

CHILDREN, YET CONVICTED AS ADULTS

Iran's Justifications for Child
Executions Don't Stand Up to Scrutiny



Abdorrahman Boroumand Center
for Human Rights in Iran

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Children, Yet Convicted as Adults

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Summary

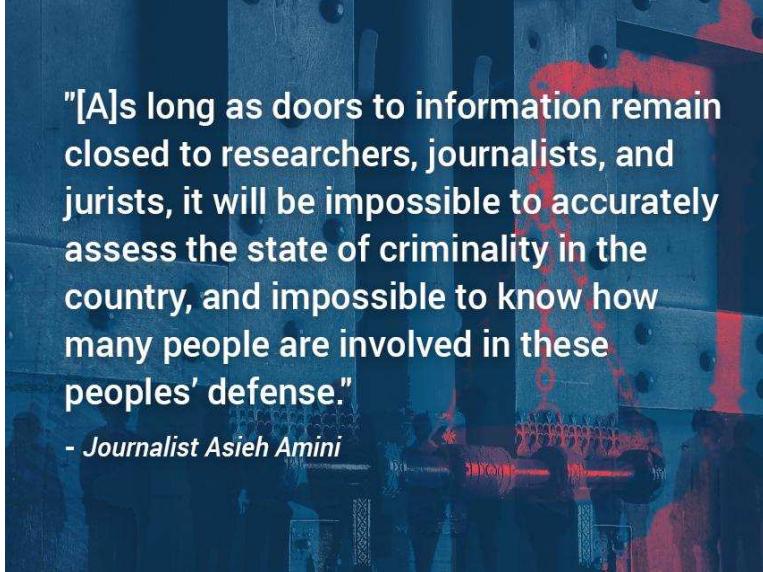
"Each time we object to the execution of children, they say we are imitating the West...We are not imitating the West. We are asking to travel back 80 years..."

- Human rights lawyer and Nobel laureate Shirin Ebadi

Since 1979, the Islamic Republic of Iran has witnessed a crisis of the right to life to which at least hundreds of alleged child offenders (at least 140 since 2000) have fallen victim. Contrary to the claims of officials who defend this practice, there is little support for the execution of child offenders inside Iran. Appealing to their own history, legal tradition (including the 1926 Penal Code), religion, science, and common sense, Iranians of diverse background have for decades called into question the practice of convicting children as adults. They also refer to international conventions that Iran is committed to respect, which clearly prohibit the imposition of the death penalty for individuals convicted of crimes committed before the age of 18. Iranian officials nonetheless ignore the country's own experts and the international community alike. It is time for Iran to face the facts: no argument defending the killing of child offenders stands up to scrutiny.

The backgrounds of the alleged child offenders who fall victim to the death penalty are as diverse as the reasons for which they face the justice system. But their stories (where they are not falsely accused) often begin similarly, with a range of situations where young minds are especially vulnerable to rash feelings and the influence of others, from political activism to heated brawls with peers to pressure from older codefendants, friends, and love interests to take the fall. The true tally of such executions - obscured by the justice system's opacity, lack of data and access, and the authorities' flat rejection of queries from inside and outside the country - is necessarily much higher.

Systemic problems of lack of independence (including undue interference of other state organs in politically-motivated prosecutions,) corruption, incompetence, lack of accountability for judges, prosecutors, and the police, and the deliberate undermining of the legal profession affect cases where



"[A]s long as doors to information remain closed to researchers, journalists, and jurists, it will be impossible to accurately assess the state of criminality in the country, and impossible to know how many people are involved in these peoples' defense."

- Journalist Asieh Amini

children's lives hang in the balance as they do all cases tried in Iranian courts. Failures of the judiciary to provide access to lawyers during interrogation and the use of coerced confessions at trial, meanwhile, have a particular negative impact on the cases of juvenile defendants as they navigate the judicial process alone, terrorized, and uninformed.

Time and again, the international community has expressed outrage at a practice so egregious. The second UN Special Representative to Iran on human rights raised the issue of juvenile offenders in his 1995 reporting, and Special Rapporteurs, other UN human rights authorities, human rights groups, and UN member states - whether individually or in coalition - have pressed Iranian officials to stop executing child offenders. They have asked for clarity and transparency on the matter, including by repeatedly asking for data on executions, and demanded that Iran honor its commitments under international law, including the Covenant on Civil and Political Rights and the Convention on the Rights of the Child. Iranian officials have responded with repetitive and unconvincing cultural and religious justifications, flat denials, distortions (for instance, their policy in recent years has been to wait until convicted child offenders are older than 18 to implement their sentences in order to claim that no minors are executed in Iran, or to deceive public opinion about the age at the time of the offense), and slow-paced and inadequate reform. Officials also argue that such change takes time.

For scores of alleged juvenile offenders on Iran's death row (at least 85 as of May 2019 according to information received by the UN Office of the High Commissioner on Human Rights) and their families, however, time is of the essence. The likes of Mohammad Reza Haddadi (duped at 15 into taking the fall for the murder of a cab driver by a combination of pressure from older co-defendants and police corruption and sentenced to death in 2004) and Saleh Shariati (given a death sentence at 16 in 2012 over a fatal well fall incident on the basis of the sworn testimony of non-witnesses) have spent their entire adult lives behind bars. Justice in their cases hangs on Iranian officials finally heeding the experts, lawyers, academics, religious scholars, and criminologists in Iran who, for years, have made a broad range of arguments against capital punishment for children.

The execution of child offenders which has followed the lowering of the age of criminal responsibility to 9 for girls and 15 for boys is in fact a recent phenomenon in Iran's modern history. From the 1926 penal code endorsed by a major religious law authority and source of emulation, Ayatollah Hassan Modarress, through the establishment of juvenile courts in 1959 and the reform of the penal code in 1973, lawmakers recognized that childhood ended at 18 years for both boys and girls. They sought to limit the severity of punishments by prescribing a range of alternative measures for those found guilty of committing capital crimes: the 1926 law foresaw a maximum of five years' time in a reformatory for such defendants, while the 1973 penal code reform set a ceiling of eight years' imprisonment for minors above 15.

Judicial official's insistence on a narrow and outmoded interpretation of religious law not shared by the judicial systems of most Muslim-majority countries is also questioned by respected religious experts. Some argue that there is no firm case for equating puberty with criminal responsibility in religious jurisprudence, while others point out that the concept of maturity found in the Qur'an is much more complex, and considers a much later range of ages, than the interpretation on which Iranian judicial officials rely.

Iranian officials themselves know that individuals below the age of 18 lack maturity, hence the inconsistencies in the Islamic Republic's criminal and civil laws. For "discretionary" *ta'zir* crimes, for example, defendants under 18 are judged on a graded scheme of age and exempt from maximal

punishments. A recent reform to Iran's drug law recognizes the diminished responsibility and vulnerability of all persons under 18 by prescribing the death penalty for any person who makes use of a minor to commit a drug crime (classifying them with persons with mental disabilities in this regard). Further, Iran's law prohibits individuals under the age of 18 from independently opening or withdrawing from a bank account, being party to contracts, engaging in financial transactions, lodging any legal complaint about financial matters, and applying for a passport or a driver's license.

Critics of the execution of juvenile offenders in Iran also point to Iran's international obligations and the impermissibility of this practice in international law. They also cite a wealth of evidence from the fields of neuroscience and psychology which suggests that, regardless of culture, language, and upbringing, a universal process of brain development demands that juveniles be treated categorically differently in the legal system. Many are persecuted for voicing their criticism in public.

Decades of research on brain development behavior show that juveniles remain highly susceptible to pressure from others, prone to rash decisions, and capable of great plasticity of character. Neural connections between areas of the brain involved with impulse control and higher order thinking and those involved with emotional responses increase over the first three decades of life, a trend which diminishes emotional volatility over time. Empirical studies demonstrate not only that juveniles are hampered in long-term thinking and capacity to assist legal counsel, but also that adults with neurological impairments approximating juvenile brain function are more likely to make egocentric judgments. These scientific findings suggest that capital punishment for juveniles is neither deterrent (since juveniles are prone to act in rash ways not considerate of criminal sanction), nor proportional (since the methodical taking of life by the state can never be commensurate with the impulsive actions of offenders who have not yet reached maturity), nor preventative of recidivism.

The Iranian judiciary's policy of sentencing and executing juvenile offenders is as indefensible now as it was some four decades ago when the practice began. Justifications offered by Iranian officials are gravely at odds with Iran's own history, the views of Iranians themselves, Iran's existing domestic and international law, and scientific assessments. It is time for Iran to face the facts, declare a moratorium on executions, and reform its laws to ensure that individuals under the age of 18 are considered as children in all legislation and in practice. In a context where civil society is persecuted and silenced for criticizing Iran's laws and practices, the international community must do more to stop the execution of child offenders. Those who engage with Iran on its human rights record need a more effective and transparent strategy to obtain access and data, counter official rationale used to avoid reforming its criminal code, and to hold Iran accountable for violating its international human rights obligations.

