider people aged under 18 to be less culpable than adults.⁷⁰ The most prominent use of this science was seen in the US Supreme Court

⁷⁰ Tracy Rightmer, "Arrested Development: Juveniles' Immature Brains Make Them Less Culpable Than Adults", *Quinnipiac Health Law*, 2005, vol. 9(1), p. 1, (Tracy Rightmer, "Arrested Development"); Adam Ortiz, "Cruel and Unusual Punishment: The Juvenile Death Penalty, Adolescence, Brain Development and Legal Culpability", American Bar Association, January 2004, available at

case of *Roper v. Simmons*, where multiple medical associations submitted evidence⁷¹ to show that individuals below 18 differ from adults in their physical and psychological development and these differences make them more inclined than adults to rely in their decision-making on emotions such as anger or fear rather than logic and reason,⁷² exhibit loss of judgement and insight during emotional and stressful situations, and be influenced by peers including with regard to risk-taking and delinquent involvement.⁷³

The medical associations pointed out that these behavioural differences are explained in part by magnetic resonance imaging (MRI) studies which demonstrate that the brain's frontal lobes, which control the brain's executive functions, do not begin to mature until 17 years of age⁷⁴ and that they undergo significant changes throughout late adolescence and even into the early twenties.⁷⁵ Frontal lobe impairment has been associated with "greater impulsivity, difficulties in concentration, attention, and self-monitoring, and impairments in decision-making."⁷⁶

www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_juvjus_Adolescence.authcheckdam.pdf

⁷¹ Brief for the American Psychological Association, and the Missouri Psychological Association as Amici Curiae supporting Respondent, Donald P. Roper, Superintendent, Potosi Correctional Center, Petitioner v. Christopher Simmons, No. 03-633. See also Brief of the American Medical Association, American Psychiatric Association, American Society for Adolescent Psychiatry, American Academy of Child & Adolescent Psychiatry, American Academy of Psychiatry and the Law, National Association of Social Workers, Missouri Chapter of the National Association of Social Workers, and National Mental Health Association as Amici Curiae in support of Respondent, Donald P. Roper, Superintendent, Potosi Correctional Center v. Christopher Simmons, Respondent, 543 U.S. 551, No. 03-633, 19 July 2004, available at bit.ly/1V6vrn0

⁷² Thomas Grisso, "What We Know About Youth's Capacities", in *Youth on Trial: A Developmental Perspective on Juvenile Justice*, University of Chicago Press, 2000, pp. 267-69.

⁷³ See Dana L. Haynie, "Friendship Networks and Delinquency: The Relative Nature of Peer Delinquency", *Journal of Quantitative Criminology*, 2002, vol. 99; Peggy C. Giordano et al., "Changes in Friendship Relations Over the Life Course: Implications for Desistance from Crime", *Criminology*, 2003, vol. 41, p. 293; Terence P. Thornberry et al., "Delinquent Peers, Beliefs and Delinquent Behaviour: A Longitudinal Test of Interactional Theory", *Criminology*, 1994, vol. 31, pp. 74-75.

⁷⁴ Mary Beckman, "Crime, Culpability, and the Adolescent Brain", *Science*, 2004, vol. 305, p. 596; Elizabeth Cauffman and Laurence Steinberg, "(Im)maturity and Judgment in Adolescence: Why Adolescents May be Less Culpable Than Adults", *Behavioural Sciences & the Law*, 2000, vol. 18, p. 741; Bonnie L. Halpern-Felsher and Elizabeth Cauffman, "Costs and Benefits of a Decision: Decision-Making Competence in Adolescents and Adults", *Journal of Applied Developmental Psychology*, 2001, vol. 22, p. 257; Tracy Rightmer, "Arrested Development", vol. 9(1), p. 7. See also Thomas J. Bernard, *The Cycle of Juvenile Justice*, Oxford University Press, 1992, p. 269.

⁷⁵ Jay N. Giedd, "Structural Magnetic Resonance Imaging of the Adolescent Brain", *Annals of the New York Academy of Sciences*, 2004, vol. 1021, p. 77; Nitin Gogtay et al., "Dynamic Mapping of Human Cortical Development During Childhood Through Early Adulthood", *Proceeding of the National Academy of Sciences*, 2004, vol. 101, p. 8174.

⁷⁶ Marsel Mesulam, "Behavioral Neuroanatomy", in *Principles of Behavioral and Cognitive Neurology*, Oxford University Press, 2000, pp. 42-45.

The weight of this evidence ultimately helped to persuade the US Supreme Court to abolish the use of the death penalty against those who were under the age of 18 at the time of the crime.⁷⁷

3.2 INEFFECTIVE IMPLEMENTATION OF ARTICLE 91

Many juvenile offenders on death row are unlikely to be able to pursue the possibility of retrial under Article 91. The application of Article 91 to juvenile offenders on death row is not automatic; it relies on the juvenile offender taking the initiative. This is troubling as many juvenile offenders on death row have low levels of literacy, low status, few social connections, and are, therefore, unaware of their right to submit an “application for retrial” or do not have the means to retain a lawyer to submit the application for them.

Amnesty International has identified numerous cases where juvenile offenders and their families were unaware of their legal right to seek retrial based on Article 91. This lack of awareness can result in tragic consequences, as illustrated by the case of **Samad Zahabi**.

SAMAD ZAHABI

Samad Zahabi was secretly hanged in Kermanshah’s Dizel Abad Prison in Kermanshah Province in October 2015 for shooting a fellow shepherd during a row over who should graze their sheep. He was 17 years old at the time of the commission of the crime. The execution was carried out without his lawyer being given 48 hours’ notice as required by law. His family said that they only learned of his fate after his mother visited the prison.

Samad Zahabi was sentenced to death by the Provincial Criminal Court of Kermanshah Province in March 2013, even though he said during the investigation and at trial that the shooting was unintentional and in self-defence, and resulted from a fight that he was drawn into against his will.

Branch 6 of the Supreme Court upheld his death sentence in February 2014, despite a written submission from the Office of the Prosecution that asked for it to be quashed in light of the revised provisions of the 2013 Islamic Penal Code. Samad Zahabi was never informed of his right to request a retrial from the Supreme Court, even though that might have spared his life.

Ineffective implementation of Article 91 is also of concern in cases of juvenile offenders convicted of crimes related to national security who may be deprived of the protection afforded by Article 91 because of interference by security and intelligence services. The cases of juvenile offenders **Saman Naseem** and **Barzan Nasrollahzadeh** below suggest that security-related offences may sometimes “overshadow” the status of such juvenile offenders, potentially leading to their exclusion, in practice, from the protection afforded by Article 91.

⁷⁷ Supreme Court of the United States, *Donald P. Roper, Superintendent, Potosi Correctional Center, Petitioner v. Christopher Simmons*, Application No. 03-633 (Judgement).

SAMAN NASEEM



Saman Naseem, a member of Iran's Kurdish minority, was sentenced to death in 2013 after the Provincial Criminal Court of West Azerbaijan Province convicted him of "enmity against God" (*moharebeh*) and "corruption on earth" (*efsad-e fel-arz*) after he was accused of taking part in armed activities against the state that led to the death of a member of the Revolutionary Guards. He was 17 years old at the time of the crime. His trial used as evidence "confessions" that he says were obtained through torture and other ill-treatment.

Saman Naseem was scheduled to be executed on 19 February 2015. The news sparked widespread international concern and appeals. The authorities halted the execution at the last minute and transferred Saman Naseem from Oroumieh Central Prison to an undisclosed location. His family asked prison officials and the Ministry of Intelligence office in Oroumieh what had happened, but the authorities said they knew nothing. They then told the family to pick up Saman Naseem's personal effects from Oroumieh Central Prison on 21 February, leading the family to believe that he might have been executed.

Amnesty International learned in March 2015 that Saman Naseem had been transferred to Zanjan Prison on or around 19 February. The authorities still refused to provide his family and lawyer with any concrete information about his fate and whereabouts. Only in July was he allowed to call his family.

Saman Naseem's lawyer learned around the same time that the Head of the Judiciary had ordered a stay of Saman Naseem's execution on 6 April 2015 and the Supreme Court had subsequently granted Saman Naseem's request for retrial on 22 April, which meant his conviction and death sentence were quashed and that he was entitled to a retrial based on Article 91.

Saman Naseem was transferred on 19 September back to Oroumieh Central Prison. Branch 1 of Criminal Court 1 of West Azerbaijan Province has since referred him to the Legal Medicine Organization of Iran for an assessment of his "mental maturity" at the time of the crime. His retrial is scheduled to take place on 27 January 2016.

BARZAN NASROLLAHZADEH



Barzan Nasrollahzadeh, a Sunni Muslim and member of Iran's Kurdish minority, was sentenced to death in 2013 after Branch 28 of the Revolutionary Court in Tehran convicted him of "enmity against God" (*moharebeh*), "having connections with Salafist groups" and taking part in assassination plots, including one on 17 September 2009 that killed a senior Sunni cleric with ties to the government. Amnesty International understands that he was 17 years old at the time of his arrest. The Supreme Court upheld the death sentence in August 2015. Amnesty

International understands that the Supreme Court made no reference to Barzan Nasrollahzadeh being under 18 years of age at the time of the crime.

Amnesty International understands that Barzan Nasrollahzadeh has not had access to adequate legal representation to request a retrial of his case based on Article 91 of the 2013 Islamic Penal Code. The Iranian authorities have written, in their reply to the List of Issues of the UN Committee on the Rights the Child, that “his file is being examined for cancellation of death sentence”. However, this contradicts the information apparently given to Barzan Nasrollahzadeh by prison officials that his death sentence has been finalized and sent to the Office for the Implementation of Sentences and may be carried out at any moment.

Barzan Nasrollahzadeh was arrested on 29 May 2010 by Ministry of Intelligence officials in Sanandaj, Kordestan Province. One of the officials apparently shot him in his abdomen, causing injuries to his spleen for which he did not receive adequate medical care. Subsequently, he was held for several months in a Ministry of Intelligence detention facility in Sanandaj without access to his family and a lawyer. He said that, during this period, intelligence officials tortured him, including by using an electric-shock device, suspending him upside down, and beating him. Barzan Nasrollahzadeh met his court-appointed lawyer for the first time at his trial on 21 August 2013. The whole trial apparently lasted less than one hour.

3.3 DRUG-RELATED OFFENCES

Drug-related offences in Iran are codified in Iran’s Anti-Narcotics Law, which prescribes a mandatory death sentence for a range of drug-related offences. These include trafficking more than 5kg of narcotics derived from opium or certain non-medical psychotropic substances; trafficking or possessing more than 30g of certain illegal substances including heroin, morphine and cocaine; and organizing, running and financially supporting drug-related activities.⁷⁸

The Anti-Narcotics Law is silent on the sentences that should apply to drug-related offences committed by children under the age of 18. In principle, until the adoption of the Islamic Penal Code in 2013, this silence could mean that the imposition of the death penalty was allowed for drug-related offences committed by girls above the age of nine and boys above the age of 15. In practice, however, it seems that juvenile offenders were rarely convicted of capital drug-related offences and sentenced to death as long as they were prosecuted and convicted by the Court for Children and Adolescents. As noted earlier in chapter 1, these courts have had jurisdiction over juvenile drug-related offences since 2000 and, according to several lawyers interviewed by Amnesty International, they have been generally more lenient towards juvenile offenders.

However, human rights groups have reported that some juvenile offenders, particularly Afghan nationals, have been sentenced to death by Revolutionary Courts (which have exclusive jurisdiction over non-juvenile drug-related offences) because they could not present birth certificates or other identification documents to prove their age and the Iranian authorities failed to ensure that they were presumed a child so long as there was doubt about whether they were under 18 at the time of the crime.

The 2013 Islamic Penal Code has not clarified what sentencing regime should apply to juvenile offenders convicted of drug-related offences that attract the death penalty under the Anti-Narcotics Law. The lack of clarity results from an uncertainty in Iran’s legal system

⁷⁸ See Amnesty International, *Addicted to death: Executions for drug offences in Iran* (Index: MDE 13/090/ 2011), available at www.amnesty.org/en/documents/mde13/090/2011/en/

about whether such drug-related offences fall under the category of *hodud* or *ta'zir*.⁷⁹

Ta'zir offences come under Articles 88 and 89 of the 2013 Islamic Penal Code. These divide juvenile offenders, boys and girls, convicted of *ta'zir* crimes into three age groups of 9-12, 12-15 and 15-18, and provide for a range of alternative sentencing measures depending on where the crime sits within the severity grading scale outlined in the 2013 Islamic Penal Code for *ta'zir* crimes.⁸⁰ These measures aim to remove juvenile offenders from the criminal justice system and place them into the care of social services or correctional centres, and judges can decide which is appropriate.

If drug-related offences are classified as *ta'zir*, then the juvenile sentencing regime provided under Articles 88 and 89 should apply to them even though the provisions of these do not explicitly address the treatment of *ta'zir* crimes punishable by death. In an advisory opinion dated 31 May 2014, the Legal Office of the Judiciary argued that, although Articles 88 and 89 do not explicitly determine the grade of *ta'zir* crimes punishable by death, such offences, when committed by juvenile offenders, must attract the alternative sentences applicable to *ta'zir* crimes of grade 1. These alternative sentences include detention in a juvenile correction facility for between three months and one year for juvenile offenders aged 12-15, and for between two and five years for juvenile offenders aged 15-18.

If the crimes in question are classified as *hodud* though, juvenile offenders convicted of them would be subject to the death penalty unless they can provide, pursuant to Article 91 of the Islamic Penal Code, that they did not comprehend the nature of the crime or its consequences or there are doubts about their “mental growth and maturity” (*roshd va kamal-e aghli*) at the time of the crimes.

At the time of writing, the practice of the judiciary in this regard remained unclear. However, a criminal court judge in Tehran stated in a media interview in 2014 that juvenile offenders convicted of drug-related offences would be sentenced in accordance with the alternative sentencing measures outlined in Articles 88 and 89 for juveniles,⁸¹ and the Iranian authorities recently confirmed that this is indeed their official position during the review of Iran before the UN Committee on the Rights of the Child in January 2016 I.

Since the adoption of the 2013 Islamic Penal Code, human rights groups have reported that at least two juvenile offenders, **Janat Mir** and **Osman Dahmarde**, have been executed for drug-related offences. Iran’s High Council for Human Rights, however, declared in its response to the latest report of the UN Secretary-General in September 2015 that Janat Mir (see below) “does not have a criminal record with the Department of Justice of Esfahan

⁷⁹ See section 1.4 above.

⁸⁰ Article 19 of the Islamic Penal Code categorizes *ta'zir* crimes along a severity scale ranging from grades one to eight, with associated penalties including imprisonment terms of over 25 years (grade 1), between 15 and 25 years (grade 2), between 10 and 15 years (grade 3), between five and 10 years (grade 4), between two and five years (grade 5), between six months and two years (grade 6), between 91 days and six months (grade 7), and less than three months (grade 8).

⁸¹ *Resaleyeh Hoghughi*, “Judicial bodies with jurisdiction over juvenile drug-related offences”, 15 May 2014, available at bit.ly/1Q0EDKi (accessed 24 September 2015).

Province” and that “Osman Dahmarde was over the age of 18 when he perpetrated [his] crimes”. Amnesty International has recorded Janat Mir’s case as the execution of a juvenile offender as it received reliable details of his age, arrest, and execution from his family and other human rights groups. It has not done so with respect to the case of Osman Dahmarde as it has not been able to locate his family or access any documentary evidence to verify his age.