Key Recommendations

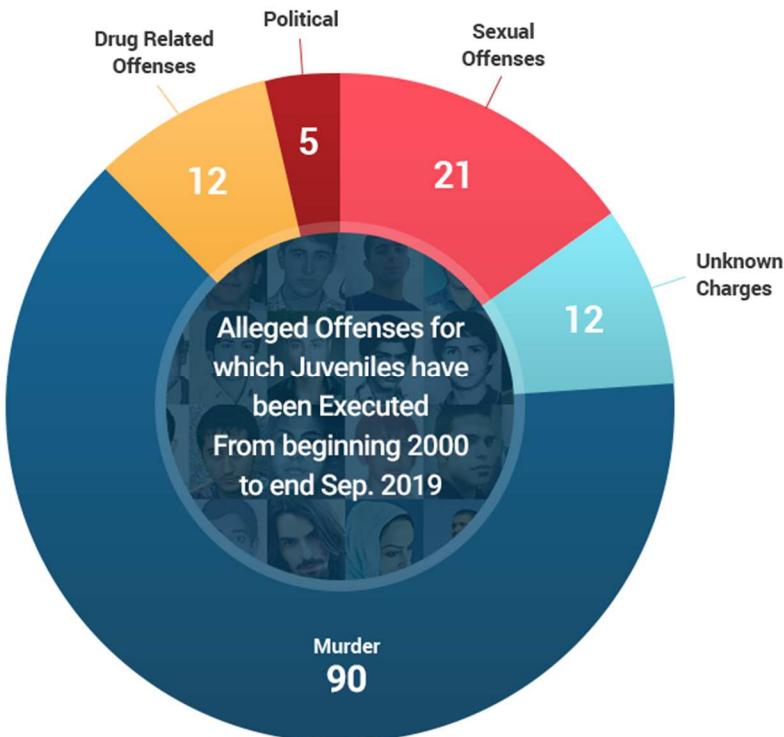
- *Impose a moratorium on the death penalty in all cases, with a view toward its prompt abolition.*
 - *Abolish the death penalty in the Islamic Penal Code for individuals who commit hudud or qesas crimes while under the age of 18 years, without leaving any discretion to the court.*
 - *Commute all death sentences for offenders on death row for crimes committed under the age of 18 years, in conformity with international juvenile justice standards.*
 - *Conduct a review of death row cases and systematically retry all cases in which courts accepted confessions despite allegations of these confessions having been coerced and confessions obtained during interrogation carried out without the presence of an attorney.*
 - *Ensure that all coerced testimonies and confessions obtained by means of torture, cruel, inhuman, or degrading treatment are excluded as evidence before a court, and that allegations of confessions or testimonies obtained under duress are duly investigated, punished and remedied.*
 - *Ensure that children are guaranteed legal or other appropriate assistance from the outset of the proceedings, during the investigations, in the preparation and presentation of the defense, and until all appeals and/or reviews are exhausted, in line with the CRC.*
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Introduction

Since the inception of the Islamic Republic of Iran, its criminal law and justice system have facilitated an unprecedented assault on the right to life and due process of law. Based on research carried out by Abdorrahman Boroumand Center for Human Rights in Iran (ABC), nearly two hundred acts are punishable by death in Iran, and only a few of these acts meet internationally-established legal criteria for capital crimes.

Over the past four decades, Iranian courts have sentenced to death tens of thousands of people, including child offenders, for their political and religious beliefs, for exercising the right to freedom of expression and association, for their choice of sexual partners, and for ordinary crimes including drug-related offenses and homicide.¹ Laws in post-revolutionary Iran do not grant leniency in light of an offender's minor status, and its criminal justice system sets the age of "maturity" at nine lunar years for girls and 15 lunar years for boys.

While the age of criminal responsibility varies greatly from country to country, there is a nearly worldwide consensus that under the age of 18 individuals have not fully developed their faculty of reason and are thus not to be tried and punished as adults. In fact, international law, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC) that Iran has ratified, prohibit clearly the execution of individuals for crimes committed before they turn 18. Before the 1979 revolution, and before the existence of the above mentioned conventions, lawmakers in Iran had already integrated this prohibition in the law.



In the early 20th century, the founders of Iran's modern justice system raised the age of maturity to 18 for boys and girls, prohibiting harsh punishments for children. In the wake of the 1979 revolution, however, leaders of the Islamic Republic revolutionized the justice system and, amid widespread outcry from legal professionals, drastically reduced the age of maturity and criminal responsibility in the laws. The shift, accompanied by systemic due process violations, has had grave and deadly consequences for thousands

¹ Among them certain drug offenses, murder, and certain *hadd* crimes, including adultery, incest, rape, "sodomy," lesbianism, "enmity with God" (*mohareb*), and "corruption on earth" (*mofsed fil arz*)

of minor defendants. To their many critics both foreign and domestic, Iranian authorities have responded with strained religious and cultural justifications, empty promises, or outright misinformation. Their arguments are disputed inside Iran and further weakened by scientific research advancements on adolescent brain development and risk perception.

The Data

The Islamic Republic authorities do not publish accurate or systematic execution data, and access to courts and prisoners is strictly policed. A February 1, 2018 report by the Iran Student News Agency (ISNA) noted that there is currently no official data on cases referred to pro-bono attorneys in Iran, nor on the sentences ruled on such cases.

According to Ali Yarahmadi, head of the Central Bar Association's Commission on pro-bono cases, "in the year 1395 (March 2015-March 2016) in Tehran alone, there were more than 1000 cases, and this only represents the cases referred to the Bar. In many cases, prosecution offices directly hire lawyers for the accused and do not provide statistics on such cases the Bar."²

Though many executions—including those of child offenders—go unreported in Iran, official sources and domestic newspapers have occasionally reported on executions. Activists on the ground also work to document executions at great personal risk. To date, ABC has collected information on the execution of at least 482 child offenders since 1979. This figure does not include the numerous documented executions of youths whose age at the time of their alleged offense could not be verified. Gaps in ABC's data on the 1990s represent a blackout and succeeding crackdowns on press, political parties, and civil society the decade prior; the crackdowns, which culminated in a massacre of political prisoners in 1988, all but precluded the collection of data from prisoners and other independent sources. Regardless of scant official data, available sources testify to a decades-long, systemic abuse of children's rights to life and due process.

In 2018, Iran executed seven child offenders,³ and it has put to death at least 88 child offenders since the beginning of 2009. At least 64 of these executions took place after the reform to the Criminal Code took effect in June of 2013. Of the 88 cases since the beginning of 2009, 57 involved charges of murder. Reports on many such cases paint a picture of youths caught in emotionally-charged altercations with peers: scenarios where developing minds, vulnerable to peer pressure and impulse are likely to commit an irrevocable mistake. Minors accused of murder are often denied fair trials and tortured into uttering confessions; today, dozens are languishing on death row for manslaughter or homicide charges.



**Minors accused of
murder are often denied
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² <https://www.isna.ir/news/96111106756>

³ In 2017, Iran and South Sudan were the only countries to execute child offenders.

The victims

The Victims of juvenile executions are diverse in religion, ethnicity, nationality, and socioeconomic background. Whether guilty or innocent, they have one thing in common: all stood accused of crimes whose nature and consequences they were too young to assess. They were more vulnerable and impressionable than adults in detention and interrogations, where they were denied access to counsel.

The 1979 revolution brought about a charged atmosphere that drew young teens to political activity. Some had relatives who were activists, others were drawn by religious activists or the clerics in their local mosques, while others were recruited by their teachers or simply followed zealous friends. Many sold newspapers, distributed leaflets, and participated in protests or gatherings at a time when those activities were legal; when authorities told them to cease their activities, many stood their ground. Were they able to measure the risks involved in their activism? Did they persist out of outrage at the violence they had witnessed and experienced, or out of fear of repercussions for quitting the groups they had joined? Regardless of their individual motivations toward activism, none could have foreseen or prepared for what they had to face after their arrest.

Manuchehr Eshaqi

Manuchehr Eshaqi was only 13 when he was arrested on July 17, 1981. He spent the next ten years of his life in Tehran prisons, was nearly executed, and has struggled since his release to cope with the trauma of his arrest. About his involvement in political activities, he told ABC:

"In those days, kids started early in school. My uncle was a political activist and the environment in our house was political. The Revolution had created an atmosphere that affected everyone.... We read newspapers... of leftist groups and the Mojahedin. We had heated discussions. We put posters on the walls, distributed leaflets, and sold newspapers.

Maybe if the environment in school and society had not been so oppressive, I never would have been driven to get involved in all of this. About eight or nine months before [my arrest], in political meetings, I saw [people] being stabbed, or being beaten with sticks and clubs. For example, my younger uncle, who was neither a supporter nor politically active, had come to see one of the meetings in front of the university. The regime's club-wielders attacked the meeting participants. They did so with clubs, knives, and chains. ... They stabbed my uncle in the back and tore his lung. I was in the hospital [with him] for three days because he was in a coma.⁴

Manuchehr went on to say that neither he nor his friends gave a thought to the far-reaching consequences of their political involvements:

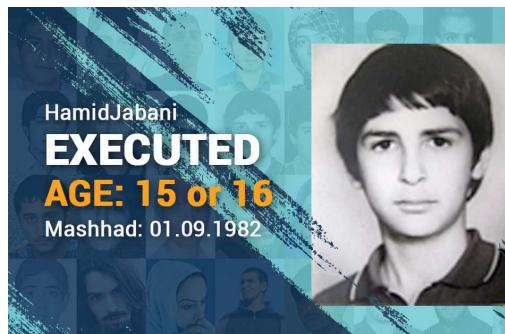
⁴Manuchehr Eshaqi, unpublished interview with Abdorrahman Boroumand Center, March 13, 2009; <https://www.iranrights.org/library/document/2431/i-was-arrested-twenty-days-before-i-turned-14>

"My dad was very much against [my activities]. My mom tried [to dissuade me] as well. But, the atmosphere in the home was such that no one would hear them. We wanted to bring about change but did not think much about the cost that came along with it ... Now that we are older we can see that there were risks, but at that age, one takes risks easily..."

Manuchehr was eventually arrested, kept in solitary confinement, tortured for hours, and tried, all without a lawyer. His fellow activists had warned him in case of arrest to remain silent for a minimum of 24 hours so that whatever information he had, such as a meeting place, would no longer be relevant. So the 13-year old Manuchehr said nothing, exposing himself to beatings, lashes on the soles of his feet, and death threats.

"I couldn't comprehend. It had been three days and everything seemed like a dream, a nightmare. It did not feel real. ... When they threw me in the solitary cell, I was crying and telling them 'I want to go home. I have done nothing.' They talked about executing me, but they said tonight is not your turn."⁵

It took eight months for authorities to allow Manuchehr to see his family. As he and eight others were being led to the gallows, a prosecutor noted his very young age and spared his life, but only after making him watch the others be put to death, including his 17-year-old friend Parviz. Hundreds of others were not so lucky.

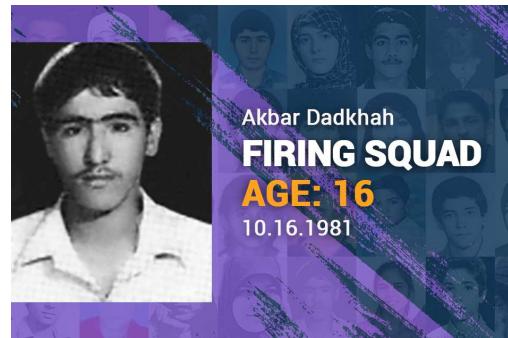


Hamid Jabani

Little is known about Hamid Jabani except that he was 15 or 16 when he was executed in Mashhad on January 9, 1982. His brother Kurosh had been executed a few months prior and his older brother Sa'id a few months later, in May.⁶

Akbar Dadkhah

Akbar Dadkhah was only 16 on October 16, 1981 when he stood before a firing squad alongside 24 others. He was guilty, according to the Central Islamic Revolutionary Public Prosecutor's Office, of "making Molotov cocktails and participating in extensive activities in organizational teams and presence in team houses," and "participation in street meetings and bloody clashes." Could he have measured the



⁵ Manuchehr Eshaqi, unpublished interview with Abdorrahman Boroumand Center, March 13, 2009

⁶ <https://www.iranrights.org/memorial/story/38649/hamid-jabani>

weight of these vague accusations against him? Was he given the chance to see the evidence involving him in any act of violence, or to call any witnesses? He had no lawyer to advocate for him, and appealing one's sentence was not an option back then.

Ali Agah

Ali Agah's initial arrest, formal warning, and two-week detention for selling newspapers in June of 1981 was not enough to dissuade him. He was only 14 years old on November 17, 1981 when he was arrested again on a city bus and taken to Vakilabad Prison in Shiraz. He had no visitations and little is known about his trial. Available sources indicate that an assistant judge once told Ali's family, "these kids became political in prison and won't be released." He was executed secretly in 1988. Agah is one of at least 4000 political prisoners who were hanged during the summer and fall of that year for refusing to recant their beliefs.⁷



Bahram Ahmadi



The successful elimination of organized opposition groups inside the country in the 1980s was effective in deterring dissidents from participating in organized political activities and limiting the number of politically motivated executions in the following decades. Iranian minorities however, who attempt to join organized activities or political parties, continue to be at risk, including child offenders such as Bahram Ahmadi, a Kurdish Sunni religious activist who was arrested at his home on September 19, 2009 at the age of 17.

Bahram was kept in solitary confinement and tortured for 17 months before being tried blindfolded with shackled hands and feet in Branch 28 of Revolutionary Court. The lawyer assigned to him and his co-defendants met with him on the day of his trial and convinced him to accept the charges in exchange for leniency and a transfer to a prison in his hometown. In his will, published after his execution on December 27, 2012, Ahmad wrote of the insulting and coarse demeanor of his judge, who refused to let him speak.

He explained that he became a religious activist "after two clerics, Bijan Daneshmand and Juybari, seriously insulted the mother of believers [Ayesheh, the prophet's third wife] ... other companions of the prophet, and Sunni beliefs and sanctities."⁸

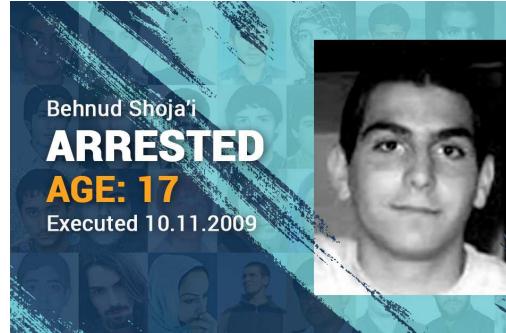
⁷ <https://wwwiranrights.org/memorial/story/-2736/ali-agah>

⁸ <https://wwwiranrights.org/memorial/story/-7321/bahram-ahmadi>

While cases like Ahmadi's are not common, the impairing effects of outrage over offensive statements are often brought to the fore in defense cases of juveniles. Heightened states of emotion, sudden rage, and poor assessment of risk have driven many teenagers to acts of deadly consequence. Juveniles executed in recent years have often been sentenced to a retributive death (*qesas*) for causing another person's death during a brawl. In their own defense – if they had not already been coerced into false confessions by police – defendants often insist that they acted out of sudden rage, without premeditation or intention to kill. In all reported cases, child offenders were also denied access to their families and a lawyer during interrogations, leaving them to face an intimidating judicial apparatus alone. During interrogations, certain stakeholders have also capitalized on these defendants' lack of maturity and access to lawyers by manipulating them into taking responsibility for murders they did not commit. Child offenders are assisted by lawyers in court after being interrogated by the police. However, more often than not, they have not benefited from a proper defense, at least in their first trial.

Behnud Shoja'i

Behnud Shoja'i was executed October 11, 2009 for murder, after being taken to the gallows three times and witnessing the hangings of 14 people. In both his trial sessions, he denied the charge of intentional murder, stating that he had brandished a broken soft drink bottle in self-defense. He had turned himself in on August 18, 2005 after a brawl and sentenced to death on October 2, 2006. His goal had been to scare the victim, who had insulted his dead mother and angered him. Shoja'i insisted that he inflicted only one blow to the deceased. His attorney stated that all participants in the fight were armed with knives and requested that the court hear eyewitness testimonies.



In his last interview, Behnud was asked whether he would like his execution to be postponed again, to which he replied:

"No, no. I truly no longer want it to be postponed. I absolutely had no prior intention. I've been in jail since the age of 17. I haven't had a mother since childhood... I swear to God, the punishment I have suffered is enough to last a lifetime. I pray to God that even [my] worst enemy doesn't end up in a place like this."⁹

Arman Bahr Asemani

Arman Bahr Asemani was executed on January 15, 2017 for having murdered his cousin in November 2012 while inebriated at the age of 16. He was charged with "intentional murder and consumption of alcoholic beverages." Although modifications made to Islamic Penal Code in 2013 gave the judge the option of sparing Arman the death penalty based on the fact that he was not mature enough to comprehend the nature of the crime, he chose to sentence him to 74 lashes for drinking and then to death.

⁹ <https://www.iranrights.org/memorial/story/-7591/behnud-shojaei>

Arman's defense attorney pointed to the contradictions in the court's ruling, stating: "If the Court believes my client was drunk, then the murder cannot be found to have been intentional; and if he was not drunk, then why the flogging sentence?"¹⁰

Alireza Tajiki

The case of Alireza Tajiki, executed on August 10, 2017 amid public outrage, is an illustrative example of how draconian laws and lack of due process are a deadly combination.

Alireza was arrested July 3, 2012 at the age of 15, after having been summoned to the Fasa Criminal Investigations Bureau several times to assist police investigating the circumstances surrounding the death of his friend, whose body had been discovered in a well in the village of Gardsar. Alireza was among a group summoned to the bureau that day without their family's knowledge. He was kept in solitary confinement for 15 days without access to his family or an attorney. He reported that the interrogators forced him to make a false self-incriminating confession by beating him and suspending him by his hands and feet. At trial, Alireza insisted that he was innocent and that his incriminating statements were made under the duress of prolonged interrogation and torture. He is reported to have told his family:

*"[The interrogator] would tell me to say 'I went here, then I went there, then I did this here, I killed him over there, I picked him up here, I threw him in the well like that'. He was teaching me what to say and what to do, but I wouldn't learn no matter how hard he tried. If I had learned, I would have done what he told me because I just didn't want to be beaten up anymore."*¹¹

Several documents that would have helped to establish Alireza Tajiki's innocence were eliminated from the case file, including the Medical Examiner's autopsy report, which conflicted with descriptions extracted from the defendant under interrogation. His attorney Nasrin Sotudeh noted that the court refused to hear witnesses:

"There were many witnesses ready to appear in court and testify on my client's behalf that he was home at the time the crime was committed. But the court disregarded all these requests."

Sotudeh also noted that the Office's Medical Panel had already concluded that her client lacked the requisite intellectual capacity for understanding the nature of his crime, pursuant to Article 91 of the 2013 Penal Code, but that these findings were later refuted by a second inquiry and medical panel.¹²



¹⁰ <https://www.iranrights.org/memorial/story/-8067/arman-bahr-asemani>

¹¹ <https://www.amnesty.org.uk/urgent-alireza-arrested-15-tortured-confession-be-executed-tomorrow>

¹² <https://www.iranrights.org/memorial/story/-8069/ali-reza-tajiki>

Amir Hossein Purja'far Katamjani

Amir Hossein Purja'far Katamjani was convicted of the murder and rape of a young girl at the age of 17 by Criminal Branch Seven of the Public Court of Tehran Province and executed January 4, 2018. A psychological expert at the juvenile rehabilitation center where Amir Hossein was held diagnosed him with a behavioral disorder which, if left untreated, had the potential to result in sociopathic tendencies and failure to empathize with others. An individual with knowledge of the case claimed Amir Hossein had used drugs which were readily available in his neighborhood on the day of the murder.¹³

Ali Kazemi

Ali Kazemi was involved in a street fight in 2017 at the age of 15 during which he caused the death of another individual owing to a dispute over a small amount of gas money. He was held at Bushehr Prison for six years and eleven months and ultimately executed there on January 30, 2018. Neither his lawyer nor his family were present for or informed of his execution. Amnesty International termed Ali's execution "exceptionally cruel" and "an all-out assault on children's rights."¹⁴

Mahbubeh Mofidi

Mahbubeh Mofidi was hanged on January 30, 2018 at the age of 21. She had been married at 13 in a village outside the city of Noshahr in Mazandaran Province. Mahbubeh was arrested at 17 and accused of having killed her husband with poison pills provided by her brother-in-law. She had initially insisted that her relations with her husband were good, but after interrogations conducted without the presence of an attorney, she reportedly confessed to having been in love with her brother-in-law and having given the pills to her husband. A source familiar with the case stresses that she had been drawn into a fratricide and was not aware of the dangerous nature of the pills. Cases like hers will continue to occur as long as confessions obtained without the presence of a lawyer are admissible in courts.¹⁵