In August 2014, the UN Special Rapporteur on the situation of human rights in Iran expressed concern about the continued use of the death penalty for drug-related offences, including against juvenile offenders. In response, the Iranian authorities denied reports that juvenile offenders had been executed for drug-related offences, asserting that only juvenile offenders charged with murder are subject to capital sentences pursuant to the Islamic principle of *qesas*.⁸² Amnesty International is, however, aware of at least one juvenile offender, **Mohammad Ali Zehi**, who faces the risk of death penalty imposed for drug-related offences.

JANAT MIR

Janat Mir, an Afghan national, was executed in Esfahan’s Dastgard Prison in April 2014 for drug-related offences. There is no information available about his exact age at the time of his arrest, but his family say that he was 14 or 15 years old when he was executed.

According to his family, Janat Mir was arrested in October or November 2011 after drugs were seized during a police raid on his friend’s home, where he was staying. His family in Afghanistan have said that they did not know his whereabouts for several months until Janat Mir called them from prison to say that he had been sentenced to death. No information is available about the details of his conviction and sentencing.

Janat Mir’s family say that he contacted them the night before his execution to inform them of his imminent execution and ask that they come and collect his body. His family told Amnesty International that the authorities did not permit them to transfer the body to Afghanistan and coerced them into burying the body at a cemetery, which the authorities selected for them.

MOHAMMAD ALI ZEHI

Mohammad Ali Zehi, an Afghan national held in Shiraz’s Adel Abad Prison, Fars Province, is at risk of facing the death penalty for involvement in drug-trafficking. His family and lawyer maintain that he was under the age of 18 at the time of the crime but due to his undocumented status in Iran and his lack of access to an original birth certificate from Afghanistan (where many poor people cannot access the birth registration system), he was not able to provide any official identification document to prove that to the Revolutionary Court in Jahrom, Fars Province, which sentenced him to death in 2008. His trial was unfair: the court relied on “confessions” that he said were obtained through torture and other ill-treatment during the two months he

⁸² Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, *Report to the General Assembly*, A/69/356, para.12, available at shaheedoniran.org/wp-content/uploads/2014/09/A-69-356-SR-Report-Iran.pdf (Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, A/69/356).

was held in a police station without access to his family and a lawyer.

Amnesty International understands that his court-appointed lawyer, whom he met for the first time at trial, raised the young age of Mohammad Ali Zehi as a matter of concern, but the Revolutionary Court ignored this. The death sentence was subsequently confirmed by the Office of the Prosecutor General which was, until June 2015, authorized, along with the Head of the Supreme Court, to review and confirm the sentences of those convicted of drug-related offences.

In 2009, Mohammad Ali Zehi asked the Office of the Prosecutor General to review his case. The Office referred Mohammad Ali Zehi to the Legal Medicine Organization of Iran for a medical examination. For unknown reasons, the Legal Medicine Organization of Iran was unable to establish the age of Mohammad Ali Zehi. Accordingly, the Prosecutor General confirmed the death sentence. Mohammad Ali Zehi later requested a pardon from the Pardon Commission of Fars Province, which was denied.

Following the adoption of the new Code of Criminal Procedure in June 2015, which revoked Article 32 of the Anti-Narcotics Law,⁸³ Mohammad Ali Zehi requested a retrial of his case, which was granted by Branch 26 of the Supreme Court in November 2015. It is not yet clear whether the Supreme Court has referred his case for retrial to a juvenile court.

Mohammad Ali Zehi was arrested in 2008 along with a woman who was apparently his neighbour when they were pulled over by the police on a motorway near Jahrom and a search of their vehicle found several kilos of heroin. He said that he had been asked by her neighbour to accompany her on a trip to Shiraz, and did not know about the drugs.

⁸³ Article 32 of Iran's Anti-Narcotics Law states: "Death sentences issued by virtue of this act shall be final and enforceable after the endorsement of the Chairman of the Supreme Court or the Prosecutor General."

4. UNFAIR TRIALS: COMPOUNDING THE VIOLATIONS

The use of the death penalty against juvenile offenders constitutes an egregious violation of the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights, which are binding on Iran, and international law more generally. Its imposition following unfair trial adds a further violation of international law and an additional layer of cruelty. Given the irreversible nature of the death penalty, international law requires that proceedings in capital cases scrupulously observe all relevant international standards protecting the right to a fair trial, no matter how heinous the crime.

The Iranian authorities claim that they apply the death penalty only after thorough and fair judicial proceedings. Amnesty International has found this not to be true. Indeed, basic fair trial guarantees have been persistently violated in death penalty cases, including those involving juvenile offenders.

All the cases of juvenile offenders discussed in the preceding chapter were denied access to a lawyer from the time of arrest and during investigations. Most were tortured, otherwise ill-treated or compelled in other ways to “confess” or incriminate themselves. They were invariably tried in adult criminal courts which failed to be sensitive to their age, and frequently relied on “confessions” extracted through torture or other ill-treatment. Most of those condemned to death have spent prolonged periods on death row exceeding in some cases a decade. Their families have spent months or years pleading with the family of the murder victim to grant pardon in return for “blood money” (*diyah*). A few have been scheduled for execution one or more times, only seeing the execution postponed or stayed at the last minute as a result of appeals to the authorities or a decision by relatives of the murder victim to halt the execution. Such conditions of uncertainty and last-minute stays and the additional severe anguish and mental distress amount to cruel, inhuman and degrading treatment, over and above the unlawfulness of imposing a death sentence on juvenile offenders.

These violations run through Iran’s criminal justice system not only because of gaps between the law and how it is practised, but also because of shortcomings in the very laws that should guarantee fair trials for both children and adults.

The cases of juvenile offenders discussed in this report all date from before June 2015, when juvenile proceedings were governed by the 1999 Code of Criminal Procedure for General and Revolutionary Courts. That Code had significant flaws and fell far short of international fair trial standards. For example, it did not guarantee the right to access a lawyer from the time of arrest.⁸⁴ It set no limit on the length of pre-trial detention, which meant that individuals

⁸⁴ A Note to its Article 128 permitted the restriction of the right to access legal counsel during pre-trial detention.

could be detained for months, even years, without access to a lawyer. Most importantly for the subject of this submission, it failed to establish a separate, child-oriented juvenile justice system that included specialized training for police, prosecutors and judges working on cases of juvenile offenders, as required by international law.⁸⁵ With the exception of drug-related offences which fell under the jurisdiction of the Court for Children and Adolescents,⁸⁶ juvenile offenders accused of capital crimes were generally interrogated and prosecuted by adult Provincial Criminal Courts in the same manner as adults, without special procedures.

In June 2015, that Code was replaced by a new Code of Criminal Procedure, which introduced several long-overdue reforms. After years of concern, the Code of Criminal Procedure finally legislated that all offences committed by individuals under 18 years of age be dealt with by specialized juvenile courts. The Code of Criminal Procedure establishes special juvenile branches in Provincial Criminal Courts (renamed Criminal Courts 1) with jurisdiction over capital and other serious offences committed by people under 18 years of age which ordinarily fall, when committed by adults, under the jurisdiction of Provincial Criminal Courts or Revolutionary Courts. Other less serious offences committed by people aged below 18 are placed under the jurisdiction of the Court for Children and Adolescents (Article 304).

Other reforms introduced by the Code of Criminal Procedure included: the establishment of special prosecution units for juvenile crimes; the enhancement of the right to access a lawyer during investigations; and stricter regulations governing the questioning and interrogation of juveniles accused of a crime.

At the time of writing, it was still too early to assess how these key reforms were being implemented. This chapter therefore summarizes these important reforms and the extent to which they could, if implemented properly, address former flaws and bring Iran's juvenile justice system closer to the standards required by international law. The chapter also identifies areas where significant gaps remain between the provisions of the new Code of Criminal Procedure and international fair trial standards.

⁸⁵ HRC, General Comment 32, CCPR/C/GC/32, para. 43, available at www.refworld.org/docid/478b2b2f2.html; CRC, General Comment 10, CRC/C/GC/10, para. 28, available at www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf; UN Economic and Social Council, Resolution 1997/30 of 21 July 1997, para. 11(a), available at www.ohchr.org/EN/ProfessionalInterest/Pages/CriminalJusticeSystem.aspx

⁸⁶ This jurisdiction was established by the amendments made to Article 20 of the 1994 Code of Criminal Procedure for General and Revolutionary Courts in October 2002 and a subsequent "pilot judgement" by Iran's Supreme Court that clarified that jurisdiction over juveniles accused of committing crimes punishable by death rests with Provincial Courts and not Juvenile Courts, which had been established by an earlier set of amendments in 1999. See the Law to Reform the Code of Criminal Procedure for General and Revolutionary Courts, 20 October 2002, available at rc.majlis.ir/fa/law/show/93837 (accessed 26 September 2015); the Code of Criminal Procedure for General and Revolutionary Courts, 19 September 1999, available at rc.majlis.ir/fa/law/show/93219 (accessed 26 September 2015); Iran's Supreme Court Pilot Judgement No. 687 - 1387/3/2, available at rc.majlis.ir/fa/law/show/133797

4.1 LACK OF ACCESS TO LEGAL COUNSEL

Lack of access to a lawyer at the investigation stage has been one of the most common violations of fair trial guarantees that Amnesty International has documented in Iran.

INTERNATIONAL STANDARDS ON ACCESS TO LEGAL COUNSEL

The Convention on the Rights of the Child provides, in Article 37, that children in conflict with the law must be guaranteed legal assistance, access to which must be prompt. The legal assistance afforded to children should be accessible, age-appropriate, multidisciplinary, effective and responsive to the specific legal and social needs of children.⁸⁷

The Committee against Torture has criticized the practice of subjecting children to police questioning in the absence of a guardian or lawyer – sometimes using illegal methods, including threats, blackmail and physical abuse – and has called for children to receive prompt access to an independent lawyer.⁸⁸

Under international law and standards, children should have access to legal aid under the same conditions as or more lenient conditions than adults.⁸⁹ The best interests of the child should be a primary consideration in all legal aid decisions affecting children.⁹⁰

Article 35 of Iran's Constitution guarantees the right of individuals to legal counsel.⁹¹ However, until June 2015, when the Code of Criminal Procedure came into effect, the authorities regularly resorted to provisions in the 1999 Code, which limited the involvement of the lawyer during investigations,⁹² and conditioned it on the approval of courts in cases concerning "confidential issues" or national security offences, as well as where the presence of individuals other than the accused was deemed to "cause corruption". As the UN Working Group on Arbitrary Detention noted with concern in its 2003 country visit report, these vague

⁸⁷ UN General Assembly, Resolution A/RES/67/187 of 20 December 2012, Principle 11, available at [daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/489/82/PDF/N1248982.pdf?OpenElement](https://access-dds-ny.un.org/doc/UNDOC/GEN/N12/489/82/PDF/N1248982.pdf?OpenElement) (UNGA, Resolution A/RES/67/187).

⁸⁸ Committee against Torture, *Concluding Observations on Austria*, CAT/C/AUT/CO/4-5, para. 10, available at www2.ohchr.org/english/bodies/cat/docs/CAT.C.AUT.CO.4-5.pdf; Committee against Torture, *Concluding Observations on Belgium*, CAT/C/BEL/CO/2, para. 16, available at bit.ly/115sSoN; Committee against Torture, *Concluding Observations on Kazakhstan*, CAT/C/KAZ/CO/2, para. 12, available at bit.ly/1RlikjN

⁸⁹ UNGA, Resolution A/RES/67/187, Principle 3.

⁹⁰ UNGA, Resolution A/RES/67/187, Principle 11.

⁹¹ The Article stipulates: "Both parties to a lawsuit have the right in all courts of law to choose a lawyer, and if they are unable to do so, arrangements must be made to provide them with legal counsel."

⁹² For example, the Code forbade lawyers from intervening until "the end of investigations", which meant lawyers could not speak during the interrogation sessions. Moreover, it did not clarify whether "the end of investigations" referred to the end of one session or the end of the investigation, nor did it specify what constitutes "intervening in the investigations" (Article 128).

phrases and their “extremely restrictive interpretation” effectively granted courts the discretion to deny access to legal counsel for the entire course of investigations.⁹³

The new Code of Criminal Procedure removed some of the previous restrictions on lawyers’ involvement during the investigative stage. Article 48 provides that “the accused can demand the presence of a lawyer from the start of detention”. Article 190 recognizes the right of the suspect to “be accompanied by a lawyer during primary investigations” and obliges the investigator to notify the suspect of this right before the start of the investigation. Note 2 to Article 190 requires investigators to ensure that individuals accused of offences punishable by death or life imprisonment are provided with court-appointed lawyers if they do not retain their own.

These improvements will, if properly implemented, enhance the rights of individuals, both children and adult, to access legal counsel immediately after arrest and during pre-trial detention.

However, adequate safeguards are missing from the Code of Criminal Procedure. Statements made without the presence of a lawyer are not yet considered as inadmissible at trial. Furthermore, for individuals accused of national security-related offences or organized crimes punishable by the death penalty, life imprisonment or amputation,⁹⁴ the Note to Article 48 only allows them to select their legal counsel for the investigation phase from a roster of lawyers approved by the Head of the Judiciary.

With respect to the treatment of juvenile offenders, the Code of Criminal Procedure does not impose any specific obligation on investigators and prosecutors to take particular care to safeguard children’s right to legal assistance at the investigative stage. The Code of Criminal Procedure does, however, establish a special unit for the investigation of juvenile crimes, and requires judicial officers to immediately refer any juvenile arrested to the special unit without conducting any investigation themselves (Note 2 to Article 286). The special unit is authorized to investigate most crimes committed by individuals aged between 15 and 18 (Article 285), including the capital crimes of murder, “enmity against God” (*moharebeh*), “corruption on earth” (*efsad-e fel-arz*) and drug-related offences.⁹⁵

The capital crimes of adultery and “male-male anal penetration” (*lavat*), as well as some minor *ta’zir* offences and “crimes against chastity”, all of which should not be criminalized under international law and standards, must, however, go to a competent court for investigation (Articles 306 and 340). Similarly, crimes committed by people aged under 15

⁹³ Working Group on Arbitrary Detention, *Report to the UN Economic and Social Council*, E/CN.4/2004/3/Add.2/Corr.1, para. 51, available at daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/161/33/PDF/G0316133.pdf?OpenElement

⁹⁴ The punishment of amputation is unlawful under international law and constitutes torture.

⁹⁵ Articles 306 and 340 of the new Code of Criminal Procedure state that adultery, “male-male anal penetration” (*lavat*) and “other crimes against chastity” as well as some *ta’zir* offences which are considered to be of a minor character shall go to a competent court for investigation. Similarly, crimes committed by persons under 15 years of age will be investigated by the Court of Children and Adolescents directly (Note 1 to Article 285).

will be investigated by the Court for Children and Adolescents (Note 1 to Article 285). These provisions raise concern that the judge who conducts the investigation and leads on the process of gathering evidence would also preside over the trial. This would violate the guarantee of judicial independence and impartiality.

4.2 LACK OF PROTECTION AGAINST COERCED STATEMENTS INCLUDING THOSE MADE AS A RESULT OF TORTURE OR OTHER ILL-TREATMENT

Lack of access to legal counsel during investigations, together with the use of incommunicado detention, has facilitated the use of illegal methods, including threats, blackmail, and torture and other ill-treatment, which are primarily aimed at obtaining “confessions” or incriminatory statements from detainees, including juveniles.

EXCLUSION OF EVIDENCE OBTAINED IN VIOLATION OF INTERNATIONAL STANDARDS

Statements and other forms of evidence obtained as a result of torture, other ill-treatment or other forms of coercion must be excluded in all proceedings.⁹⁶ The prohibition on evidence obtained as a result of torture or other ill-treatment derives from the norm of customary international law prohibiting torture or other ill-treatment, and is explicitly set out in Article 15 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), which Iran has yet to ratify. States must take particular care to ensure respect for children’s right to be free from compulsion to confess guilt or to incriminate themselves. The prohibition against coercion and compulsion has been interpreted broadly; it is not limited to the prohibition of physical force. Children in particular may be led to confess or incriminate themselves because of their age and state of development, deprivation of liberty, the length of interrogation, their lack of understanding, the fear of unknown consequences or imprisonment, or the promise of lighter sanctions or release.⁹⁷

An important safeguard against coerced self-incrimination is the right to remain silent during investigation and at trial. The UN Human Rights Committee has stated: “Anyone arrested on a criminal charge should be informed of the right to remain silent during police questioning”.⁹⁸ The Committee has also called for the right to remain silent to be enshrined in law and applied in practice.⁹⁹

⁹⁶ The only exception is evidence of abuse in a case against an alleged perpetrator of torture or other ill-treatment.

⁹⁷ CRC, General Comment 10, CRC/C/GC/10, para. 57, available at www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf

⁹⁸ Human Rights Committee, *Concluding Observations on France*, CCPR/C/FRA/CO/4, para. 14, available at www.refworld.org/docid/48c50ebe2.html

⁹⁹ Human Rights Committee, *Concluding Observations on Algeria*, CCPR/C/DZA/CO/3, para. 18, available at tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/DZA/CO/3

Other safeguards include independent scrutiny of the methods of interrogation to ensure that the evidence is given voluntarily given the totality of the circumstances, and is reliable. Courts should consider the age of the child as well as the length of custody and interrogation and the presence of legal or other representatives and parents or guardians during questioning.¹⁰⁰ A child should not be questioned unless a lawyer and a parent or guardian are present,¹⁰¹ as this can help deter coerced confessions.

Iran's Constitution declares in Article 38 that confessions extracted under duress are void and inadmissible. This is reiterated in Article 1(9) of the Law on Respect for Legitimate Freedoms and Protection of Citizens' Rights, which prohibits reliance on confessions extracted through torture; and Article 168 of the 2013 Islamic Penal Code, which deems a confession "admissible only if at the time of confession, the confessor is sane, pubescent, determined [to make the confession] and free."

Article 169 of the Islamic Penal Code provides that "a confession taken under coercion, force, torture, or mental or physical abuses or ill-treatment, shall not be given any validity and weight" and requires "the court to have the accused investigated again". Article 360 of the Code of Criminal Procedure allows courts to issue convictions based on confessions when they have been voluntarily given by the accused and there is no doubt about their accuracy.

Despite these guarantees, Iranian law does not specify: 1) who bears the burden of proving that a statement has been made voluntarily; or 2) what specific procedures, including medical examinations, judges and prosecutors must immediately and automatically follow where the accused alleges that a statement has been extracted under torture or other ill-treatment. These legal gaps, together with evidentiary rules in Iranian criminal law that give determinative weight to confessions,¹⁰² have often led to situations where investigators feel an incentive to use illegal methods, including torture, to coerce detainees to "confess" guilt.

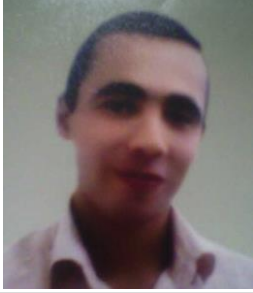
Detainees, including juvenile detainees, frequently complain that they are subject to threats, intimidation, torture and other ill-treatment during interrogations in order to "confess". In most cases, judges rely on "confessions" while ignoring allegations of compulsion, torture or other ill-treatment and fail to order the opening of an investigation. Sometimes, the authorities even threaten the accused with further torture and other ill-treatment if they seek to retract their confession or deny it. These concerns are well illustrated by the cases of **Hamid Ahmadi** and **Milad Azimi**, who suffered numerous violations of their right to a fair trial in the investigation and trial that led to a guilty verdict and death sentence; the full details of their conviction and sentencing are provided in chapter 3.

¹⁰⁰ CRC, General Comment 10, CRC/C/GC/10, para. 58.

¹⁰¹ UNGA, Resolution A/RES/67/187, Guideline 10, available at [daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/489/82/PDF/N1248982.pdf?OpenElement](https://www.un.org/doc/UNDOC/GEN/N12/489/82/PDF/N1248982.pdf?OpenElement)

¹⁰² Article 171 of the Penal Code states: "Whenever the accused confesses, the confession is valid against them and other evidence will not be followed."

HAMID AHMADI



Hamid Ahmadi was apparently arrested on 5 May 2008 after he contacted the police to report a stabbing, in which he said he had no direct role. He was 17 years old at the time. He was held for three days in an apparently filthy, urine-stained cell in Siahkal's police station without access to a lawyer and his family, who were searching for him in different prisons. He said that, during this period, police officers pushed him face down on the cell's floor, which was covered with foul-smelling water; tied his hands and feet together in a painful manner; attached him to a pole in the detention centre's yard; kicked his genitals; and denied him food and water. One officer allegedly told him that he should not fear execution and should just confess so that the investigation could be concluded as soon as possible. He said that the pain they inflicted on him was such that he was ready to confess to anything.

During the retrial, Hamid Ahmadi stated that police had tortured and otherwise coerced him into "confessing". It appears the court did not investigate his allegations of torture and instead relied on his "confession" and circumstantial evidence to convict him, in March 2010, of murder and sentence him to death. The court used the principle in Iranian law of "knowledge of the judge", which allows judges to convict an accused based on their subjective view, even when facts do not satisfy the threshold of "guilt beyond reasonable doubt", the internationally recognized standard of proof in criminal cases. Branch 27 of the Supreme Court upheld the verdict in November 2010.

MILAD AZIMI



Milad Azimi was arrested on 11 December 2013 and was held in a police station (*agahi*) in the western Kermanshah Province for 15 days. During this time he said he was tortured and otherwise ill-treated to "confess" including by being flogged. He was denied access to a lawyer and was only allowed to see his family six days after his arrest, when he was taken to the Office of the Prosecutor. He retracted his "confessions" before the prosecutor and at trial, saying it had been extracted through torture. No investigation into his allegations of torture are known to have been carried out.

During interrogations, conducted without a lawyer present, Milad Azimi said at first that another young man had stabbed the man who was killed. He later "confessed" to stabbing the man after an argument over a girl escalated into a fight. He stressed his situation at the time though, saying: "I did so in a state of extreme anger... and under circumstances where I had lost control over myself and did not understand what I was doing." He added that he had stabbed the man in self-defence, with no intention to kill. At his trial in May 2015, Milad Azimi again retracted his "confession", saying he had made it under duress.

4.3 TORTURE AND OTHER ILL-TREATMENT

Continuing reports regarding the use of mental and physical torture, as documented by Amnesty International and other human rights bodies including the UN Special Rapporteur on the situation of human rights in Iran, indicate that torture and other ill-treatment are widely and systematically practised in Iran's justice system, including against juvenile detainees.¹⁰³

PROHIBITION OF TORTURE AND OTHER ILL-TREATMENT

The right to freedom from torture and other ill-treatment or punishment is absolute. It is a norm of customary international law that applies to all people, in all circumstances,¹⁰⁴ and it may never be restricted, including during times of war or states of emergency.¹⁰⁵ The prohibition against torture and other ill-treatment is formulated in absolute terms in Article 7 of the International Covenant on Civil and Political Rights, to which Iran is a state party. The prohibition against torture and other ill-treatment includes acts which cause mental as well as physical suffering. Article 1 of the Convention against Torture defines torture as:

[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Solitary confinement imposed on children violates the prohibition of torture and other ill-treatment. Rule 67 of the UN Rules for the Protection of Juveniles Deprived of their Liberty states: "All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned."

¹⁰³ See Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, A/69/356, para. 16, available at shaheedoniran.org/wp-content/uploads/2014/09/A-69-356-SR-Report-Iran.pdf; Amnesty International, *Iran: No Progress on human rights – Submission to the UN Universal Periodic Review, October – November 2014* (Index: MDE 13/034/2014), available at www.amnesty.org/en/documents/MDE13/034/2014/en/

¹⁰⁴ See Convention against Torture, Article 2(2).

¹⁰⁵ See Human Rights Committee, General Comment 20, *Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, para. 3, available at www.refworld.org/docid/453883fb0.html; Committee Against Torture, General Comment 2, *Implementation of Article 2 by States Parties*, CAT/C/GC/2, para. 5, available at www.refworld.org/docid/47ac78ce2.html

Individuals who have been subjected to torture and other ill-treatment must have accessible and effective remedies. In particular, states must ensure that allegations are promptly, impartially and thoroughly investigated, that victims have access to an effective remedy and receive reparation, and that those responsible are brought to justice.¹⁰⁶

Iran's Constitution prohibits torture, albeit only when it is "for the purpose of extracting confession or acquiring information" (Article 38) and bans all affronts to the dignity of detained or imprisoned persons (Article 39).

This prohibition is reiterated in the new Code of Criminal Procedure, which bans the use of "force, coercion, insulting language, leading questions and questions irrelevant to the charges at issue" during interrogations (Article 60). In these laws, statements extracted in violation of the provisions banning torture are considered invalid.

Iranian law, however, fails to put in place an adequate framework in order to ensure that allegations of torture and other ill-treatment are promptly, impartially and thoroughly investigated, that victims have access to an effective remedy and receive reparation, and that those responsible receive proportionate punishments commensurate with the gravity of the torture suffered.

This is partly due to laws that prohibit torture in general terms but do not recognize a specific crime of torture, with prescribed penalties corresponding to its grave nature.¹⁰⁷ Article 578 of the 2013 Islamic Penal Code provides, "any civil servant or judicial or non-judicial agent who corporally mistreats and abuses an accused person in order to force him to confess" shall face, in addition to "retribution in kind" (*qesas*) and "payment of blood money" (*diyah*), a "prison sentence of between six months and three years".

In practice, torture and other ill-treatment, particularly during pre-trial detention, remain prevalent in Iran's criminal justice system and are committed with impunity. Forced "confessions" extracted through torture and other ill-treatment are commonly admitted as evidence in trial, including in juvenile death penalty cases. Detainees, including juvenile detainees, frequently complain of threats, intimidation and other forms of torture and other ill-treatment, during interrogations. In most cases, allegations of torture or other ill-treatment, including to obtain "confessions", are ignored and judges fail to order the opening of an investigation. Sometimes the authorities threaten the accused with further torture and other ill-treatment if they seek to retract their confession or deny it.

In a letter seen by Amnesty International, juvenile offender Saman Naseem, now 23, whose case was described above, gives an account of how he was tortured when he was 17 years old, part of which is reproduced below.

¹⁰⁶ See Universal Declaration, Article 8, International Covenant on Civil and Political Rights, Articles 2 and 7, and Convention against Torture, Articles 12-14. See also Human Rights Committee, General Comment 31, *The nature of the general legal obligation imposed on States Parties to the Covenant*, CCPR/C/21/Rev.1/Add.13, paras 15-16, available at www.refworld.org/docid/478b26ae2.html

¹⁰⁷ See Amnesty International, *Combating torture: a manual for action* (Index: ACT 40/001/2003), p. 171, available at www.amnesty.org/en/documents/act40/001/2003/en/

AN ACCOUNT OF TORTURE



Torture started as soon as I entered the cell. The cell itself had been designed with the sole aim of inflicting psychological torture: it was just 2m long and 50cm wide, with a toilet. Its height was only 60cm so I had to lie down all the time. There was a camera over my head which recorded all my movements, even when I was using the toilet.

That was the start of 97 days of torture and suffering. During those first days, the level of torture was so high that I was left unable to walk. My entire body was black and blue. They hung me from my hands and feet for hours. I was blindfolded the whole time. I could not see the interrogators and torturers.

They used all kinds of inhumane and illegal methods to try and extract confessions from me. They repeatedly told me that they had arrested members of my family including my father, my mother, and my brother. They told me that they would bury me with a digger. They told me that they would kill me right there and would cover my grave with cement.

When I wanted to sleep at night, they would not let me rest. They would make noises in different ways, including by constantly banging on the door. I was between madness and consciousness. All 97 days passed like this. I was 17 years old.

Places of detention

One of the fundamental guarantees for the protection of juvenile detainees against torture and other ill-treatment is the requirement that children are held in separate facilities from adults, which include distinct, child-centred personnel, policies and practices.¹⁰⁸ This requirement must apply at all times, whether the child is detained following arrest, awaiting trial or serving a sentence.¹⁰⁹

Under the new Code of Criminal Procedure, juveniles accused of certain serious crimes, including crimes punishable by death and amputation, and crimes against national security that are punishable by *ta'zir* penalties of degree five and higher, can be subjected to pre-trial detention. The law requires, however, that they be held in juvenile detention facilities known as Centres of Correction and Rehabilitation, run by the Organization of State Prisons and Security and Corrective Measures (Article 287). It remains to be seen to what extent this requirement, together with the provisions discussed above, are respected in practice.

¹⁰⁸ CRC, General Comment 10, CRC/C/GC/10, para. 85, available at www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf; UN General Assembly, Resolution 40/33 of 29 November 1985, A/RES/40/33, available at www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf; UN General Assembly, Resolution 45/113 of 14 December 1990, A/RES/45/113, available at www.un.org/documents/ga/res/45/a45r113.htm

¹⁰⁹ HRC, General Comment 17, *Article 24*, para. 2, available at www.refworld.org/docid/45139b464.html

4.4. VIOLATION OF THE RIGHT TO APPEAL

Until the new Code of Criminal Procedure came into effect, those convicted of capital drug-related offences had no right under Iranian law to appeal their conviction and sentence. Article 32 of the Anti-Narcotics Law simply stated that death sentences passed under this law were subject to confirmation either by the Head of the Supreme Court or the Prosecutor General, who were entitled to revise or quash the sentence if they found that it contravened Islamic law or the judge was not competent.¹¹⁰ The new Code of Criminal Procedure revoked Article 32, opening the way for those convicted of capital drug-related offences to appeal their conviction and sentence to the Supreme Court (Article 570). However, it is not clear whether this amendment can be applied retroactively to people whose death sentences have been already approved.

RIGHT TO APPEAL

Anyone sentenced to death has the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals are mandatory.¹¹¹ The right to appeal is an essential element of a fair trial, aiming to ensure that a conviction resulting from prejudicial errors of law or fact, or breaches of the accused's rights does not become final.¹¹² The higher court that hears the review must be a competent, independent and impartial court, established by law.¹¹³ The right to appeal is violated if the higher reviewing body is an executive body rather than a court.¹¹⁴

In order to ensure an effective remedy and reparation for violations of the right to a fair trial, as required by international standards, procedures should be put in place at the national level to ensure that criminal proceedings can be reopened in cases where the rights of the accused have been violated.¹¹⁵

¹¹⁰ Article 32 states: "Death sentences issued by virtue of this act shall be final and enforceable after the endorsement of the Chairman of the Supreme Court or the Prosecutor General."

¹¹¹ ECOSOC, Resolution 1984/50, para. 6, available at www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx

¹¹² See, for example, IACHR, *Barreto Leiva v. Venezuela* (Judgement), 2009, para. 88; IACHR, *Herrera-Ulloa v Costa Rica* (Judgement), 2004, paras 158, 163 (IACHR, *Herrera-Ulloa v Costa Rica*).

¹¹³ See, for example, IACHR, *Castillo Petruzzi et al v. Peru*, Application no. 52/1999 (Judgement), para. 161; IACHR, *Herrera-Ulloa v Costa Rica* (Judgement), 2004, paras 169-175; IACHR, *Report on Terrorism and Human Rights* (2002), OEA/Ser.L/V/II.116, Section III.D, para. 239.