Abolfazl Naderi

On September 2, 2018, Abolfazl Naderi, a young man sentenced to death on the charge of murder, was executed in Arak prison in Markazi Province. He was 16 years of age at the time of his arrest in June 2012, which occurred after he reported to the police that his friend had committed suicide. Rejecting his statement, police accused Abolfazl of murder and held him in solitary confinement at a police station for two weeks without access to his family and lawyer. The authorities claimed that Abolfazl and two of his friends had been drinking alcohol in a deserted building and that Abolfazl and a codefendant had

¹³ <https://wwwiranrights.org/memorial/story/-8294/amir-hossein-purjafar-katamjani>

¹⁴ <https://wwwiranrights.org/memorial/story/-8320/ali-kazemi>; <https://www.amnesty.org/en/latest/news/2018/01/iran-authorities-execute-man-in-exceptionally-cruel-circumstances/>

¹⁵ <https://wwwiranrights.org/memorial/story/-8319/mahbubeh-mofidi>

subsequently raped the deceased person and killed him. Abolfazl stated later in court that he falsely confessed to the charges as he was no longer able to tolerate the torture. He also claimed to have tried to retract his confession before the Office of the Prosecutor, but that investigators threatened to send him back to the police station. In July 2013, Branch One of the Criminal Court in Markazi Province convicted Abolfazl of murder and sentenced him to death.

Abolfazl stated that he had not known about the death sentence against him for two years after his conviction and was told that he had been sentenced to ten years in prison. Further, the authorities did not inform him of his right to seek a retrial on the grounds of Article 91. In early 2017, a lawyer took on Abolfazl's case on a pro bono basis and submitted a request for retrial but the request was rejected by the Supreme Court in June or July 2017.

Zeynab Sekanvand Lokrani

Zeynab Sekanvand Lokrani, a 24-year-old Kurdish woman, was put to death on October 2, 2018, at Orumieh Prison. Zeynab has reportedly married at the age of 15, was charged with murdering her husband in 2012 at the age of 17 after turning herself over to police. In October 2014, Branch Two of the Criminal Court in Orumieh sentenced her to death. Zeynab was interrogated without the presence of an attorney and her state-assigned lawyer was present only at the last session of her trial. A cellmate recounted that Zeynab had told other prisoners that she took the blame for someone else and never thought she would face such consequences. Her lawyer reported that her client could not have committed the crime, but the judge ignored the reasoning regarding Zeynab's innocence. Further, Zeynab alleged that she was abused and beaten by her husband and that he had refused her requests to divorce her. She also said that she had been repeatedly raped by her brother-in-law. Authorities failed to conduct any investigations into the allegations of sexual violence and domestic abuse.¹⁶

Mehdri Sohrabifar and Amin Sedaqatpur

On April 25, 2019, Mehdi Sohrabifar and Amin Sedaqatpur were executed at Adelabad Prison in Shiraz.¹⁷ Amnesty International reported the two had been given capital sentences after a grossly unfair trial on charges of multiple rapes they had allegedly committed as minors. According to Amnesty International, the boys were under the age of 18 at the time of the execution. Authorities did not announce that their sentences would be implemented beforehand and flogged them before execution.¹⁸ A local news report from January 31, 2017 makes mention of two 16-year-old youths, presumably Sohrabifar and Sedaqatpur, who were apprehended for a series of nighttime burglaries and "molesting" single women.

¹⁶<https://www.iranrights.org/memorial/story/-8333/zeinab-sekaanvand-lokran>;

<https://www.amnesty.org.uk/press-releases/iran-young-kurdish-woman-executed-after-unfair-trial>

¹⁷ <https://www.iranrights.org/memorial/story/-8382/mehdi-sohrabifar>; <https://www.iranrights.org/memorial/story/-8381/seyyed-amin-sedaqatpur>

¹⁸<https://www.amnesty.org/en/latest/news/2019/04/iran-two-17yearold-boys-flogged-and-secretly-executed-in-abhorrent-violation-of-international-law/>

The report mentions that, before the pair's arrest, six young women filed complaints which they ultimately did not pursue.¹⁹

Amir Ali Shadabi and Turaj Azizi

Little is known about the case of **Amir Ali Shadabi**, who was put to death on July 14, 2019 at Hormozgan's Minab Prison for his role in a deadly brawl at the age of 17,²⁰ or that of **Turaj Azizi** executed on July 28, 2019 at Mazandaran's Nur Prison.²¹ Turaj had been convicted of the murder of a young man at the age of 16 in the course of a fight.²²

Kian

Kian, who was on death row when interviewed in 2015, had confessed over the course of his interrogations to stabbing another boy. He later protested his innocence. Like his comrades, he was interrogated without the presence of an attorney:

"When it happened, I was a 17-year-old; I hadn't even seen a police officer up close. That's why when I was arrested and told that Ali said I'd stabbed Keyvan once, I was petrified and confessed. I didn't know that I could disagree with a police officer. I was too afraid to speak up."

"In court I explained that Ali had stabbed [Keyvan] both times and that I didn't have anything to do with it. I made the confession out of fear. But the victim's family's lawyer said that there were witnesses who could confirm I was the assailant. They then called Keyvan's friends to the stand and they testified against me, claiming that I stabbed Keyvan directly in the chest."²³



Like his comrades, Kian was interrogated without the presence of an attorney

Safar Anguti

While Safar Anguti was luckier than many others, he still spent seven years in Rajai Shahr Prison not knowing if or when he might be hanged. He had turned himself in and was convicted for killing his friend in a tussle in 2007. It was all about protecting a neighborhood girl, he told a journalist:

"It's not that I had a crush on her. I was mostly jealous. If someone leered at the neighborhood girls, I'd get hot-headed. I wasn't 18 yet. I was a kid and I was arrogant. We got into a fight and he went looking for his friends

¹⁹ "Those with Complaints Against these Two Evil People Should Report to the Prosecutor's Office," Khabar-e Jonoub, January 31 2017 (<http://khabajonoub.ir/24489>).

²⁰ <https://www.iranrights.org/memorial/story/-8385/amir-ali-shadabi>

²¹ <https://www.iranrights.org/memorial/story/-8384/turaj-azizi>

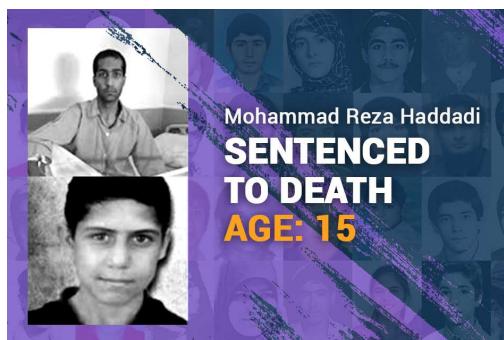
²² Islamic Republic News Agency, July 28 2018 (<http://www.irna.ir/news/83414038>)

²³ <https://www.iranrights.org/library/document/3041>

to help him in the fight. I went home, took my knife and stabbed him to death as soon as I saw him. I hid for two days, but I couldn't do it anymore, and anyway I had his blood on my hands."

Safar was nearly executed twice before a charitable organization collected blood money to pay the victim's family. He told the journalist interviewing him after his release: "See ma'am, the second time I was set to be executed, a handful of my hair fell out..." He laughed: "I went bald!" "He doesn't look 25," wrote the journalist, "his bald head and all the scars and stitches on his face bear witness to his time behind bars."²⁴ Unlike Safar, many others remain on death row and at risk of being executed.

Mohammad Reza Haddadi



Mohammad Reza Haddadi, currently on death row, was a victim of police corruption. He was sentenced to death in 2004 for a murder he committed when he was 15. He has been in prison for more than half of his life.

Mohammad Reza initially confessed to the murder of a taxi driver. He retracted the confession during his trial, saying he had not been involved at all, and had only claimed responsibility for the killing because his two co-defendants – who, through an exception to the usual protocol, had been his cellmates during the investigation – had offered to give

his family badly-needed money for taking the fall. He had also been shown a newspaper article in which, as he understood, then-Chief Justice Mahmoud Hashemi Shahroudi declared minor offenders would be exempt from execution sentences.

The police found no motive to attribute to Mohammad Reza's alleged murder; he was too young to have a use for the taxi or driver's checkbook stolen by his co-defendants. Two of those co-defendants, who were both over 18 at the time of the crime, and had taken the check book and the car, received prison sentences. One of them later supported Haddadi's claims, withdrawing the initial testimony that had implicated him and testifying to the boy's innocence on camera. More recently, reports indicate that the medical examiner has found that Haddadi had not reached maturity at the time of the event, but the court however has yet to grant him a retrial. Despite new provisions of the Islamic Penal Code, and 15 years after being sentenced to death, he is still on death row.²⁵

²⁴ Interview *Tabnak*. Abdorrahman Boroumand Center's translation.

<https://wwwiranrights.org/library/document/3042>

²⁵ <https://wwwiranrights.org/library/document/1033/iran-execution-scheduled-for-juvenile-offender-See details about Mohammad Reza Haddadi's investigation: mohammad-reza-haddadi-m-further-information;> <https://www.youtube.com/embed/fj0xWAH8wiY?rel=0&showinfo=0&autoplay=1>

Saleh Shar'iati

Laws allowing the sentencing of child offenders to death without sufficient evidence, compounded by corruption and due process violations, have turned Saleh Shar'iati's life into an ordeal.

A seasonal laborer from a poor family, Saleh was sentenced to death for murder on the basis of *qasameh*, the oaths of fifty male relatives of the plaintiff who were not present at the scene of the crime or in the vicinity but swore to Saleh's guilt. In 2012, when Saleh was 16 years old and working on a farm in Bushehr, a co-worker fell down a poorly-protected well and lost his life. The family of the deceased filed a complaint against the owner of the farm, but 16 months later, Saleh found himself charged with murder. His case was then illegally transferred out of Bushehr's jurisdiction to Fasa, Fars Province, where the deceased's parents lived.²⁶



During initial investigations, Saleh Shar'iati was beaten and interrogated without the presence of a lawyer. In the first interrogation session, which took place in the criminal investigations unit, interrogators obtained a confession statement that was signed by Saleh, yet written in somebody else's handwriting. Instead of ordering an investigation into this inconsistency, the investigating judge eliminated it by asking Saleh to rewrite the confession. At no time did judicial officials inform the 16-year old boy of his right to an attorney, nor did they appoint one for him. With great difficulty, Shar'iati's family was able to hire a private lawyer, but this lawyer was unable to access case materials until the indictment had already been issued. Later, Saleh wrote a letter to the court from prison in which he recanted his initial confession. The sole witness who had testified to seeing Shar'iati push the deceased down the well also retracted her statements, saying she had made them under the duress of torture. Branch 3 of Fars Province Criminal Court One found no conclusive evidence to convict Saleh but did so anyway solely on the *qassameh* oaths from the plaintiffs' relatives. He was sentenced to death in February of 2018, and the Supreme Court upheld the verdict in the fall of that year.²⁷ At the time of this writing and months after he petitioned for retrial, the court remains silent.



Iran's law imposes an emotional and financial burden on child offenders and their families by allowing the family of a murder victim to pardon a convicted offender in exchange for blood money (*quesas*). Omid Rostami, entangled in one such blood money negotiation, went to the gallows four times before finally being executed on November 14, 2018.

²⁶ Article 51 of the Law for Constituting Public and Revolutionary Courts for Criminal Affairs; Article 310 of the Code of Criminal Procedure

²⁷ For more on *qassameh* in Iranian law see ABC's newsletter <https://www.iranrights.org/newsletter/issue/88>

Omid (born July 10, 1996 in Tehran) had an eighth-grade education and worked building aluminum doors and window frames. On July 12, 2012 – two days after his 16th birthday – he was involved in a scuffle where he killed another person. The forensic medical examiner found him to be mentally mature based on his criminal record, and the court sentenced him to *qesas*. Rostami's family's efforts to obtain pardon from the family of the slain party were unsuccessful: the latter first requested the amount of 5 billion tomans (\$1.2 million)²⁸, then 3 and 2 billion, all exceptionally high sums for a blood money case. At the judge's intervention, this amount was eventually lowered to 700 million tomans, and by the final stage the blood debt had been reduced to 500 million tomans. Despite great financial hardship, Omid's family was able to raise 660 million tomans (\$158,400); still the family of the victim did not grant forgiveness.²⁹

These cases are not exceptions. Iran remains one of the top-ranking countries in the world in child offender executions. The rationale of Iranian authorities – that these practices are based in Iran's culture and religion – is neither compelling nor supported by facts.



²⁸ Approximatively figures in US dollars based on exchange rate in November 2018.

²⁹ ABC interview with mother of Omid Rostami, December 2018. Rostami's case at the Omid Memorial <https://www.iranrights.org/memorial/story/-8254/omid-rostami>

Juvenile Justice in 20th-century Iran

Children in Pre-revolutionary Law

Current laws defining children's criminal responsibilities have no roots in Iranian tradition, and the state's justifications for its current practices have been contested inside the country for decades. In fact, child offenders were not executed in modern Iran until the 1979 revolution. Iran's 1926 penal code³⁰ described as a "child" anyone under the age of 18, made no distinction between maturity thresholds for boys and girls, and assigned no criminal responsibility to children below the age of 12. Punishments for child offenders, notably less severe than those prescribed for adults, varied and were dealt with in separate articles of the criminal code (Articles 34 and 35). The code did not prescribe the death penalty for child offenders, and for minors found guilty of a crime carrying the death penalty, imprisonment was limited to a maximum of five years in a reformatory. The law was approved and countersigned by Ayatollah Seyyed Hassan Modarress, a staunch believer in the separation of religion and state, and a highly-respected cleric, whose work had been praised by Ayatollah Khomeini,³¹ the founder of the Islamic Republic.³² On September 4, 1934, Iran's parliament approved a single-article law that set the age of maturity for boys and girls at 18 in all legal matters except matrimony. Courts, government offices, and notaries were instructed to consider all children under the age of 18 as minors unless anterior maturity had been proven in court.

Legal changes over the next decades did not impact the legal age of maturity. In November 1959, for example, Iran's parliament approved the establishment of special courts in all provinces for trying children who committed crimes before the age of 18 in all provinces.³³ The law added new protections for child offenders, separating them based on their status (detainee, in rehabilitation, prisoner) and separating those above the age of 15 from the younger ones. The law required judges to visit the centers where child offenders were held every three months. It limited imprisonment for children to a maximum of five years regardless of the crime, and prescribed a minimum of two years' imprisonment



³⁰ <http://rc.majlis.ir/fa/law/show/91023?keyword=%D8%A8%D9%86%DA%AF>

³¹ Ayatollah Khomeini: "Modarres remains alive as long as history is alive." A. Modarresi, "Modarres: A Genius from the Islamic World," Kayhan-e Farhangi 26 (Dec. 1985). Quoted in Ervand Abrahamian in "Khomeinism, Essays on the Islamic Republic" University of California Press, 1993.

³² Modarres came from a clerical family in Ardakan and had studied with prominent senior clerics in Najaf, and taught law and theology in Isfahan. He supported the Constitutional Revolution and presided over the Provincial Assembly in Isfahan. He served as justice minister in the National Government of Resistance formed during World War I to oppose the Anglo-Russian occupation. Ervand Abrahamian in "Khomeinism, Essays on the Islamic Republic" University of California Press, 1993.

³³ <http://rc.majlis.ir/fa/law/show/94806>

in a juvenile rehabilitation center for children convicted of crimes carrying the death penalty or life in prison.

In the spring of 1973, Iranian legislators approved a new penal code³⁴ which reiterated the position that anyone below the age of 18 was considered a child and that no child below the age of 12 could be assigned criminal responsibility. Article 33 specified that crimes committed by minors would be tried by a Court of Delinquent Children.³⁵ Like their 1926 predecessors, 1973 legislators did not prescribe the death penalty for child offenders and limited the duration of prison sentences for children. Per the updated law, children aged 15 to 18 who committed a crime punishable by death were prescribed a minimum of two and maximum of eight years' imprisonment.

Post-1979 Revolution Legislation

The upheaval that resulted in the fall of the monarchy and the advent of the Islamic Republic in 1979 had a profound impact on Iran's justice system. Subsequent legal and institutional transformations subjected citizens to highly punitive laws, discrimination, corporal punishment, and arbitrary and summary justice. For children, whose status was drastically changed by the law, these changes had tragic consequences.

The Islamic Republic's Penal Code prescribes the death penalty for individuals who have reached the age of maturity or puberty (*bolagh*) under Shari'a law. This revision of the civil code finalized in 1982, dropped maturity thresholds from 18 to nine years for girls and 15 years for boys.³⁶

Article 1210 of the Civil Code as Amended on December 29, 1982, which, in principle, considers minors' reaching puberty as evidence of their maturity, and that proof to the contrary must be provided in order to hold otherwise, also provides that they can manage all of their affairs with the exception of financial matters, which, pursuant to Note 2 of said Article, requires that proof of maturity be provided.³⁷



Article 1210 - No one, when reaching the age of maturity, can be treated as under disability in respect of insanity or immaturity unless his immaturity or insanity is proved.

³⁴ <https://rc.majlis.ir/fa/law/show/96940>

³⁵ [http://rc.majlis.ir/fa/law/show/94806](https://rc.majlis.ir/fa/law/show/94806)

³⁶ Nine years corresponds to eight years and nine months lunar years and 15 years for boys corresponds to 14 years and seven months lunar years

³⁷ Supreme Court General Council Procedural Unification Ruling,

<http://rc.majlis.ir/fa/law/show/101382;%20Faslnameyeh%20Motaleaat%20Hoquq%20Khosusi,%20doreyeh%2047,%20No%202,%20summer%201396,%20pp%20213-230>

Note 1 - the age of maturity for boys is fifteen lunar years and for girls nine lunar years.

Note 2 - The properties which had belonged to a minor who has now reached the age of majority may be given to him only if it has been proved that he has full legal capacity.

These changes did not go unopposed. Jurists, practitioners, and other stakeholders objected to bringing the threshold of adulthood below 18. They expressed concern about the consequences of making girls and boys responsible at an arbitrarily-designated point of “puberty” and about the ambiguities of the law, particularly the contradiction between note 2 and Article 1210 itself.

These ambiguities led judges into myriad conflicting interpretations of the law and how to apply it in court. In response, the Supreme Court issued a statement in 1984 granting pubescent individuals the right to manage their own property and decision-making, except in financial matters; in the latter case, guardians were still required unless the growth of the person could be proven.

The Supreme Court’s judgment did not curtail the objections of jurists and experts who continue to argue in favor of adapting to reality and fixing legal majority at 18. Critics of the current law cite flaws such as a subjective, varied, and often misguided understanding of child growth and maturity among Islamic sources, and the necessity of a clear, evidence-based, and objective benchmark.