¹¹⁴ See, for example, African Commission on Human and Peoples' Rights (ACHPR), *Media Rights Agenda v. Nigeria* (224/98), African Commission, 14th Annual Report, 2000, para. 46; ACHPR, *Civil Liberties Organisation v. Nigeria* (151/96), African Commission, 13th Annual Report, 1999, para. 22.

¹¹⁵ International Covenant on Civil and Political Rights, Article 2(3). See also UN General Assembly, Resolution 60/147 of 16 December 2005, A/RES/60/147, Principle 19, available at www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx

The UN Human Rights Committee has concluded that a death sentence passed after an unfair proceeding violates both the right to life¹¹⁶ and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.¹¹⁷

4.5 PARDON AND COMMUTATION

Under Iranian law, individuals sentenced to death for murder and capital *hodud* crimes do not have the right to seek pardon or commutation as guaranteed under international law for anyone facing the death penalty. *Hodud* crimes are regarded as crimes against God for which there are fixed divine punishments; as such, they are not open to pardon by the Supreme Leader.

In cases of murder, the power to pardon rests with the family of the murder victim. The family can also choose to forgive the culprit or accept payment of “blood money” (*diyah*) instead. Sentences in such *qesas* cases are not open to pardon or amnesty by the Supreme Leader. This system creates opportunities for extortion and places individuals from poorer families, who are unable to raise the amount of “blood money” (*diyah*) demanded, at greater risk of execution.

RIGHT TO SEEK PARDON OR COMMUTATION

Everyone sentenced to death has the right to seek pardon or commutation.¹¹⁸ The International Court of Justice has considered that such clemency procedures, though carried out by the executive rather than the judiciary, are an integral part of the overall system for ensuring justice and fairness in the legal process.¹¹⁹

Respect for the right to seek pardon or commutation requires a fair and adequate procedure that accords the opportunity to present all favourable evidence relevant to the granting of clemency,¹²⁰ and gives the competent official(s) the power to grant pardons or commute death sentences. Legal aid should be available for such requests.¹²¹

The UN Special Rapporteur on extrajudicial executions has stated that, while Islamic law provisions that allow victims' families to accept payment in lieu of a death sentence are not necessarily inconsistent with international human rights law, they must operate in a manner that is not discriminatory and does not violate

¹¹⁶ Human Rights Committee (HRC), *Mbenge v. Zaire*, Communication no. 16/1977, A/38/40 Supp. No. 40, 25 March 1983, paras 14.1-14.2, 17; HRC, *Idieva v. Tajikistan*, Communication no. 1276/2004, CCPR/C/95/D/1276/2004, 23 April 2009, paras 9.2-9.7; HRC, *Aliiev v. Ukraine*, Communication no. 781/1997, CCPR/C/78/D/781/1997, 18 September 2003, paras 7.2-7.4.

¹¹⁷ HRC, *Larrañaga v. Philippines*, Communication no. 1421/2005, CCPR/C/87/D/1421/2005, 14 September 2006, para. 7.11; HRC, *Mwamba v. Zambia*, Communication no. 1520/2006, CCPR/C/98/D/1520/2006, 30 April 2010, para. 6.8.

¹¹⁸ International Covenant on Civil and Political Rights, Article 6(4); ECOSOC, Resolution 1984/50, para. 7, available at www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx

¹¹⁹ International Court of Justice, *Avena case (Mexico v. United States)* (Judgement), 2004, para. 142. See also IACHR, *Fermín Ramírez v. Guatemala* (Judgement), 2005, para. 109.

¹²⁰ IACHR, *Hilaire and Others v. Trinidad and Tobago* (Judgement), 2002, paras 184-189.

¹²¹ UNGA, Resolution A/RES/67/187, Guideline 6, para. 47(c), available at daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/489/82/PDF/N1248982.pdf?OpenElement

the right to due process, including the right to seek from the state a pardon or commutation of sentence. Examples of impermissible discrimination include systems where only wealthy individuals are able to buy back their freedom or life, and systems that set different levels of compensation on prohibited grounds, for example depending on whether the victim is a woman or a non-Muslim. The UN Special Rapporteur has stated: "Where the diyah pardon is available, it must be supplemented by a separate, public system for seeking an official pardon or commutation."¹²²

The UN Human Rights Committee considered that the preponderant role of the victim's family in deciding whether or not the death penalty is carried out on the basis of financial compensation violates the International Covenant on Civil and Political Rights.¹²³

In many cases, families of murder victims agree to stay a condemned person's execution and pardon them in return for "blood money" (*diyah*) after months and years of pleading, thereby exposing the condemned prisoner, including juvenile offenders, to long periods on death row. In addition, every year there are reports about families of murder victims who decide to pardon the condemned prisoner at the very last minute when the noose is around the prisoner's neck. Such treatment amounts to torture and other cruel, inhuman and degrading treatment. The Iranian authorities point to last-minute stays of execution as a positive example of forgiveness, without giving adequate consideration to its adverse impact on the mental health of convicted juvenile offenders and other prisoners sentenced to death in the context of *qesas*.

¹²² Special Rapporteur on extrajudicial executions, A/61/311, paras 55-63, available at www.extrajudicialexecutions.org/application/media/Report%20A_61_311.pdf

¹²³ Human Rights Committee, *Concluding Observations on Yemen*, CCPR/CO/84/YEM, para. 15, available at www.refworld.org/docid/43f2ff750.html

5. CONCLUSIONS AND RECOMMENDATIONS

For decades UN human rights bodies and NGOs have condemned Iran's use of the death penalty against juvenile offenders and urged the authorities to end the practice. The adoption of a new Islamic Penal Code in May 2013 sparked cautious hopes that the situation would finally begin to show at least some improvement in practice, even though the new Code continues to stand in stark violation of international law when it comes to the imposition of the death penalty on juvenile offenders. The hopes stemmed from the inclusion of a provision in Article 91 that allows judges to replace the death penalty with an alternative punishment if they find that a juvenile offender convicted of murder or *hodud* offences did not understand the nature of the crime or its consequences at the time of commission or there are doubts about his or her "mental maturity and development". The hopes were reinforced by a decision by the General Board of Iran's Supreme Court in January 2014 that confirmed the Court's resolve to grant a retrial to any juvenile offender who submits to it an "application for retrial".

However, over the past two years several developments have dashed these hopes. The authorities have continued to schedule and carry out executions of juvenile offenders, without informing them of their right to file an "application for retrial" or ensuring that they can in practice pursue this route. Even when a retrial based on Article 91 has happened, in several cases the judge has concluded that the juvenile offender was mature and understood the consequences of his or her action, and therefore ruled that they deserved the death penalty.

Under international law, including the Convention on the Rights of the Child and International Covenant on Civil and Political Rights, which are binding on Iran, juvenile offenders must never be sentenced to death, irrespective of their real or supposed maturity. In addition, such conclusions rest on an ongoing presumption of adult maturity for female and male offenders at the age of nine and 15 lunar years, respectively, which themselves violate international law. There are currently no uniform policies and practices on the standards of proof needed to rebut this presumption. In cases researched by Amnesty International, courts focused on whether the juvenile offender knew right from wrong and had a sufficient degree of reason to make a sound decision. Sometimes, they also conflated the issue of lesser culpability of juveniles because of their lack of maturity, with the diminished responsibility of individuals with intellectual disabilities or mental illness, concluding that the juvenile offender was not "afflicted with insanity", and therefore deserved the death penalty.

Juvenile offenders convicted of *qesas* or *hodud* offences currently remain at risk of the death penalty even when their "applications for retrial" are granted. The cases and developments highlight the continuing and urgent need for laws that will categorically prohibit the use of the death penalty against juvenile offenders in Iran.

Juvenile offenders convicted of drug-related offences also remain at risk of facing the death penalty. The Iranian authorities have disputed that the death penalty is used for drug-related

offences committed by people under 18 years of age. However, it appears that some juvenile offenders, particularly Afghan nationals, have been sentenced to death by Revolutionary Courts for drug-related offences either because they had no identification documents proving their age or because they did not know that their age was relevant to the proceedings.

Amnesty International notes with concern the failure of the Iranian authorities to ensure that if there is doubt about whether an individual was under 18 at the time of the crime, the individual is presumed to be a child, unless the prosecution proves otherwise.

The prohibition in the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights on the use of the death penalty against juvenile offenders is absolute and is recognized as a peremptory norm of customary international law, binding on all states and permitting no derogations. It is deplorable that, two decades on from Iran's ratification of the Convention on the Rights of the Child, the Iranian authorities continue to show utter disregard for this fundamental principle of international law.

Amnesty International urges the Iranian authorities to implement the following recommendations to respect the human rights of juvenile offenders, including their right not to be arbitrarily deprived of life, and honour this and other obligations under international law, including the prohibition on torture or other cruel, inhuman or degrading treatment, to ensure fair trials within the criminal justice system, not to sentence people to death for crimes other than intentional killing, and comply fully with their treaty obligations including the International Covenant on Civil and Political Rights and Convention on the Rights of the Child and related international standards.

TO THE LEGISLATURE

Death penalty

- Urgently amend Article 91 of the 2013 Islamic Penal Code to explicitly prohibit the use of the death penalty for crimes committed by people below 18 years of age;
- Remove from the scope of the death penalty any offence other than intentional killing, with a view to abolishing the death penalty altogether, and ensure that all those who have been sentenced to death for other offences, in particular for drugs offences, have their sentences commuted accordingly;
- Adopt laws to ensure that anyone sentenced to death, including under the principle of "retribution in kind" (*qesas*), can seek pardon or commutation from state authorities, irrespective of their financial status, in line with Iran's obligations under Article 6(4) of the International Covenant on Civil and Political Rights, and ensure that such applications are given meaningful consideration by the relevant state authorities;

Age of criminal responsibility

- Urgently revise Article 147 of the 2013 Islamic Penal Code to distinguish between the minimum age of criminal responsibility and the age from which an individual can be held culpable as an adult – which must be no lower than 18 years – without discrimination between girls and boys, and in line with Article 1 of the Convention on the Rights of the Child;
- Make the minimum age of criminal responsibility for girls the same as that for boys, which is currently set at 15 lunar years;

Fair trial rights

- Repeal Note to Article 48 of the Code of Criminal Procedure, which only allows individuals charged with national security offences and some other serious crimes to select their lawyer from a roster of lawyers approved by the Head of the Judiciary, in breach of the right to access an independent lawyer of one's own choice;
- Revise Chapter 9 of the Code of Criminal Procedure, entitled "Investigation of Juvenile Crimes", to strictly prohibit investigators and prosecutors from interviewing juvenile suspects in the absence of their lawyer, and to require that children in detention are granted access to an independent doctor and a family member from the outset of their detention and that interrogations of all suspects, adults as well as children, are electronically recorded;
- Amend Article 190 of the Code of Criminal Procedure to ensure that no evidence obtained through torture and other ill-treatment is admissible in any proceedings, and introduce regulations and specific procedures, including medical examinations, that judges and prosecutors must immediately and always follow where the accused alleges that a statement has been extracted under torture or other ill-treatment;
- Adopt legislation to define torture as a crime in accordance with Article 1(1) of the Convention against Torture;
- Amend Note 1 to Article 285 of the Code of Criminal Procedure in order to ensure that judges presiding over the trial of people under 15 years of age do not participate in the process of gathering evidence and other preliminary investigations, which would violate guarantees of independence and impartiality of the courts;

Reservation

- Withdraw Iran's general reservation to "the articles and provisions of the Convention that are incompatible with Islamic Laws"; such a general reservation is not compatible with the object and purpose of the Convention on the Rights of the Child.

TO THE JUDICIARY

Moratorium and abolition

- Immediately halt the execution of juvenile offenders;
- Establish an official moratorium on executions with a view to abolishing the death penalty;

Implementation of Article 91 of the 2013 Islamic Penal Code

- Commute, without delay, the death sentences imposed on all juvenile offenders in line with Iran's obligations under international law;
- Issue a circular ordering judges responsible for the implementation of death sentences to refer the cases of all juvenile offenders on death row for retrial in accordance with the principles of juvenile justice and without recourse to the death penalty or life sentences;
- Inform all juvenile offenders on death row, and their families, of their right to submit an "application for retrial" to the Supreme Court based on Article 91 of the 2013 Islamic Penal Code, and take all legal, financial and other measures necessary to ensure that they can exercise it in practice;
- Collect and make publicly available data on the disposition of juvenile death penalty cases that undergo retrial based on Article 91 of the Islamic Penal Code, disaggregated by age, gender, location, year and other factors that can lead to disparities;

Drug-related offences

- Commute all death sentences imposed for drug-related offences, to ensure compliance with international law and standards that limit the use of the death penalty to the "most serious crimes", that is crimes involving intentional killing;
- Take immediate steps to implement Article 315 of the Code of Criminal Procedure in order to ensure that all juvenile offenders charged with drug-related offences are tried in specialized juvenile courts and, if convicted, receive age-appropriate sentences, in line with the principles of juvenile justice and without recourse to the death penalty or life imprisonment;
- Review policies and practices to ensure that children belonging to marginalized communities, including Afghan nationals, are not discriminated against when facing prosecution for drug-related offences and are given a fair trial before a specialized juvenile court;

National security-related offences

- Ensure that all death sentences imposed for national security-related offences committed by people under 18 years of age are immediately quashed based on Article 91 of the Islamic Penal Code and that such cases are retried by juvenile courts, in accordance with the principles of juvenile justice and without recourse to the death penalty or life imprisonment;

Conduct of juvenile proceedings

- Take all measures necessary to guarantee that juvenile proceedings meet, as a minimum, the international standards for fair trial, as laid down in Article 14 of the International Covenant on Civil and Political Rights;
- Ensure that the setting and conduct of juvenile criminal proceedings take into account the child's age, maturity, intellectual and emotional capacity, and pay attention to the impact of prior abuse and the health needs of children, including the specific impact on girls;
- Ensure that, if there is doubt about whether an individual was under 18 at the time of the crime, the individual is presumed to be a child, unless the prosecution proves otherwise;
- Require all judges involved in the application of Article 91 to undergo specialized training on how to take into account the needs of children and their developmental status, intellectual and emotional capacity, and rehabilitative potential, in a manner consistent with Iran's obligations under the Convention on the Rights of the Child which forbids the imposition of death sentences and life imprisonment for offences committed by persons below 18 years of age;
- Take affirmative measures to ensure that parents and legal guardians receive notice of their child's arrest;
- Take all measures necessary to fully implement Article 190 of the new Code of Criminal Procedure, ensuring that individuals deprived of their liberty, including those suspected of security-related crimes, are granted prompt access to an independent lawyer of their choice from the moment of arrest;
- Take all steps necessary to prohibit, prevent and punish all forms of violence and abuse against children, including methods of interrogation constituting torture or other cruel, inhuman or degrading treatment or punishment; and provide full, prompt reparation for survivors of torture and other ill-treatment and their relatives, including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation, as well as measures of satisfaction and guarantees of non-repetition, in accordance with international law and standards;
- Take all measures necessary to implement Article 169 of the Islamic Penal Code, ensuring that coerced confessions are not admitted as evidence and that all

allegations of torture and other ill-treatment are investigated promptly, independently, impartially and effectively, and, where sufficient admissible evidence of offences is found, those suspected of such actions are prosecuted in proceedings that adhere to international fair trial standards;

- Guarantee in law and practice that children deprived of their liberty are held separately from adults at all times (with the exception of young children accommodated with their mothers), whether they are detained following arrest, awaiting trial or serving a sentence;
- Require police, prosecutors, legal representatives, judges and others who work with children in conflict with the law to attend specialized training on how to take into account the needs of children and their developmental status, intellectual and emotional capacity, and rehabilitative potential;

Transparency

- Publish in a format accessible to the general public comprehensive, disaggregated data on the past use of the death penalty against people who were under 18 at the time of the crime for which they were convicted; the data should indicate: (a) the nature of the crime, and when and where it was committed; (b) the age, gender and ethnicity of the person convicted; (c) which court convicted them; and (d) whether the conviction and sentence are awaiting appeal or have been confirmed;
- Publish and make available to the UN Committee on the Rights of the Child the number and identities of all persons executed in the past in Iran for crimes committed when they were younger than 18;
- Refrain from suppressing and censoring voices in the media and civil society that oppose the death penalty.

TO THE MINISTER OF FOREIGN AFFAIRS

- Facilitate as a matter of priority the outstanding request from the UN Special Rapporteur on the situation of human rights in Iran, and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions to visit Iran.

TO THE INTERNATIONAL COMMUNITY, INCLUDING STATES CONSIDERING BUSINESS AGREEMENTS WITH IRAN

- Urge the Iranian authorities to abolish the use of death penalty against juvenile offenders;
- Use all available diplomatic channels to raise with the Iranian authorities the cases of juvenile offenders identified in this report and urge them to immediately commute their death sentences.

APPENDIX I: EXECUTIONS OF JUVENILE OFFENDERS REPORTED FROM 2005 TO 2015

No.	Name	Age at time of alleged offence	Age at time of execution	Date of execution	City, Province	Additional details
2005						
1	Iman Farrokhi	17	22	19/01/2005	Tehran, Tehran	Iman Farrokhi was sentenced to death under <i>qesas</i> after he was convicted of stabbing a man to death in October 2000. Branch 4 of the Supreme Court upheld the death sentence in 2004 and he was executed on 19 January 2005.
2	Ali Safarpour Rajabi	16	20	13/07/2005	Pol-e Dokhtar, Lorestan	Ali Safarpour Rajabi was executed after he was convicted of killing Hamid Enshadi, a police officer, in Pol-e Dokhtar, Lorestan Province, western Iran. He was 16 when arrested and 17 when sentenced to death.
3	Mahmoud Asgari	15 or 16	16 or 17	19/07/2005	Mashhad, Khorasan	A member of Iran's Arab minority, Mahmoud Asgari was publicly hanged in a square in Mashhad, in the north-eastern Khorasan Province, after he was convicted, together with Ayaz Marhoni, of having "forced male-male anal penetration" (<i>lavat be onf</i>) with a 13-year-old boy. The true nature of the alleged crime is disputed. They were flogged 228 times before their execution for drinking alcohol, theft and causing public disorder. Photographs of the two boys being transported to their execution and of the execution were publicized, prompting international condemnation. One photo shows them crying while being interviewed by journalists en route to their hanging. Another shows them dangling from the crane. Witnesses said it took around 20 minutes for Ayaz Marhoni and Mahmoud Asgari to die.

4	Ayaz Marhoni	16 or 17	17 or 18	19/07/2005	Mashhad, Khorasan	A member of Iran's Arab minority, Ayaz Marhoni was publicly hanged with Mahmoud Asgari (see above).
5	Farshid Farighi	14	21	01/08/2005	Bandar Abbas, Hormozgan	Farshid Farighi was hanged in the southern city of Bandar Abbas. He was convicted of stabbing to death five men, reported to be taxi drivers, in separate incidents. The first of the killings was in 1998 when Farshid Farighi was 14 years old. He was reportedly arrested in 2000 when he was 16. He was flogged before he was executed.
6	Name unknown	<18	17	23/08/2005	Bandar Abbas, Hormozgan	According to <i>Kayhan</i> newspaper, at least one youth (name unknown) was among four men under the age of 23, named only as A.P., B.K., H.K. and H.J., who were executed in public on 23 August 2005 in Bandar Abbas, <i>Kayhan</i> reported that H.K. and H.J. had been convicted of kidnapping and rape, and that A.P. and B.K. had been convicted of rape and theft. All were reported to have been flogged before they were executed.
7	Name unknown	17	22	12/09/2005	N/A	A man (name unknown) in southern Fars Province was reported to have been hanged at dawn in public in Fars Province. He had been apparently sentenced to death for rape in 2000.
8	Rostam Tajik	16	20	10/12/2005	Esfahan, Esfahan	Rostam Tajik, an Afghan national, was executed in public in Esfahan on 10 December 2005. The previous day the UN Special Rapporteur on extrajudicial, summary or arbitrary executions had called on the Iranian authorities not to proceed with the execution. Rostam Tajik had been sentenced to death by Branch 9 of the General Court of Esfahan for the murder of a woman, Nafiseh Rafi'i, in May 2001 when he was 16 years old.
2006						
9	Majid Segound (Sagvand)	17	17	13/05/2006	Khorramabad, Lorestan	Majid Segound was 17 when he was executed in public in Khorramabad, Lorestan Province, along with an unnamed 20-year-old man. According to local press reports, the two had abducted, raped and murdered a 12-year-old boy, Kamran, in April 2006.

						Majid Segound and the unnamed man reportedly confessed to the crime during interrogation. The two were tried in an "extraordinary session", a process which is often used in cases where the authorities deem the crime to have gravely disturbed the public minds. They were executed just one month after the murder.
10	Sattar	17	18	09/2006	Islamshahr, Tehran	Sattar was apparently sentenced to death by a court in Tehran on 26 January 2005 for the murder of a man named as Mahmoud in Islamshahr, southern Tehran. The killing allegedly took place during a fight several months earlier.
11	Morteza M.	16	18	07/11/2006	Meybod, Yazd	Morteza M. was apparently hanged in public in Yazd Province on 7 November 2006. According to media reports, he was 18 at the time of execution and had been sentenced to death under <i>qesas</i> for the murder of his friend two years earlier.
12	Naser Batmani	17	22	12/2006	Sanandaj, Kordestan	Naser Batmani was hanged in Sanandaj Prison, Kordestan Province, in late December 2006 for a murder allegedly committed when he was 17, according to the Kurdistan Human Rights Organization. He was executed after serving a five-year prison sentence.
2007						
13	Mohammad Mousawi	16	19	22/04/2007	Shiraz, Fars	Mohammad Mousawi was apparently hanged without his family being notified. According to media reports, he was sentenced to death under <i>qesas</i> for a murder committed when he was 16.
14	Sa'id Qanabar Zahi	17	18	27/05/2007	Zahedan, Sistan and Baluchestan	A member of Iran's Baluchi minority, Sa'id Qanabar Zah was sentenced to death at the age of 17 along with six other Baluchi men in March 2007. The seven may have been arrested because of their family ties to people suspected of involvement in blowing up a bus carrying members of the Revolutionary Guards on 14 February 2007 in Zahedan, in which at least 14 people were killed. Unconfirmed reports suggest Sa'id Qanabar Zahi and the six others

						were tortured to “confess” including by having bones in their hands and feet broken, by being “branded” with a red-hot iron, and by having an electric drill applied to their limbs, shredding their muscles.
15	Mohammad Pezhman	<18	N/A	29/05/2007	Boushehr, Boushehr	Mohammad Pezhman was sentenced to death by Boushehr Criminal Court for rape; the death sentence was upheld by the Supreme Court.
16	Amir Asgari	<18	N/A	10/10/2007	Tehran, Tehran	N/A
17	Hossein Gharabaghloo	16	19	17/10/2007	Tehran, Tehran	Hossein Gharabaghloo was sentenced to death under <i>qesas</i> by Branch 71 of Tehran General Court after he was convicted of stabbing his friend Mahmoud to death during a fight on 1 December 2004 in Robat-e Karim, near Tehran. The death sentence was upheld by Branch 31 of the Supreme Court on 13 December 2006.
18	Babak Rahimi	17	22	17/10/2007	Tehran, Tehran	Babak Rahimi was sentenced to death under <i>qesas</i> after he was convicted of murder by suffocation of his roommate on 12 January 2002.
19	Name unknown	<18	N/A	10/2007	N/A	The Afghanistan Independent Human Rights Commission (AIRHC) reported in early October 2007 that two Afghan children had recently been executed.
20	Name unknown (2)					
21	Mohamad Reza Turk	16	18	15/11/2007	Hamedan, Hamedan	Mohammad Reza Turk from Hamedan was executed for a murder allegedly committed in November 2005, when he was aged 16.
22	Makwan Moloudzadeh	13	21	04/12/2007	Kermanshah, Kermanshah	A member of Iran’s Kurdish minority, Makwan Moloudzadeh was sentenced to death for having “forced male-male anal penetration” with a 13-year-old boy. He retracted his “confession” in court, saying it had been extracted under torture (see chapter 3 for further details).
23	Amir Hoshang Fazlollahzadeh	16	N/A	31/12/2007	Tonekabon, Mazandaran	N/A
2008						
24	Javad Shoja’i	16	24	26/02/2008	Esfahan, Esfahan	Javad Shoja’i was executed in a prison yard in Esfahan. He was sentenced to death under <i>qesas</i> for murder. The Supreme Court upheld the sentence.

82 GROWING UP ON DEATH ROW
THE DEATH PENALTY AND JUVENILE OFFENDERS IN IRAN

25	Mohammad Hassanzadeh	15	16 or 17	10/06/2008	Sanandaj, Kordestan	Mohammad Hassanzadeh was hanged in Sanandaj Prison following his conviction for the murder of a 10-year-old boy.
26	Rahman Shahidi	<18		22/07/2008	Boushehr, Boushehr	Both were sentenced to death by Boushehr Criminal Court for rape; the Supreme Court upheld the sentences.
27	Hassan Mozafari					
28	Behnam Zare'	15	19	26/08/2008	Shiraz, Fars	Behnam Zare' was sentenced to death under <i>qesas</i> by Branch 5 of Fars Criminal Court after being convicted of murder. The sentence was upheld by the Supreme Court and confirmed by the Head of the Judiciary. Neither his parents nor his lawyer was notified in advance of his execution.
29	Reza Hejazi	15	20	19/08/2008	Esfahan, Esfahan	Reza Hejazi was among a group of people allegedly involved in a fight on 18 September 2004 that resulted in a man being fatally stabbed. He was tried for murder and on 14 November 2005 sentenced to death under <i>qesas</i> by Branch 106 of the Esfahan General Court. Branch 28 of the Supreme Court in Mashhad approved the sentence on 6 June 2006. On 18 August 2008 Reza Hejazi's family learned of the impending execution and notified his lawyer. The lawyer reached Esfahan Prison at 4.30am the next day; guards told him that executions normally take place between 7am and 8am. He tried to secure a stay of execution and at around 10am the judicial official supervising executions told him that Reza Hejazi's execution had been halted. On his way back to his office, he was informed that Reza Hejazi had been hanged at 11am.
30	Gholamreza H.	17	19	29/10/2008	Esfahan, Esfahan	Gholamreza H., an Afghan national, was sentenced to death under <i>qesas</i> by Branch 17 of the Criminal Court in Esfahan after being found guilty of stabbing to death another Afghan boy, Shir-Agha Hosseini, on 29 November 2006. He is reported to have confessed to the killing, stating that the victim had been harassing his sister and insulting his honour.
31	Ahmad Zare	17	N/A	30/12/2008	Sanandaj, Kordestan	Ahmad Zare was sentenced to death under <i>qesas</i> after he was convicted of

						<p>killing a man in a village on the outskirts of Sanandaj, Kordestan Province.</p>
2009						
32	Mola Gol Hassan	<18	21	21/01/2009	Tehran, Tehran	<p>Mola Gol Hassan was sentenced to death under <i>qesas</i> after he was convicted of killing a woman named as Fakhroddin while trying to steal money from her.</p>
33	Delara Darabi	17	22	01/05/2009	Rasht, Gilan	<p>Delara Darabi was sentenced to death under <i>qesas</i> after being convicted of murdering her father's 58-year-old female cousin, Mahin, in September 2003. Delara Darabi initially "confessed" but later retracted her statement. She said that her boyfriend, Amir Hossein Sotoudeh, was the murderer and that she had admitted responsibility to protect him from execution, saying that he had told her that as she was 17 she could not be executed.</p> <p>Delara Darabi was initially sentenced to death under <i>qesas</i> by Branch 10 of the General Court in Rasht on 27 February 2005. In January 2006, the Supreme Court found "deficiencies" in the case and returned it to a children's court in Rasht for retrial. Following two trial sessions in January and June 2006, Delara Darabi was sentenced to death for a second time by Branch 107 of the General Court in Rasht. Amir Hossein Sotoudeh was sentenced to 10 years' imprisonment for complicity in the murder. Delara Darabi's death sentence was upheld by the Supreme Court on 16 January 2007.</p>
34	Ali Jafari	17	N/A	20/05/2009	N/A	<p>Ali Jafari was sentenced to death under <i>qesas</i> after he was found guilty of murdering a man whose name was reported as J.M.</p>
35	Behnoud Shojaee	17	21	11/10/2009	Tehran, Tehran	<p>Behnoud Shojaee was sentenced to death under <i>qesas</i> after Branch 74 of the Criminal Court in Tehran convicted him of stabbing a boy in the chest with a piece of broken glass during a fight in August 2005. During his trial, Behnoud Shojaee accepted that he stabbed the victim but said that he did so only after</p>

						the victim threatened him with a knife. The death sentence was upheld by the Supreme Court. Its implementation was postponed several times as a result of international pressure.
36	Mosleh Zamani	17	N/A	17/12/2009	Kermanshah, Kermanshah	Mosleh Zamani was hanged at Dizeh Abad Prison in Kermanshah Province, along with four other unidentified prisoners.
2010						
37	Mohammad A.	17	20	17/07/2010	N/A	Born on 9 January 1989, Mohammad A. was three months short of 18 at the time of the alleged crime on 5 April 2007.
2011						
38	A.N.	17	N/A	20/04/2011	Bandar Abbas, Hormozgan	On 20 April 2011, two juvenile offenders identified only as A.N. and H.B. were among three individuals hanged in public in Bandar Abbas after being convicted of rape and murder.
39	H.B.	17	N/A	20/04/2011	Bandar Abbas, Hormozgan	See case above.
40	Ali Reza Molla Soltani	17	17	21/09/2011	Karaj, Alborz	<p>Ali Reza Molla Soltani was publicly hanged in the city of Karaj, near Tehran. An official from the office of the Prosecution said that Ali Reza Molla Soltani was, at the time of the execution, under 18 years of age according to the Iranian solar calendar but above 18 years of age according to the Islamic lunar calendar, and there was, therefore, no ban on carrying out his execution. He further added that the ultimate determinative factor under Iranian law is the age of "maturity" (<i>bolugh</i>) as defined in Islamic law.</p> <p>Ali Reza Molla Soltani was sentenced to death under <i>qesas</i> in August 2011 for stabbing Ruhollah Dadashi, a popular athlete, during a driving dispute on 17 July 2011. The 17-year-old had said that he had panicked and stabbed Ruhollah Dadashi in self-defence after the athlete had attacked him in the dark, according to local media reports. Shortly after Ali Reza Molla Soltani was arrested, a state prosecutor called for "a speedy resolution" of the case. A court in Karaj</p>

						convicted him of "intentional murder" and on 20 August 2011 sentenced him to death. The Supreme Court upheld the death sentence on 11 September.
41	Mohammad Norouzi	17	20	18/09/2011	Tehran, Tehran	Mohammad Norouzi, reported to be an Afghan national, was apparently sentenced to death for drug-related offences.
42	Vahid Moslemi	17	19	18/09/2011	Tehran, Tehran	Vahid Moslemi, reported to be an Afghan national, was apparently sentenced to death for drug-related offences.
43	Ehsan	17	N/A	21/10/2011	Marvdasht, Fars	Ehsan was executed in public after he was convicted of "forced male-male anal penetration" with an 11-year-old boy. He was arrested at the age of 17 after a man brought a complaint against him and two other youths, alleging that the three had attempted to rape him.
44	Amir Shirmohammadi	17	21	16/10/2011	Esfahan, Esfahan	An Afghan national, Amir Shirmohammadi was executed on drug-trafficking charges. There are reports that the authorities registered him as being 33 years old to avoid criticism. His family was apparently pressed to remain quiet and hold his funeral under strict monitoring by intelligence officials.
2012						
45	Amir A.	14	24	18/04/2012	Esfahan, Esfahan	Amir A. was executed in the Central Prison of Esfahan after spending nine years in prison. He was arrested on 21 April 2003 and accused of stabbing a man to death about a year earlier. Media reports indicated that he admitted to stabbing the man following an argument. He was sentenced to death under <i>qesas</i> by Branch 102 of the General and Criminal Court in Esfahan.
46	Shahruz	17	21	24/10/2012	Karaj, Alborz	According to reports, Shahruz was arrested in 2008 when he was 17 on charges of kidnapping and raping a number of teenage boys.
47	Samad	16	24	24/10/2012	Karaj, Alborz	Samad was sentenced to death under <i>qesas</i> by Branch 71 of the Criminal Court in Tehran after being found guilty of stabbing to death a man named Rahim in 2004. His death sentence was upheld by the Supreme Court.
48	Bahram Ahmadi	17	20	27/12/2012	Karaj, Alborz	Bahram Ahmadi was arrested when aged