Contested Post-revolutionary Legal Reforms

The age of maturity has been the object of countless academic papers and debates which challenge lawmakers’ arbitrary determination of the maturity age based on Islamic sources, international law, and criminal science.³⁸ Naser Katuzian, a civil law professor and one of Iran’s most eminent jurists, questioned the logical foundation of laws that allow a nine-year-old girl to make life-changing decisions, such as whether or not to marry or go to school, yet deprive her of similar responsibilities in financial matters.³⁹

³⁸<https://www.isna.ir/news/8209-09265/>, December 2003;
https://jcl.ut.ac.ir/article_36313_f7cb0b0928101f789d2614b35ce7eab1.pdf, Fall-winter 201802014;
<http://www.magiran.com/nview.asp?ID=1334380>, January 2007

³⁹ Khosro Abbasi Dakani, Ahliyat, Hajar, va Sen-e Roshd dar qanun madani Iran pas as eslafat sal 1361 (part three), Kanun, 1382. <http://ensani.ir/fa/article/158639/1361>

In the early 2000s, following a relative loosening of government's grip on expression and spaces for activism, Iranian human rights defenders, civil society members, and journalists familiar with capital cases expressed their objection to laws and practices governing the treatment of child offenders. In a seminar on capital punishment for child offenders organized by the Defenders of Human

Rights Center in Tehran on December 7, 2008, a diverse group of experts delved deeper into the issue, drawing from historical, legal, human science, and religious perspectives to question the official arguments underlying the current legal status of minors.

Nobel Laureate Shirin Ebadi, a longtime proponent of children's rights, dismissed Iranian authorities' pretexts for ignoring human rights defenders' efforts to stop the executions of child offenders:

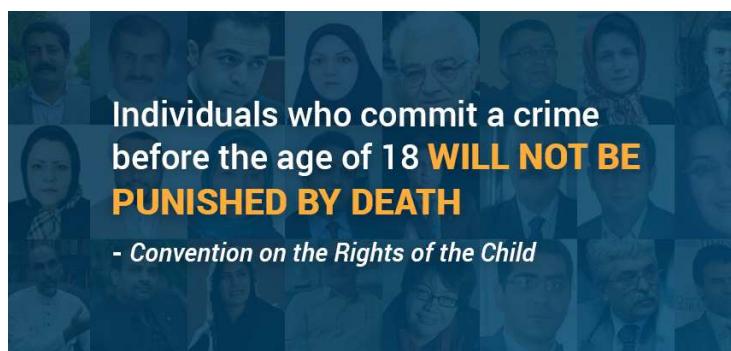
"Science says that the brain and the capability of thinking in human beings is not fully developed under the age of 18. This has been accepted across the world and has been specified in the Convention on the Rights of the Child that individuals who commit a crime before the age of 18 will not be punished by death... Each time we object to the execution of children, they say we are imitating the West..."

"We are speaking about the sacred Islamic Shari'a; this is a question of our Iranian identity... The Penal code of 1926 [approved by the National Assembly] is signed by martyr Modarres who affirmed that the law is compatible with Islam. ... At the time, the most severe punishment for anyone under the age of 18 was five years' imprisonment... We are not imitating the West. We are asking to travel back 80 years, to the law approved by [Ayatollah] Modarres."⁴⁰



Another speaker at the event, women's rights activist and journalist Asieh Amini, who reported on cases of child offenders sentenced to death, pointed to the flawed judicial process in both criminal and non-criminal court cases. She also noted a general lack of judicial transparency and the unreliability of data on child offenders sentenced to death:

"Take the case of Atefeh Sahaleh⁴¹ who was executed in the town of Neka in 2004 shortly [two months and ten days] after her arrest. She had asked the court in writing to be seen by the medical examiner [for a psychological condition] and had even been hospitalized in Mashhad. There was no trace of a medical examination in her file. This was not a qesas case with a private plaintiff. She was charged with prostitution ... In the media and on her death certificate, she was said to be 22. Based on her identity papers, which I saw on my first trip to Neka, she was 16. At the time of her execution there was neither a lawyer present nor her family, as they had not been informed. What happened to this girl will remain a big question mark to which there is still no answer, as her father's complaint against the judge has been rejected."



⁴⁰ <http://www.humanrights-ir.org/detail/110>

⁴¹ <https://www.iranrights.org/memorial/story/-3134/atefeh-sahaleh-rajabi>

Amini's observations of case proceedings for minors entangled in the justice system underlined patterns of due process violations:

"[We see] the absence of counsel during the investigation phase, lack of knowledge and understanding of the law due to their lack of experience, and pressure on youth who will confess to anything just to end the ordeal. Take for example the case of Ali Mahin Torabi, who has been living in prison suspended between life and death for seven years, since he was 16 years old. [His death sentence is based on] confessions he made against himself, which are not even consistent with the observations of the medical examiner."

"In the past year and half, published statistics on death row inmate numbers have ranged from 70 to 150. Most critically, none of these numbers are exact and as long as doors to information remain closed to researchers, journalists, and jurists, it will be impossible to accurately assess the state of criminality in the country, and impossible to know how many people are involved in these peoples' defense."

Another speaker, lawyer and religious jurisprudence expert Sedigheh Vasmaghi, questioned the religious grounds for executing child offenders. Drawing attention to the lack of consensus among religious sources on this subject, she argued:

"When does childhood end?... Where do the ages nine and 15 come from that these gentlemen are insisting on? If one looks at primary sources in religious jurisprudence, there are two categories of description. In one, those ages are indeed mentioned, but there are divergences even on the issue of minimum age. In the other category, there is only mention of 'signs of puberty.' ... We even see assertions that determining the age of responsibility and the age of puberty are Shari'a issues. But Islamic jurisprudence says no: the age of responsibility is a matter of convention. Is physical puberty sufficient to determine that a person is responsible? Again, if we refer to Islamic sources, the answer is no, it is not enough... If a person under 18 cannot get a driver's license, cannot independently open a bank account or get a passport, how could that person be responsible in criminal matters? These gentlemen have a problem in determining the age of growth. As long as there are conflicting laws and doubt, the implementation of punishments is not compatible with Shari'a."

The seminar also heard from human rights lawyer and Sakharov Laureate Nasrin Sotudeh. Sotudeh has defended multiple child offenders facing the death penalty and called for an increased focus on societal crime deterrence and prevention factors. Pointing to the case of a person who spent 18 years in prison for a crime committed at age 13, she asked:

"Can the issuing of death sentences, as an omnipresent judicial pressure, deter crime? Are there more murders in societies where there is no such punishment?"

The speakers at the 2008 seminar and many others like them have documented and defended capital punishment cases in Iran for years. Despite their steadfast lobbying against the execution of child offenders, Iranian decision makers have refused to engage in evidence-centered dialogue with civil society on the subject. Instead, they have persecuted those who openly challenge the Islamic Republic's laws and justice system.

Attorney Mohammad Oliyaeifard served one year in prison before being forced into exile for speaking out against the execution of his client Behnud Shoja'i,⁴² who had been accused of murder at the age of 17. Oliyaeifard's lawyer Nasrin Sotudeh was arrested the same year⁴³ and imprisoned for "acting against national security," "propaganda against the regime," and "membership in the Human Rights' Defenders' Center."⁴⁴ Shirin Ebadi and Asieh Amini were also forced into exile for track records of being outspoken. Speaker Sedigheh Vasmaghi was sentenced to five years in prison for "propaganda against the state," presumably for her work in Islamic jurisprudence; she left Iran in 2011 to teach at the Islamic Studies department of a German University and was arrested upon her return.⁴⁵





Mohammad
Oliyaeifard



Nasrin Sotudeh



Shirin Ebadi



Sedigheh Vasmaghi

Forty years after the revolution and 11 years after the Defenders of Human Rights Center seminar, Iran's laws regarding child offenders and the maturity threshold still meet with strong dissent from industry experts and academics⁴⁶, the latter of whom enjoy a relatively higher level of tolerance from authorities.



On November 14, 2017, a number of senior law professors, lawyers, and children's rights activists – joined by one Supreme Court judge – convened at the Society for the Protection of Children's Rights' monthly meeting to discuss the legal and criminological analysis of child executions in Iran.⁴⁷ The meeting participants decried the current laws as inhumane and inadequate, criticized judges' lack of understanding in disciplines relevant to minor offenders, and underlined Iran's need to respect its international obligations. Their discussion brought to bear on existing authorities of both law and *fiqh* (Islamic jurisprudence) that permit the judiciary to spare minor offenders the death penalty.

Society's Board Chairperson pointed out at the meeting that death sentences continue to be issued and implemented despite both international guidelines and Article 91 of the 2013 Islamic Penal Code,

⁴² See ABC's video, "Behnud: Juvenile Victim of Laws" <https://youtu.be/nVUACXHBPm> and his story in the Omid Memorial <https://www.iranrights.org/memorial/story/-7591/behnud-shojaei>

⁴³ https://www.hrw.org/news/2011/08/29/human-rights-issues-regarding-islamic-republic-iran#_ftn48

⁴⁴ Several other cases have been opened against Nasrin Sotoudeh who is currently serving another sentence for defending women protesting mandatory veil. <https://www.bbc.com/news/world-middle-east-12149201>

⁴⁵ <https://zeitoons.com/52164>

⁴⁶ Interview Mehr News, 2 September 2014. <http://www.mehrnews.com/news/2362678/>

which includes provisions for *qesas* (retribution) and *hadd* ("divine punishment") sentences for individuals under the age of 18 to their understanding the nature of the gravity of the crime and their level of intellectual maturity at the time of commission of the crime.

Dr. Mojtaba Farahbakhsh – a university professor and attorney at law who has represented several child defendants in murder cases pro bono – expounded on the exceptional nature of capital punishment and qualified the death penalty situation in Iran as "deplorable." Years of precedent do nothing to validate an outdated punishment whose alleged effectiveness has no basis in science, he argued.

"Life is the law's ultimate purpose. All personal rights create this life. The Citizens' Rights Charter states that all citizens have the right to life unless the law provides otherwise. One must ask the drafter: What is this sentence? This is an insult to [the right to] life because the law is not allowed to take life so easily; the phrase should include [conditions] such as 'unless in extraordinary and urgent circumstances' and 'where other punishments will not do'."

When it comes to juvenile offenders in the law, Farahbakhsh continued, contradictions and arbitrary implementation only intensify Iran's need to abide by its international obligations:

"Mental development and maturity is an important issue that must not be interpreted in light of Article 120. What the legislators meant by mental development and maturity was for the child to have the same power of discernment as an adult; it does not mean that the child must be mentally challenged; what one must ascertain is whether the child has the same experience and understanding of the world as an adult or not. ... You cannot ask the juvenile whether [he/she knows if] something is haram (prohibited by Islam) or not, but must rather ask 'what is your view about life and death? What is a human value?' They must be asked questions about moral values. ... [In many cases,] most psychiatrists say that an individual who has committed a crime has no mental issues [but that is not the point]. ... As soon as there is doubt as to the individual's lack of mental maturity, that itself is sufficient to fulfill [the requirements of] Article 91 and no further proof is needed. Judges do not pay enough attention to this, however. ... Most murders by juveniles are committed suddenly and in a state of excitement and agitation. That's why what we see at the Center for Reform and Rehabilitation (juvenile correction centers) is that these children do not show any bad behavior. We must, therefore, re-evaluate the assumptions that lead us to the execution of juvenile offenders."

In closing, Farahbakhsh stated that from a children's rights and international law perspective, the death penalty has no credence: *"When we join the Convention on the Rights of the Child, we are bound to perform our obligations thereunder. It has become part of our legal system and Iran's reservation is invalid from a legal standpoint. If Iran wishes to state a reservation, it must specify exactly when, and for purposes of which articles, it will act in accordance with Islamic Shari'a and domestic law."*

Panelist Emadddenin Baghi, a sociologist, Islamic expert, right-to-life activist and former prisoner of conscience shed light on the collateral damage of censorship, including the justice system's shortage of cutting-edge scientific resources and a weak understanding among judges of the "temporary insanity" concept. Baghi, noting that Iran is among the very few Muslim countries executing juvenile offenders, cited his own research on the subject, which was denied publication authorization in Iran:

"This book contained 14 fiqh and legal rules evidencing the prohibition and sacrilegious nature of the executions of individuals under the age of 18. Based on my research, I believe that our traditional thinking about the death penalty is fundamentally flawed. Additionally, concepts such as 'proof positive and custom' tell us that when

there is a common perspective about a particular issue among Muslims across the world – among whom are certainly strong believers and religious scholars – then that common perspective is proof positive... [The Koran] has not set a specific age for the age of maturity. When the question comes up in the Koran, it talks about the maximum age for maturity and it set it at 40."

Panelist, Dr. Mohammad Farajiha, a criminologist and university professor, pointed to studies identifying “countries with the harshest levels of punishments and the highest rates of prisoners [as] the most unsafe.” Singling problematic judicial methods, he appealed for a “restorative justice” approach in dealing with juvenile crime:

“Currently, we have a court that deals exclusively with juvenile crime but there is no substantive difference between this court and other courts in terms of how trial sessions are run, nor is there a psychology-based understanding of the child and the child’s environment. Certain judges even consider sitting on the bench in juvenile court as demeaning.”

Farajiha went on to argue that *qesas*, or eye-for-an-eye punishment, invites discriminatory rulings:

“Although children belonging to upper classes also commit crimes, their situation is different because of their families’ social and financial means, access to good lawyers, and the judges’ perception that once released, they will not commit crimes again because of the family’s supervision and control, whereas most judges think poor children will commit crimes again upon release.”

“Mental and intellectual development and maturity do not have well-defined parameters,” Farajiha said, “and authorities attempting to weigh in on them during the typically-hastened judicial process only present further obstacles to saving childrens’ lives:

“If we had a system with adequate guarantees in place, part of the problem would be solved. For instance, by classifying murders, we could exempt [crimes of passion] from the death penalty. [...] Interpretation of Article 91 can help us account for some of the current voids. ... Many of these juvenile offenders either have no attorney, or their court-appointed attorney does not have a genuine desire to pursue their case... What restorative justice aims to do is remedy the mental and psychological harm inflicted on the crime victim. ... At times, [payment of] the dieh becomes a bazaar and a business, whereas in the restorative justice process individuals are supposed to get closure through conversation. The restorative justice process is time-consuming, and the legal system must not be such that a judge who has restorative leanings be reprimanded at the end of the month for not having closed enough of the cases referred to his court.”

Above all, the panelists at the November 2017 meeting revealed the crux of Iran’s child rights debate: Iranian officials and lawmakers could avail themselves at any time of ample legal and developmental expertise, if their punishments were truly designed to deter crime in the spirit of justice. Indeed, statements from the only member of the judiciary present at the meeting, Supreme Court Justice Reza Farajollahi –Head of Branch 32 of the Supreme Court, who has adjudicated numerous murder cases involving minors – betrayed a deep divergence of agenda.

Judge Farajollahi first diverted the conversation from Iran’s juvenile justice system by claiming that European countries and the United States mete out capital punishment and imprisonment sentences in much the same way as Iran. Citing some generalities of Iranian law, including Article 91 on the purview of the Guardian Council, he argued:

"the conditions for criminal responsibility are puberty, will, and reason (intellect). Article 91 must be examined in conjunction with Article 120: If the individual does not know the wrongfulness of the act or is incapable of determining the nature of the act, or lacks intellectual development and maturity, as determined by the [Office of the] Medical Examiner, that individual will be exempt from Hadd or Qesas punishment. ...When the judge [expressly] asks an adolescent accused of murder whether he/she knew his/her action constituted intentional murder, and the adolescent responds in the affirmative knowing [full well] the punishment for that act, then how could there be any doubt as to the judge's ruling, [which is now cause for] some people to accuse judges of lack of attention and thoroughness?"

Judge Farajollahi acknowledged the problems with the country's criminal justice system, but he attributed criminality among youth to external factors, insisting that the solution is not to remove the death penalty for child offenders but to provide them with a strong religious upbringing.⁴⁸

The human cost of Iran's failure to adapt criminal law has been massive, and nearly four decades after the transformation of the Iranian justice system, academics and legal practitioners continue to combat laws that punish children as adults. Bolstered by pressure on Iran from the international community, their efforts have resulted in some changes, albeit inadequate and poorly implemented.

Legal Reform and Persisting Issues

Decades of rallying against the use of the death penalty for child offenders inside and outside Iran has led to revisions in Iranian Criminal Procedure and Penal Code with respect to children's rights. The revised versions offer a degree of protection to child offenders, but the reforms fall short of Iran's obligations under international law, and courts continue to issue death sentences to individuals for crimes they committed before turning 18.

The 2013 penal code has reduced the number of capital crimes punishable by death for children by removing the death penalty



"The Committee deplores that the State party continues to execute children and those who have committed a crime while under 18 years of age, despite its previous recommendations and numerous criticisms by human rights treaty bodies."

- Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of the Islamic Republic of Iran, March 2016

⁴⁸ "Of course, the problems that plague our criminal justice must be removed through dynamic Ijtihad ("exegesis of Islamic law") because on the one hand, we are faced with Fiqh and Shari'a rules, and on the other, with developments in criminology which better reflect the realities of society.

Today, there are few young people who do not pack a knife in our society, because they are greatly influenced by TV shows and police movies. Our education system is another culprit. In families that have a sound, religious upbringing, the crime rate is lower; the rate of violent crimes and immoral crimes is lower among those who have a higher commitment to moral, cultural, and religious principles."

option from *ta'zir*⁴⁹ rulings.⁵⁰ Nonetheless, boys older than 15 and girls older than nine who are convicted of *qesas* or *hodud* offenses (including murder and rape) can still be sentenced to death or cruel and inhumane punishments such as flogging and amputation.

In addition, the revised law has given judges the authority to spare any child offender the death penalty. Under Article 91 of the Code, judges are granted discretionary power to impose an alternative punishment in cases of *qesas* and *hodud* offenses where the juvenile offender did not understand the nature of the crime or its consequences, or when their “mental development and maturity” at the time of the crime is in doubt. In January 2015, a Judiciary ruling required courts to review any petition from a child offender who was sentenced to death before the reformed law came into effect. The requirement of the offender’s petition, however, is particularly problematic for death-row juvenile offenders who are either unaware of their right to request a review or lack the means to retain a lawyer to do so on their behalf.

Article 315 of the 2015 Code of Criminal Procedure established juvenile branches in provincial criminal courts (known as Criminal Court One). These branches have jurisdiction over capital offenses committed by minors, including murder, “enmity against God,” and “corruption on earth.” Under Article 304, less serious offenses committed by individuals under the age of 18 are tried before the Court for Children and Adolescents. Note 2 to Article 315 requires that an advisor, “whose opinion is advisory,” with expertise in fields such as psychology, criminology and social work be present⁵¹.

Despite these apparent victories for juvenile justice, petitions for retrial have been arbitrarily granted or denied since the implementation of the new penal code. In the case of Abolfazl Chazani, Supreme Court Branch 33 denied his request for retrial in October 2015 – executing him regardless on June 27, 2018 – despite his claims of falling below the age of “maturity” at the time of the crime.⁵² Moreover, defendants continue to be disenfranchised in cases of *qesas*, where the slain person’s family is granted authority to either pursue retribution, pardon the offender, or demand *diyeh* (blood money). Defendants in these scenarios are by default denied the right to seek pardon, clemency, or commutation of their sentences from the state, a right which is prescribed by international law.

Child defendants continue to face various violations of their fair trial rights. Routinely violated are the rights to appoint a lawyer of one’s own choosing and the right to have any lawyer present at all during the interrogation. Article 48 of the 2015 Code of Criminal Procedure permits the accused to “demand the presence of a lawyer from the start of detention;” yet a note to the article denies this right to individuals facing certain offenses, including those relating to national security. Further, as a result of last-minute retrogressive amendments carried out just days prior to the entry into force of the law in June 2015, a provision in the original draft which had rendered investigations void if the accused person’s right to

⁴⁹ Under Iran’s Penal Code, crimes are divided into the four categories of *hudud*, *qesas*, *diyat*, and *t’azirat*. *Hudud* crimes are those for which there are mandatory punishments prescribed under Shari’a law. They include, but are not limited to, adultery, drinking alcoholic beverages, and theft. *Qesas* crimes include murder and inflicting bodily harm which incur punishments that are considered retaliation in kind. *Ta’zirat* crimes are those for which no fixed penalties are prescribed under Shari’a law and lawmakers of the time are granted the discretion to prescribe suitable punishments. *Diyat* refer to a form of compensation that is paid to victims of injuries or to the families of murder victims.