						<p>17 in Sanandaj, Kordestan Province, on 19 September 2009 by men believed to belong to the Ministry of Intelligence. The men did not show him an arrest warrant. He was held in Ministry of Intelligence detention centres in Sanandaj, Hamedan and Tehran for 17 months. According to a prisoner who had seen Bahram Ahmadi in detention in Sanandaj, his interrogators tortured him, including by subjecting him to electroshocks and floggings, and deprived him of food for long periods. The interrogators also allegedly threatened him with the arrest of family members in order to make him “confess” to “having connections with extremists and enemy groups”. Bahram Ahmadi was not allowed access to a lawyer and his family during his detention and was permitted only a few phone calls to his family.</p> <p>On 12 February 2011, Branch 28 of the Revolutionary Court in Tehran sentenced him to death for “enmity against God” (<i>moharebeh</i>) through “having connections with Salafist groups”. He was also convicted of “spreading propaganda against the system”. He was executed in secret.</p>
2013						
49	Said Afshar	15	25	03/07/2013	Karaj, Alborz	Said Afshar was sentenced to death under <i>qesas</i> after he was convicted of murder.
50	Abdolhamid Sekhavatian	<18	28	21/08/2013	Jahrom, Fars	Abdolhamid Sekhavatian was executed in public in Jahrom, Fars Province. According to reports, he was sentenced to death under <i>qesas</i> by Branch 102 of the Criminal Court in Jahrom after he was found guilty of stabbing and causing the death of an individual named as Firuz Sh. His death sentence was upheld by the Supreme Court and authorized by the Head of the Judiciary.
51	Arman Mohammadi	12	18	20/08/2013	Kermanshah, Kermanshah	Arman Mohammadi was sentenced to death under <i>qesas</i> for murder. His execution was carried out once he

GROWING UP ON DEATH ROW 87
THE DEATH PENALTY AND JUVENILE OFFENDERS IN IRAN

						reached the age of 18.
52	Name unknown	14	18	18/09/2013	Kazeroun, Fars	Sentenced to death under <i>qesas</i> for murder. The sentence was upheld by the Supreme Court and implemented after he reached the age of 18.
53	Name unknown	<18	N/A	22/10/2013	Eslamabad Gharb, Kermanshah	Sentenced to death on the charge of murder.
54	Ahmad Seif Panahi	16	24	07/11/2013	Sanandaj, Kordestan	Ahmad Seif Panahi was sentenced to death under <i>qesas</i> for murder. He was accused of stabbing an individual to death during a street fight.
55	Ahmad Jenkihoo	15	19	07/11/2013	Bandar Abbas, Hormozgan	N/A
56	Abdolaziz Ra'isi	17	24	17/12/2013	Zahedan, Sistan and Baluchestan	Abdolaziz Ra'isi spent seven years in prison before he was executed in Zahedan prison.
57	Iraj Nasiri	15	20	19/12/2013	Oroumieh, West Azerbaijan	A member of Iran's Kurdish minority, Iraj Nasiri was executed for murder.
2014						
58	Mehras Rezaei	17	21	26/02/2014	Jouybar, Mazandaran	Mehras Rezaei was sentenced to death under <i>qesas</i> after he was convicted of killing his cousin during a fight.
59	Hassan Gholami	14	21	02/03/2014	Shiraz, Fars	Hassan Gholami was sentenced to death under <i>qesas</i> after he was found guilty of killing a man. Reports indicated that the authorities did not inform his family before his execution.
60	Hassan Zolfaqari	17	23	02/03/2014	Zahedan, Sistan and Baluchestan	Hassan Zolfaqari was sentenced to death under <i>qesas</i> apparently for murder.
61	Reza Ganjlu	16	20	04/03/2014	Karaj, Alborz	Reza Ganjlu was executed in Raja'i Shahr Prison in Karaj near Tehran. He had been sentenced to death under <i>qesas</i> apparently for murder.
62	Janat Mir	<18	N/A	04/2014	Esfahan, Esfahan	Janat Mir, an Afghan national, was executed in Esfahan apparently in March 2014 on drug-related charges. Reports indicated that he was not allowed access to a lawyer and that the authorities did not give his body back to his family to be returned to Afghanistan for burial.
63	Ahmad Rahimi	17	21	17/04/2014	Bandar Abbas, Hormozgan	Ahmad Rahimi was executed in Bandar Abbas Prison, apparently for murder.
64	Ali Fouladi	16	22	17/04/2014	Bandar Abbas, Hormozgan	Ali Fouladi was executed in Bandar Abbas Prison, apparently for murder.
65	Ebrahim Hajati	16	20	21/04/2014	Mashhad, Khorasan	Ebrahim Hajati was executed in Vakil Abad Prison, Khorasan Province. He had been sentenced to death under <i>qesas</i> after he was convicted of killing a man

						during a fight.
66	Amir Sardaha'i	17	N/A	10/06/2014	Tabriz, East Azerbaijan	Amir Sardaha'i was apparently sentenced to death for murder.
67	Hadi Veysi	15	18	25/08/2014	Kermanshah, Kermanshah	Hadi Veysi was executed in Kermanshah Prison. He had been sentenced to death under <i>qesas</i> after he was found guilty of killing a classmate.
68	Fardin Ja'farian	14	18	18/10/2014	Tabriz, East Azerbaijan	Fardin Ja'farian was executed in the Central Prison of Tabriz. He had been sentenced to death under <i>qesas</i> for murder.
69	Rahim Norallahzadeh	14	19	30/11/2014	Tabriz, East Azerbaijan	Rahim Norallahzadeh was executed in the Central Prison of Tabriz. He had been sentenced to death under <i>qesas</i> for murder.
2015						
70	Javad Saberi	17	24	15/04/2015	Karaj, Alborz	Javad Saberi was reported to have been executed in April 2015 for murder. He apparently had a serious mental illness for which he had previously been hospitalized. Sources reporting his execution indicated that he had also received 30 lashes on 16 June 2013 for possession of a small amount of the narcotic drug crystal.
71	Vazir Amroddin	16	20	06 or 07/2015	Bandar Abbas, Hormozgan	Vazir Amroddin was an Afghan national. He was convicted together with his brother. He was executed in Bandar Abbas prison.
72	Samad Zahabi	17	N/A	06/10/2015	Kermanshah, Kermanshah	Samad Zahabi was secretly hanged in Kermanshah's Dizel Abad Prison in Kermanshah Province in October 2015 (see section 3.1 for further details).
73	Fatemeh Salbehi	17	23	13/10/2015	Shiraz, Fars	Fatemeh Salbehi was executed in Shiraz's Adel Abad Prison in Fars Province on 13 October 2015 after she was convicted of murdering her husband (see section 3.1 for further details).

APPENDIX II: LIST OF JUVENILE OFFENDERS ON DEATH ROW

No.	Name	Age at the time of the crime	Year of final sentencing	Prison	Information
1	Abumuslem Sohrabi	17	2003	Shiraz's Adel Abad Prison, Fars Province	<p>Abumuslem Sohrabi was sentenced to death in January 2003 after a Criminal Court in Fars Province convicted him of murder. The conviction was for the fatal stabbing of a young man in December 2001. During interrogation sessions, conducted without a lawyer present, Abumuslem Sohrabi said that he had stabbed the victim after the latter had raped him once and indicated he had plans to do so again. The Court did not accept the claim, referring to a forensic report that had found no signs of penetration. The sentence was upheld by Branch 33 of the Supreme Court in September 2003.</p> <p>In 2014, Abumuslem Sohrabi submitted an "application for retrial", based on Article 91 of the 2013 Islamic Penal Code. At the time of writing, the application was pending before the Supreme Court.</p>
2	A.H. ¹²⁴	16	2007	Karaj's Raja'i Shahr Prison, Alborz Province	<p>A.H. was first sentenced to death in October 2007 by Branch 80 of the Provincial Criminal Court of Tehran Province for the murder of a security guard during an armed robbery in August 2006. Iran's Supreme Court initially overturned the sentence in January 2008 due to flaws in the investigation process and sent the case back to the trial court for retrial. After the retrial A.H. was sentenced to death again and the death sentence was upheld by the Supreme Court.</p>

¹²⁴ Real name withheld.

					<p>Following the adoption of the 2013 Islamic Penal Code, A.H. requested a retrial, which was granted by the Supreme Court. At the time of writing, he was awaiting the outcome of his retrial.</p> <p>A.H. was arrested on suspicion of suffocating a security guard during an armed robbery involving several men. During his interrogations, which were conducted without a lawyer present, he “confessed” to having suffocated the security guard. At his trial however, he retracted the “confession” saying that he was tortured and otherwise ill-treated to “confess”. No investigation is known to have been conducted into his allegations of torture and other ill-treatment. Amnesty International understands that the family of the murder victim have indicated a willingness to pardon A.H. if 3 billion rials (around US\$100,000) are paid as “blood money” (<i>diyah</i>).</p>
3	Ahmad Sajedi	15	N/A	Rasht’s Lakan Prison, Gilan Province	Ahmad Sajedi has been sentenced to death for murder. Amnesty International understands that the family of the murder victim has indicated a willingness to pardon Ahmad Sajedi in exchange for “blood money” (<i>diyah</i>). He has apparently been in prison for the past 11 years.
4	Ali Amouyee	17	2012	Rasht’s Lakan Prison, Gilan Province	Ali Amouyee was sentenced to death in July 2012 after Branch 12 of the Provincial Criminal Court of Gilan Province convicted him of murder for the fatal stabbing of a man during a group fight. Ali Amouyee was 17 years old when the crime occurred in September 2011. However, the Court documents mistakenly referred to his age as being 19. His lawyer has since detected the mistake and requested a retrial from the Supreme Court. At the time of writing, his case was pending before the Supreme Court.
5	Alireza Pour Olfat	16	2013	Rasht’s Lakan Prison, Gilan Province	Alireza Pour Olfat, now aged 18, was sentenced to death between June and July 2013 after the Provincial Criminal Court of Gilan Province convicted him of murder for the fatal stabbing of a man during a fight involving several individuals. The sentence was subsequently upheld by the Supreme Court. Alireza Pour Olfat has since requested a retrial, based on Article 91 of the 2013 Islamic Penal Code, which he says the Provincial Criminal Court of Gilan Province failed to apply during the initial trial. At the time of writing, his case was pending before Branch 37 of the Supreme Court.

					Following his arrest in April 2013, Alireza Pour Olfat was held in a police station (<i>agahi</i>) in Rasht, Gilan Province, for several days, where he said he suffered severe beatings and other ill-treatment to "confess". He was subsequently transferred to a Juvenile Correctional Centre in Rasht where he was held until he turned 18 years old. He was then moved to Rasht's Lakan Prison where he is currently held.
6	Amanj Veisee	15	2008	Sanandaj's Central Prison, Kordestan Province	<p>Amanj Veisee was sentenced to death in May 2008 after Branch 1 of the Provincial Criminal Court of Kordestan Province convicted him of murder for the fatal stabbing of his cousin during a fight in April 2006. The sentence was subsequently upheld by the Supreme Court, approved by the Head of the Judiciary and sent to the Office for the Implementation of Sentences. His execution has been twice scheduled and then postponed.</p> <p>Following the adoption of the 2013 Islamic Penal Code, Amanj Veisee requested a retrial of his case, which was granted by the Supreme Court in March 2015. His case was subsequently returned to the same Branch of the Provincial Criminal Court of Kordestan Province that had originally sentenced him to death. The court referred him to the Legal Medicine Organization of Iran which stated that it cannot reliably assess his level of "mental maturity" at the time of the crime which occurred nine years ago. At the time of writing, Amanj Veisee was awaiting the outcome of his retrial.</p>
7	Amir Amrollahi	16	2007	Shiraz's Adel Abad Prison, Fars Province	<p>Amir Amrollahi was sentenced to death in August 2007 after Branch 5 of the Provincial Criminal Court in Fars Province convicted him of murder. The conviction was for the fatal stabbing of a boy during a fight in November 2006. His sentence was upheld by Branch 27 of the Supreme Court in October 2007 and sent to the Office for the Implementation of Sentences in 2008.</p> <p>Amir Amrollahi claimed that he stabbed the deceased in the chest in self-defence. According to eyewitnesses, there was a delay of at least half an hour before any medical assistance reached the victim of the stabbing.</p>

					<p>Amir Amrollahi's family did not have the financial means to attain competent legal representation at his trial because his family is poor. According to a lawyer who later took his case, the court did not hear that the killing had been unintentional. It further failed to adequately consider his mental state at the time of the incident or that he was prescribed heavy doses of sedatives while in prison awaiting trial.</p> <p>Amir Amrollahi submitted an "application for retrial" based on Article 91 of the 2013 Islamic Penal Code, which was granted by the Supreme Court in early 2015. In December 2015, the Provincial Criminal Court in Fars Province, however, resented him to death after concluding that he had attained "mental maturity" at the time of the crime eight years earlier. At the time of writing his appeal was pending before the Supreme Court.</p>
8	Asou Sohrabi	17	2015	Bokan's Prison, Kordestan Province	<p>Asou Sohrabi was sentenced to death by a criminal court in Boukan, West Azerbaijan Province, in November 2015 after he was convicted of a murder that occurred in 2012 when he was 17 years old. Amnesty International does not have more details about his case and does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.</p>
9	Barzan Nasrollahzadeh	17	2013	Karaj's Raja'i Shahr Prison, Alborz Province	<p>Barzan Nasrollahzadeh, a Sunni Muslim and member of Iran's Kurdish minority, was sentenced to death in 2013 after Branch 28 of the Revolutionary Court in Tehran convicted him of national security-related charges including "enmity against God" (<i>moharebeh</i>) and "having connections with Salafist groups". The Supreme Court upheld the death sentence in August 2015. Amnesty International understands that the Supreme Court made no reference in its judgement to Barzan Nasrollahzadeh being under 18 years of age at the time of the crime.</p> <p>Amnesty International understands that Barzan Nasrollahzadeh has not had access to adequate legal representation to request a retrial of his case based on Article 91 of the 2013 Islamic Penal Code. The Iranian authorities have written, in their reply to the List of Issues of the UN Committee on the Rights the Child, that "his file is being examined for cancellation of death sentence." However, this contradicts what the prison</p>

					authorities have told Barzan Nasrollahzadeh, namely that his sentence has been sent to the Office for the Implementation of Sentences and may be carried out at any moment.
10	Bahaoddin Ghasemzadeh	15	2013	Oroumieh's Central Prison, West Azerbaijan Province	Bahaoddin Ghasemzadeh was sentenced to death in June 2013 after a criminal court in Oroumieh, West Azerbaijan Province, convicted him of murder. The sentence was upheld by Branch 6 of the Supreme Court in October 2013. Bahaoddin Ghasemzadeh "confessed" to murder during the period that he was held in Oroumieh's police station (<i>agahi</i>) but he retracted his "confessions" during subsequent interrogations, saying that he made them under torture and other ill-treatment. Nevertheless, the court apparently relied on these "confessions" to convict him. Amnesty International does not know if Bahaoddin Ghasemzadeh has requested a retrial of his case based on Article 91 of the 2013 Islamic Penal Code.
11	Farhad	<18	N/A	Karaj's Raja'i Shahr Prison, Alborz Province	Farhad (last name is unknown) was sentenced to death for murder. Amnesty International does not have more details about his case and does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
12	Hamid Ahmadi	17	2009	Rasht's Lakan Prison, Gilan Province	<p>Hamid Ahmadi, now aged 24, was sentenced to death in August 2009 after Branch 11 of the Provincial Criminal Court of Gilan Province convicted him of murder. The conviction was for the fatal stabbing of a young man during a fight involving five boys.</p> <p>Branch 27 of the Supreme Court overturned the verdict in November 2009 due to flaws in the investigation process. The case was sent back to Branch 11 of the Provincial Criminal Court of Gilan for retrial.</p> <p>During the retrial, Hamid Ahmadi again stated that police had tortured him into "confessing". It appears the court did not investigate his allegations of torture and instead relied on his "confessions" and circumstantial evidence to convict him, in March 2010, of murder and sentence him to death. Branch 27 of the Supreme Court upheld the verdict in November 2010.</p> <p>Between May 2014 and February 2015, Hamid Ahmadi twice requested the Supreme</p>

					<p>Court to quash his sentence and send his case back for retrial, once after a witness retracted his testimony and another time when a new witness stepped forward. Both requests were denied.</p> <p>In May 2015, Hamid Ahmadi was taken to the Legal Medicine Organization of Iran for an assessment of his maturity at the time of the crime. The Legal Medicine Organization of Iran concluded that it could not determine Hamid Ahmadi's level of maturity at the time of the crime seven years before.</p> <p>Hamid Ahmadi subsequently requested the Supreme Court to order a retrial under Article 91 of the 2013 Islamic Penal Code. Branch 35 of the Supreme Court agreed to the request in June 2015, leading to a retrial before a differently constituted court in the Provincial Criminal Court of Gilan Province. Amnesty International learned in December 2015 that the Provincial Criminal Court of Gilan Province had resentedenced Hamid Ahmadi to death but had yet to issue its written judgement.</p>
13	Hamid Ali Mohammadi	17	N/A	Ahvaz's Sepidar Prison, Khuzestan Province	Hamid Ali Mohammadi has been sentenced to death for murder. Amnesty International does not have more details about his case and does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
14	Hassan Rezaiee	16	2008	Rasht's Lakan Prison, Gilan Province	<p>Hassan Rezaiee was sentenced to death in 2008 for fatally stabbing a man during a fight among several young men in 2007.</p> <p>His trial was unfair and relied on evidence obtained through torture and other ill-treatment and during police questionings that were conducted without a lawyer present. Hamid Rezaiee was apparently held and interrogated in Anzali's police station (<i>agahi</i>) in Gilan Province for two months, without access to his family and a lawyer. During this period, he says the police shouted at him, beat him using sticks and bare fists, tied him to a bed and whipped him with pipe hoses and cables, in order to "confess". No investigation is known to have taken place into Hamid Rezaiee's allegations of torture and other ill-treatment.</p>

					As of January 2015, Amnesty International's understanding is that Hassan Rezaiee does not have access to a lawyer to request a retrial of his case based on Article 91 of the 2013 Islamic Penal Code.
15	Himan Uraminejad	17	N/A	Sanandaj's Central Prison, Kordestan Province	Himan Uraminejad, now aged 21, was sentenced to death by Branch 6 of the Provincial Criminal Court of Kordestan Province for a murder that occurred in March 2012. Following the adoption of the 2013 Islamic Penal Code, the Supreme Court quashed the sentence and sent it back to be retried. The Provincial Criminal Court of Kordestan Province subsequently resented Himan Uraminejad to death. Amnesty International does not have more details about the court's decision and reasoning. Himan Uraminejad has appealed the sentence to the Supreme Court; at the time of writing the appeal was pending.
16	Hossein Baharloei	17	N/A	Esfahan's Central Prison, Esfahan Province	Hossein Baharloei has been sentenced to death for murder. Amnesty International understands that the Supreme Court has denied his request for a retrial but does not have more information about the reasons for the denial.
17	Hossein Ranjbar	<18	N/A	Karaj's Raja'i Shahr Prison, Alborz Province	Hossein Ranjbar has been sentenced to death for murder. Amnesty International does not have more information about the details of his case and does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
18	Iman Shahmoradi	<18	N/A	Esfahan's Prison, Esfahan Province	Iman Shahmoradi has been sentenced to death for murder. Efforts are apparently under way to obtain a pardon from the family of the murder victim. Amnesty International does not have more information about the details of his case and does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
19	Jamal Dehghan	17	N/A	Shiraz's Adel Abad Prison, Fars Province	Jamal Dehghan has been sentenced to death for murder. Amnesty International does not have more information about the details of his case and does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
20	Mahyar Haghgou	17	2008	Rasht's Lakan Prison, Gilan Province	Mahyar Haghgou was sentenced to death in 2008 after Branch 102 of the Provincial Criminal Court of Gilan Province convicted him of killing his father. The sentence was upheld by the Supreme Court in September 2008. The killing took place in February

					<p>2005. Mahyar Haghgou's former lawyer has said that the killing took place in the context of domestic violence where Mahyar Haghgou saw his mother suffering sustained abuse and harassment at the hands of his father. Mahyar Haghgou's mother, who was also accused of complicity in the murder, testified in court that Mahyar Haghgou committed the attack after his father began abusing her and tried to rape her in front of Mahyar Haghgou. She added that her son had no control over his actions at the time of the incident as he was in a deeply agitated state and under the influence of alcohol, which had been given to him by his father.</p> <p>Mahyar Haghgou is now aged 28. Amnesty International understands that he has not had access to a lawyer to request a retrial of his case based on Article 91 of the 2013 Islamic Penal Code.</p>
21	Mehdi Bohlouli	<18	N/A	Karaj's Raja'i Shahr Prison, Alborz Province	Mehdi Bohlouli has been sentenced to death for murder. Amnesty International does not have more information about the details of his case and does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
22	Mehdi Sajedi	15	2010	Ardabil's Prison, Ardabil Province	Mehdi Sajedi was sentenced to death in February 2010 after Branch 7 of the Provincial Criminal Court of Ardabil Province found him guilty of suffocating his stepmother. Branch 13 of the Supreme Court upheld the sentence in May 2010. Amnesty International does not know if he has had access to lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
23	Mehdi Soltani	17	2010	Karaj's Raja'i Shahr Prison, Alborz Province	<p>Mehdi Soltani was sentenced to death in November 2010 after Branch 113 of the Provincial Criminal Court of Tehran Province found him guilty of killing his stepfather. The sentence was later upheld by the Supreme Court.</p> <p>Mehdi Soltani submitted an "application for retrial" in September 2015, which is currently pending before the Supreme Court.</p>
24	Milad Azimi	17	2015	Kermanshah's Dizel Abad Prison, Kermanshah Province	Milad Azimi was sentenced to death by Branch 3 of the Provincial Criminal Court of Kermanshah Province in May 2015 for involvement in a fatal stabbing during a fight involving several young men in December 2013. His trial was unfair and relied on "confessions" which he said were extracted using torture, including flogging, and he

					<p>retracted them before the prosecutor and during the trial. The court also referred to evidence which was gathered at the investigation stage when Milad Azimi was denied access to his lawyer and family.</p> <p>In its verdict, the court acknowledged that Milad Azimi was under 18 years of age at the time of the crime but said there was “no doubt about his mental growth and maturity and that he understood the nature of his crime and the dangers of using a knife”.</p> <p>The death sentence was upheld by Branch 17 of the Supreme Court in August 2015. Milad Azimi subsequently requested a retrial of his case based on Article 91 of the 2013 Islamic Penal Code, which at the time of writing was pending before Branch 30 of the Supreme Court. In October 2015, concerns were raised that the Supreme Court had rejected the request. The authorities have since confirmed however that the Supreme Court has not yet reached a decision, pending which a stay of Milad Azimi’s execution has been ordered.</p>
25	Milad Bashghareh	17	2011	Gorgan’s Prison, Golestan Province	<p>Milad Bashghareh was sentenced to death after Branch 3 of the Provincial Criminal Court of Golestan Province convicted him of murder. The conviction was for the fatal stabbing of a man, during a group fight. During investigations which were conducted without a lawyer present, Milad Bashghareh “confessed” to stabbing the victim but he later retracted his “confession”, saying that he made it under coercion. The death sentence was upheld by Branch 9 of the Supreme Court in July 2012.</p> <p>The Provincial Criminal Court of Gilan Province and the Supreme Court both acknowledged in their verdicts that the Convention on the Rights of the Child prohibits the use of the death penalty against Milad Bashghareh. They, however, held that “in cases of conflict between Iran’s domestic laws and the standards of the Convention on the Rights of the Child, Iran’s domestic laws shall prevail.” They stated:</p> <p><i>The age of maturity is 15 lunar years for boys and nine lunar years for girls. When individuals who have become mature commit a crime, penalties defined in Iranian</i></p>

					<p><i>criminal law including the death penalty are enforceable against them, regardless of whether they have reached 18 or not. [Such individuals] fall outside the scope of the Convention on the Rights of the Child.</i></p> <p>Amnesty International understands that Milad Bashghareh has not had access to a lawyer to request a retrial of his case based on Article 91 of the 2013 Islamic Penal Code.</p>
26	Milad Sanian	<18	N/A	Karaj's Raja'i Shahr Prison, Alborz Province	Milad Sanian has been sentenced to death on the charge of murder. Amnesty International does not have any information about the details of his case but is concerned that he may not have had access to a lawyer to request a retrial of his case based on Article 91 of the 2013 Islamic Penal Code.
27	Mohammad Ahsani	17	N/A	Karaj's Raja'i Shahr Prison, Alborz Province	Mohammad Ahsani has been sentenced to death on the charge of murder. Amnesty International understands that he has requested a retrial of his case based on Article 91 of the 2013 Islamic Penal Code, which was at the time of writing pending before the Supreme Court.
28	Mohammad Ali Shirzadi	17	N/A	Shiraz's Adel Abad Prison, Fars Province	Mohammad Ali Shirzadi has been convicted of murder. Amnesty International does not have more information about the details of his case and does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
29	Mohammad Ali Zehi	<18	2008	Shiraz's Adel Abad Prison, Fars Province	<p>Mohammad Ali Zehi, an Afghan national, was sentenced to death in 2008 when a Revolutionary Court in Jahrom, southern Fars Province, convicted him of drug trafficking. His family and lawyer maintain that he was under the age of 18 at the time of the crime, but, due to poverty and his undocumented status in Iran, he was not able to provide any official identification document to prove his age.</p> <p>His trial was unfair: the court relied on "confessions" that he said were obtained through torture and other ill-treatment during the two months he was held in a police station without access to his family and a lawyer. Amnesty International understands that his court-appointed lawyer, whom he met for the first time at trial, raised the young age of Mohammad Ali Zehi as a matter of concern, but the Revolutionary Court ignored this. The death sentence was subsequently confirmed by the Office of the Prosecutor</p>

					<p>General, which until June 2015 was, along with the Head of the Supreme Court, the body authorized to review and confirm the sentence of those convicted of drug-related offences.</p> <p>Following the adoption of a new Code of Criminal Procedure in June 2015, which reinstated the right to appeal of those sentenced to death under the Anti-Narcotics Law, Mohammad Ali Zehi requested a retrial of his case, which was granted by Branch 26 of the Supreme Court in November 2015. It is not yet confirmed if his case has been sent to the Court for Children and Adolescents, which has exclusive jurisdiction over drug-related offences committed by individuals under 18 years of age.</p>
30	Mohammad Fadai	17	2005	Karaj's Raha'i Shahr Prison, Alborz Province	<p>Mohammad Fadai was sentenced to death in 2005 after Branch 71 of the Provincial Criminal Court of Tehran Province convicted him of murder. The conviction was in connection with the fatal stabbing of a young man during a fight involving several people. Amnesty International does not know if he has requested a retrial of his case, based on Article 91 of the 2013 Islamic Penal Code.</p> <p>Mohammad Fadai's trial was unfair: the court relied on "confessions" that he said were obtained through torture and other ill-treatment during the investigative period where he was denied access to his family and a lawyer. He denied during his trial that he had killed the victim, attributing responsibility to another man involved in the fight. He stated that his statements during police interrogation were obtained under "sustained beatings".</p>
31	Mohammad Reza Haddadi	15	2004	Shiraz's Adel Abad Prison, Fars Province	<p>Mohammad Reza Haddadi was sentenced to death in 2004 after a criminal court in Kazeroun, Fars Province, convicted him of murder. The conviction was for the killing of a driver during an incident involving Mohammad Reza Haddadi and three other adults. His death sentence was confirmed by the Supreme Court in July 2005. Since then, the execution of Mohammad Reza Haddadi, who is now around 27, has been scheduled and later postponed several times.</p> <p>Mohammad Reza Haddadi confessed to the murder during interrogations, but retracted</p>

					<p>the confession during his trial, saying he had claimed responsibility for the killing only because his two co-defendants had offered to give his family money if he did so. During the trial he said that he had not taken part in the murder. His co-defendants later supported Mohammad Reza Haddadi's claims of innocence, and withdrew their testimony that had implicated him. They were both over 18 years old at the time of the crime and received prison sentences.</p> <p>In December 2013 or January 2014, Mohammad Reza Haddadi submitted an "application for retrial" to the Supreme Court, which at the time of writing was pending.</p>
32	Mojtaba Mojaveri	17	2011	Rasht's Lakan Prison, Gilan Province	<p>Mojtaba Mojaveri was sentenced to death by Branch 12 of the Provincial Criminal Court of Gilan Province in June 2011 for the fatal stabbing of a man during a group fight. The sentence was upheld by the Supreme Court in September 2012 and sent to the Office for the Implementation of Sentences. It can be carried out any moment at the request of the family of the murder victim.</p> <p>Mojtaba Mojaveri was held in Lahijan's police station (<i>agahi</i>) in Gilan Province for several days, without access to his family and a lawyer. He says that he was denied access to medical care even though he had sustained injuries during the fight and that he was threatened that his father would be killed if he did not "confess". He was held in a Juvenile Correctional Centre in Anzali, Gilan Province, for a period and then transferred to Rasht's Lakan Prison.</p> <p>Until September 2015, Mojtaba Mojaveri and his family remained unaware of the right to submit an "application for retrial" to the Supreme Court based on Article 91 of the 2013 Islamic Penal Code. They have since retained a lawyer to assist with the preparation and submission of the application.</p>
33	Morteza Zakeri	<18	N/A	Kerman's Prison, Kerman Province	<p>Morteza Zakeri has been convicted of murder. The Human Rights Activists News Agency has reported that he was 15 years old at the time of the crime and has apparently been in prison for the past 12 years. Amnesty International does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.</p>

34	Nasir Borhan Zehi	<18	N/A	Kerman's Prison, Kerman Province	Nasir Borhan Zehi has been convicted of murder. The Human Rights Activists News Agency has reported that he was 16 years old at the time of the crime and has apparently been in prison for the past seven years. Amnesty International does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
35	Navid Yaghmaei	<18	N/A	Karaj's Raja'i Shahr Prison, Alborz Province	Navid Yaghmaei was sentenced to death for murder. Amnesty International does not know if he has had access to lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
36	Rasoul Holoumi	17	2010	Ahvaz's Karoun Prison, Khuzestan Province	<p>Rasoul Holoumi, now aged 23, was sentenced to death in October 2010 after Branch 17 of the Provincial Criminal Court of Khuzestan Province convicted him of murder. The conviction followed a trial in which he was accused of having thrown, during a fight involving multiple people in September 2009, a hard object at a young man, resulting in fatal head injuries.</p> <p>Rasoul Holoumi was scheduled to be executed on 4 May 2014 but the execution was stayed at the last minute. He subsequently applied for retrial under Article 91 of the 2013 Islamic Penal Code. The Supreme Court granted the request in January 2015. His first retrial session before the Provincial Criminal Court of Khuzestan Province took place on 22 February 2015 and lasted around 20 minutes. The court asked whether he knew that it was wrong to kill someone and whether he felt upset when he threw a hard object at the head of the victim. Rasoul Holoumi answered yes to both questions. The lawyer introduced into evidence Rasoul Holoumi's transcripts from grade 7, which showed poor marks, to prove that he lacked the requisite mental state to be held culpable as an adult.</p> <p>The Legal Medicine Organization of Iran has stated that it cannot reliably assess Rasoul Holoumi's "mental maturity" given the number of years that have passed since the date of the crime. At the time of writing, he was awaiting the outcome of his retrial.</p>
37	Razieh Ebrahimi	17	2010	Ahvaz's Sepidar Prison, Khuzestan Province	Razieh Ebrahimi was sentenced to death in 2010 by Branch 17 of the Provincial Criminal Court of Khuzestan, which found her guilty of killing her husband earlier that year when she was 17. She said that she did so after years of being abused, physically

					<p>and psychologically. Razieh Ebrahimi was married to her husband at the age of 14.</p> <p>Razieh Ebrahimi's execution was scheduled for 1 April 2014, but was stopped at the last minute when she told the judge overseeing the implementation of the execution that she had committed the crime when she was 17. Her lawyer subsequently submitted a retrial request to the Supreme Court based on Article 91 of the 2013 Islamic Penal Code. Branch 35 of the Supreme Court initially refused the request, reasoning that the application of Article 91 is within the remit of the court of first instance that issued the death sentence originally. After a national and international outcry, Branch 35 of the Supreme Court accepted the request and sent the case back to a different branch of the Provincial Criminal Court of Khuzestan for retrial.</p> <p>Razieh Ebrahimi's retrial took place in December 2014. The court focused on whether she understood that killing is wrong and can lead to a death sentence. According to his lawyer's interviews with local media, the court asked Razieh Ebrahimi if she understood what happens when a human body is shot at. In response, Razieh Ebrahimi said: "I understood that shooting someone can result in his death but I did not know that the punishment for doing so is death and I thought that after a few months, everything will be forgotten." She apparently added: "Faced with my husband's abuses, I did not appreciate that I should not kill my husband and should confront him in a different way. I really was not aware of what I was doing."</p> <p>Razieh Ebrahimi was referred to the Legal Medicine Organization of Iran for psychological examination and was awaiting, at the time of writing, the outcome of her retrial.</p>
38	Saeed Arab	<18	N/A	Gorgan's Prison, Golestan Province	Amnesty International has not had access to the full details of his case but is concerned that he may not have had access to a lawyer to request a retrial of his case based on Article 91 of the 2013 Islamic Penal Code.
39	Saeed Elahian	16	2011	Karaj's Raja'i Shahr Prison, Alborz Province	Saeed Elahian was sentenced to death in August 2011 by Branch 113 of the Provincial Criminal Court of Tehran Province, after he was convicted of murder. He was said to

					<p>have stabbed a young man during a fight in 2010, causing injuries that led to his death later in hospital. The sentence was upheld by Branch 27 of the Supreme Court in May 2012.</p> <p>Saeed Elahian submitted an “application for retrial” to the Supreme Court in September 2015, which at the time of writing was pending.</p>
40	Sajad Sanjari	15	2012	Kermanshah’s Dizel Abad Prison, Kermanshah Province	<p>Sajad Sanjari was first sentenced to death after Branch 1 of the Provincial Criminal Court of Kermanshah Province convicted him of murder for fatally stabbing a man. Branch 27 of the Supreme Court quashed the death sentence in January 2013 due to various flaws in the investigation process and reverted the case to the same branch of the Provincial Criminal Court of Kermanshah Province for further investigation. The court subsequently resentenced Sajad Sanjari to death in July 2013. The sentence was upheld by Branch 27 of the Supreme Court in February 2014.</p> <p>The Court rejected the defence argument that he had not yet attained the maturity of an adult. It also rejected the argument that he had attacked the deceased in self-defence.</p> <p>Following the adoption of the 2013 Islamic Penal Code, Sajad Sanjari sought a retrial, which was granted in early 2015. His retrial took place before Branch 3 of the Provincial Criminal Court of Kermanshah Province in October 2015. The court focused on whether he could distinguish right from wrong at the time of the crime. His lawyer highlighted that Sajad Sanjari did not have access to proper schooling as he worked as a shepherd, and his parents were poor and illiterate.</p> <p>In November 2015, Branch 3 of the Provincial Criminal Court of Kermanshah Province re-resentenced Sajad Sanjari to death, with little explanation. The verdict, which has been reviewed by Amnesty International, simply states that Sajad Sanjari merits the death penalty as he “understood the nature of his crime and there is no doubt or uncertainty about his mental maturity and development at the time of the commission of the crime”.</p>

41	Salar Shadizadi	15	2007	Rasht's Lakan Prison, Gilan Province	<p>Salar Shadizadi, now aged 24, was sentenced to death by Branch 11 of the Provincial Criminal Court of Gilan Province for stabbing his childhood friend. The sentence was upheld by Branch 37 of the Supreme Court in March 2008 and approved by the Head of the Judiciary in May 2013. Since then, the authorities have scheduled and later postponed his execution three times, possibly as a result of international pressure. They have, however, failed to take the steps necessary to ensure that Salar Shadizadi's death sentence is quashed and he is granted a retrial, based on Article 91 of the 2013 Islamic Penal Code.</p> <p>Salar Shadizadi was arrested in February 2007 and charged with the murder of a friend. He was not granted access to a lawyer at the investigative stage and was only allowed to retain a lawyer when his case was sent to court for trial. He says that he was also tortured and otherwise ill-treated during the investigative stage. In a letter written from prison in November 2015 that included his final thoughts and wishes, Salar Shadizadi stated, for the first time, how he "unintentionally" caused the "catastrophic" death of his childhood friend by stabbing a frightening moving object, covered in green cloth, in the dark, which he then realized to be his deceased friend. He wrote that this happened in the context of a "silly game" where his friend had dared him to go to their family garden at night, knowing that Salar Shadizadi was afraid of the dark.</p>
42	Saman Haidary	17	2012	Kermanshah's Dizel Abad Prison, Kermanshah Province	<p>Saman Haidary, now aged 25, was sentenced to death after Branch 2 of the Provincial Criminal Court of Kermanshah Province found him guilty of stabbing his father in February 2008. The court documents indicate that he stabbed his father after years of physical and mental abuse by him. The Supreme Court upheld the death sentence in March 2013.</p> <p>In August 2014, Saman Haidary asked the Supreme Court to quash his sentence and grant him a retrial pursuant to Article 91 of the 2013 Islamic Penal Code. The Supreme Court did so in November 2014. His retrial session took place before Branch 1 of Criminal Court 1 of Kermanshah Province. The court focused on whether Saman Haidary understood that it was wrong to kill a human being. Saman Haidary apparently</p>

					<p>stated that he understood the wrongfulness of killing but did not know the legal consequences of his actions. The court referred Saman Haidary to the Legal Medicine Organization of Iran for a psychological examination. The Legal Medicine Organization of Iran stated that it could not assess the mental maturity of Samain Haidary at the time of his crime seven years previously. At the time of writing, Saman Haidary was awaiting the outcome of his retrial.</p> <p>Amnesty International understands from the court verdicts that the history of abuse, family dysfunction, substance abuse, and poor and inappropriate supervision was not taken into account in Saman Haidary's trial and sentencing.</p>
43	Saman Naseem	17	2013	Oroumieh's Prison, West Azerbaijan Province	<p>Saman Naseem, a member of Iran's Kurdish minority, was sentenced to death after the Provincial Criminal Court of West Azerbaijan Province convicted him of "enmity against God" (<i>moharebeh</i>) and "corruption on earth" (<i>efsad-e fel-arz</i>) for taking part in armed activities against the state that led to the death of a member of the Revolutionary Guards. His trial used, as evidence, "confessions" that he says were obtained through torture and other ill-treatment.</p> <p>Saman Naseem was scheduled to be executed on 19 February 2015. The news sparked widespread international concern. The authorities halted the execution at the last minute and transferred Saman Naseem from Oroumieh Central Prison to an undisclosed location. His family asked prison officials and the Ministry of Intelligence office in Oroumieh what had happened, but the authorities refused to provide any concrete information about his fate and whereabouts. Only in July was he allowed to call his family.</p> <p>Saman Naseem's lawyer learned around the same time that the Head of the Judiciary had ordered a stay of Saman Naseem's execution on 6 April and the Supreme Court had subsequently granted Saman Naseem's request for retrial on 22 April, which meant his conviction and death sentence were quashed and that he was entitled to a retrial based on Article 91.</p>

					Saman Naseem was transferred on 19 September back to Oroumieh Central Prison. His case is now before Branch 1 of Criminal Court 1 of West Azerbaijan Province for retrial. He has since had an appointment with the Legal Medicine Organization of Iran for an assessment of his “mental maturity” at the time of the crime. His retrial session is scheduled to take place on 27 January 2016.
44	Seyed Morteza Seyedi	<18	N/A	Karaj’s Raja’i Shahr Prison, Alborz Province	Seyed Morteza Seyedi was sentenced to death for murder. Amnesty International does not know if he has had access to lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
45	Shahab Dir	15	N/A	Bandar Abbas’ Prison, Hormozgan Province	Shahab Dir has been convicted of murder. The Human Rights Activists News Agency has reported that he was 15 years old at the time. Amnesty International does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
46	Siavash Mahmoudi	17	2013	Sanandaj’s Prison, Kordestan Province	<p>Siavash Mahmoudi was sentenced to death in May 2013 by the Provincial Criminal Court of Kordestan Province after he was convicted of the murder of a man 10 years older than him. The man was fatally stabbed during a group fight in March 2013 that Siavash Mahmoudi said started when the deceased attempted to make sexual advances on him and threatened him with rape. Branch 24 of the Supreme Court quashed the death sentence in November 2014 and sent the case back to the Provincial Criminal Court of Kordestan Province for retrial in light of Article 91 of the 2013 Islamic Penal Code.</p> <p>In February 2015, the Provincial Criminal Court of Kordestan Province resented Siavash Mahmoudi to death, after concluding that he “understood the nature and consequences of his conduct” and “there are no doubts about his mental maturity and growth” at the time of the crime.</p> <p>The reasoning of the court is confined to a few questions and answers aimed at finding out if Siavash Mahmoudi understood whether killing another human being is permitted or not. Following Siavash Mahmoudi’s response that he understood that killing is</p>

					<p>"religiously forbidden" (<i>haram</i>), the court proceeded to ask why he was carrying a knife. He replied: "I carried a knife because I wanted to hear my friends saying that Siavash has a knife. I had never seen someone getting killed with a knife though I had heard about it." In response, the court asked why he stabbed the victim if he had heard that knife stabbings can be deadly. Siavash Mahmoudi replied: "I was scared. He had a knife too... I was sad after the murder. I cried and regretted it. I so wish that I had not caused his death."</p> <p>Based on this brief exchange, the Court concluded that Siavash Mahmoudi had mental maturity at the time of the crime, understood the consequences of his actions, and therefore deserved the death penalty.</p> <p>He has appealed the sentence to the Supreme Court. At the time of writing, the appeal was pending.</p>
47	Yaghoub Royan	<18	N/A	Kerman's Prison, Kerman Province	Yaghoub Royan has been convicted of murder. The Human Rights Activists News Agency has reported that he was 17 years old at the time of the crime and has apparently been in prison for the past 11 years. Amnesty International does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
48	Yaser Ansari	<18	N/A	Bandar Abbas' Prison, Hormozgan Province	Yaser Ansari has been convicted of murder. The Human Rights Activists News Agency has reported that he was 16 years old at the time of the crime and has apparently been in prison for the past nine years. Amnesty International does not know if he has had access to a lawyer to seek retrial based on Article 91 of the 2013 Islamic Penal Code.
49	Yousef Mohammadi	15	2011	Sanandaj's Prison, Kordestan Province	Yousef Mohammadi was sentenced to death after a Criminal Court in Kordestan Province convicted him of murder. The conviction was for the fatal stabbing of his cousin during a fight. Yousef Mohammadi was 15 years old at the time and the victim was twice his age. He said that he stabbed the victim in self-defence as the victim was beating him. The death sentence was upheld by Branch 19 of the Supreme Court in March 2012.
					Yousef Mohammadi was initially held in a Juvenile Correctional Centre in Sanandaj,

					<p>Kordestan Province, and then transferred to Sanandaj's Prison.</p> <p>He was scheduled to be executed on 24 November 2015 but the execution was stopped after high-ranking judicial authorities in Tehran intervened. Until then, his family was not aware that they can submit an "application for retrial" to the Supreme Court. They have since tried to retain a lawyer for the preparation and submission of this application.</p>
--	--	--	--	--	--

GROWING UP ON DEATH ROW

THE DEATH PENALTY AND JUVENILE OFFENDERS IN IRAN

Between 2005 and 2015, Amnesty International recorded the execution of 73 juvenile offenders (people younger than 18 at the time of the crime), including at least four in 2015. A UN report issued in 2014 stated that more than 160 juvenile offenders were on death row.

In 2013, Iran adopted a new Islamic Penal Code granting judges discretionary power to replace the death penalty with an alternative punishment if they find that a juvenile offender convicted of murder or certain other capital offences did not understand the nature of the crime or its consequences or there are doubts about his or her “mental maturity and development”. Hopes were reinforced by a 2014 decision from Iran’s Supreme Court that all juvenile offenders on death row could seek retrial.

However, over the past two years the authorities have continued to carry out executions of juvenile offenders, failing to inform them of their right to file an “application for retrial”. Also worryingly, several juvenile offenders who had been granted a retrial have been resentenced to death. These cases highlight, yet again, the urgent need for Iran to comply with its international obligations by abolishing completely the use of the death penalty against juvenile offenders.

amnesty.org

Index: MDE 13/3112/2016
January 2016

AMNESTY
INTERNATIONAL