⁵⁰ <https://www.iranrights.org/library/document/3430>

⁵¹ (Article 410) Trials before Court for Children and Adolescents must convene with the presence of a judge and an advisor whose opinion is advisory. (Article 298) In cases where the defendant is a girl, at least one of the advisors must be a woman. (Article 410, Note 2)

⁵² <https://www.iranrights.org/memorial/story/-8261/abolfazl-chazani-sharahi>

access legal counsel was denied or if the person was not informed of this right, was removed. As a result, and due to the absence of adequate safeguards, courts continue to rely on evidence gathered without the presence of a lawyer during the investigation phase. In many cases, defendants have reported seeing their lawyer for the first time on their day of trial. The failure of due process is further aggravated by the restrictions imposed on and persecution of lawyers who are zealous in defending their clients.⁵³

The post-revolutionary Judiciary treats lawyers with suspicion and has severely limited their ability to perform their duties. The legal profession was seriously undermined by the closure of the Bar Association in 1980 and a series of purges in the following years. The Bar was reopened in 1991 under the control of the Head of Judiciary, and its Board of Directors was reinstated only in 1997.⁵⁴ Today, despite some progress, the primary role of defense lawyers – to protect the rights of the accused – is recognized neither in law nor in practice, and lawyers continue to be disempowered and devalued. In keeping with this trend, support for pro-bono defense is quasi-nonexistent. This inadequate support has serious consequences for child offenders facing the death penalty, for whom pro-bono defense is often the only recourse.

There is no public defender office in Iran's justice system, and legal provisions that previously made attorneys available to the poor have been all but eradicated. One law, approved January 19, 1977,⁵⁵ created a fund designed to foster public defenders; article 10 of the law requires the government to dedicate funds for pro-bono defense in its annual budget and transfer those funds to the Bar Association to pay attorneys. After the 1979 revolution, this article was ignored. Though a public endowment for pro-bono attorneys was established in the mid-2000s, that funding has yet to be granted, said Bar Association head Isa Amini.⁵⁶ In an interview published on February 18, 2019, former Bar Association head Dr. Ali Najafi Tavana noted that lawyers have not only faced obstacles to carrying out their work, but have never been supported by public funds. In the past 12 years, the Judiciary has failed to pay even the modest standard fee of 200,000 tomans per case. This amount, which many attorneys find insulting, does not even cover transportation costs for the 10 to 20 trips on average that lawyers must make to court per case.⁵⁷

Lack of funding, compounded by authorities' lack of respect for the right to defense, puts death-penalty defendants in a precarious position. Attorney at law Abdolsamad Khorramshahi explained how these contraventions to the requirement for the presence of an attorney during the investigation create a vicious cycle of negligence in court:

"Unfortunately, in many cases where pro-bono lawyers are assigned, lawyers are inexperienced and, since they are not remunerated very much, show little interest in the defense of such clients. Their appearance in court is

⁵³ See for example the case of Payam Derafshan charged with “propaganda against the state” for talking to the media about his client’s case: <https://wwwiranrights.org/library/document/3574>; See also interview with Shirin Ebadi about her arrest: <https://wwwiranrights.org/library/document/3598>

⁵⁴ <https://wwwiranrights.org/projects/timeline>. The persecution of lawyers who fight due process violations including by making these violations public, is also a deterrent from many lawyers who cannot get justice for their clients through the judiciary. See also *The Life of the Law in the Islamic Republic of Iran* Reza Banakar & Keyvan Ziae: <https://www.tandfonline.com/doi/full/10.1080/00210862.2018.1467266>

⁵⁵ <http://hamivakil.ir/DYN/12%D9%82%D8%A7%D9%86%D9%88%D9%86%D8%B5%D9%86%D8%AF%D9%88%D9%82>

⁵⁶ Interview with Islamic Republic News Agency, 5 October 2018. <http://www.irna.ir/fa/News/83122225>

⁵⁷ Hamideh Gudarzi: “No Incentive for Pro-bono Defense”, Iran Online, 18 February 2019. <http://www.ion.ir/news/449419/>

thus mostly symbolic and out of obligation. And we see in murder cases where the lawyer has not even read the file once, which naturally has its consequences. Let's say that a defendant has confessed to a murder under pressure from police or the court, or any other reason, and that the lawyer, having not read the file, and is not fully familiar with the case and cannot present a good defense. As a result, an innocent person is hanged. In many pro-bono cases, pro-bono lawyers feel obligated because the court has assigned the case to them.... They have no way of refusing, barring exceptional circumstances. There needs to be institutional change, and pro-bono lawyers must be paid a fee that motivates them to know the case and defend their clients with more rigor.”⁵⁸

Khorramshahi voiced the opinion that death penalty cases should be assigned to lawyers with at least 10 years of experience and they should be properly remunerated; unfortunately, seasoned and novice lawyers alike tend to avoid taking on criminal cases because of the obstacles and costs they face in the police station, prosecutor’s office (dādsarā), and courts.

Lawyers express that criminal cases are “mentally stressful and physically demanding” because “authorities conducting pre-trial investigations have a negative perception of defense lawyers and, despite the recent amendments to criminal procedure, continue to disregard the defendant’s right to legal representation.”⁵⁹

The law requires that detainees be charged within 24 hours of their arrest, and that an attorney be present when the detainee is informed of their charges; meanwhile, authorities flout this law with impunity. Ataollah Rudgar has worked in the Judiciary for twenty years, five of which he spent as a homicide investigator in Tehran. He observed:

“The Code of Criminal Procedure specifies that for crimes that carry the death penalty and life imprisonment, the investigation should take place with the presence of the defendant’s attorney. In other words, as soon as a person is detained, a lawyer must be present and no detainee should be charged without the presence of an attorney, but the law has not included implementation modalities. Lawyers are in their offices and communication between courts and the Bar Association is difficult. To assign a pro-bono lawyer, there needs to be some correspondence with the Bar Association, which is time-consuming... judicial procedure privileges the rights of society and the crime victim over the rights of the accused.”⁶⁰

Police officers interviewed by Iran Student News Agency (ISNA) investigative reporters acknowledged that there are no lawyers to be seen when a detainee is brought in for investigation. Lawyers can be present in the investigation bureau with prior authorization, but they cannot “disturb” the course of the investigation. According to one police officer, who preferred to remain anonymous:

“The lawyer can teach the accused not to say anything, or to talk in a way that creates hang-ups in the course of the investigation. The police cannot permit the investigation to be hindered.”⁶¹

ISNA’s report notes that most police officers, investigators, and judges operate under the understanding that confessions should be obtained before evidence is collected. And in most cases the confession is

⁵⁸ Ibid.

⁵⁹ *The Life of the Law in the Islamic Republic of Iran*

Reza Banakar & Keyvan Ziae: <https://www.tandfonline.com/doi/full/10.1080/00210862.2018.1467266>

⁶⁰“If You Are Arrested for Murder and You Don’t Have Money,” Iran Students News Agency. 1 February 2018, <https://www.isna.ir/news/96111106756>

⁶¹ Ibid

obtained in the initial phases, without the presence of an attorney, and before any other evidence is gathered. Detention during the interim can last as long as a month, police said. Attorneys have reported to ISNA that pro-bono attorneys are not called in until a week to ten days after an arrest. One pro-bono attorney told ISNA that his client has been in solitary for six months and is still being denied access to an attorney.

For children and adults facing prejudice like undue risk of execution, Iran lacks an independent human rights body with the authority to investigate and rectify complaints.

Inconsistencies in the Law

While the reform has increased safeguards for child offenders, it falls far short of Iran's obligations under international human rights law. For example, the Code sets the minimum age of criminal responsibility at 15 for boys and nine for girls in contravention with the UN Convention on the Rights of the Child and allows for the imposition of the death penalty on individuals under the age of 18. Furthermore, by adopting two distinct sentencing regimes when it comes to *ta'zirat* crimes as opposed to crimes falling in the category of *hudud* and *qesas*, the Code contains serious inconsistencies that should not be ignored.

Under Articles 88 and 89 of the 2013 Code, male and female children convicted of *t'azir* crimes are divided into three separate age groups: 9 to 12, 12 to 15, and 15 to 18. Punishments then vary according to both the



defendant's age bracket and the severity of their offense per a grading scale articulated in Article 91. According to these provisions, children under the age of 12 cannot be sentenced to imprisonment, and the maximum punishment prescribed for children between the ages of 12 and 15 is one year in a correctional facility. Children aged between 15 and 18 can be sentenced to a maximum of five years in a juvenile correctional facility when convicted of certain *ta'zir* crimes.

By prescribing a regime of age-specific treatment, the law implicitly acknowledges the developmental immaturity of minors. As such, the law contradicts itself by painting all *hudud* and *qesas* defendants with the same brush: by the ages of nine and 15 respectively, girls' and boys' statutory criminal responsibility is equal to that of adults, exposing them to severe punishments including the death penalty. As discussed above, Article 91 of the code does grant judges the discretion to opt for alternative punishments if they conclude that a minor offender may have lacked requisite understanding or "mental growth and maturity" (*roshd va kamal-e aqli*) in committing their crime.

Still, Iranian authorities have failed to explain away the inherent contradiction of presuming children's full mental development in *hudud* and *qesas* offenses while presuming the opposite for those convicted of *t'azir* crimes.

Further inherent contradictions in Iran's approach to legal "maturity" are found in the 2017 amendments to the Anti-Narcotics Law, which permit capital punishment sentences for perpetrators who "[utilize] children and young individuals under the age of 18 or mentally incompetent individuals for the commission of the crime."⁶² **By approving this amendment to the Anti-Narcotic law, the Islamic Republic's religious jurists in charge of vetting the laws have set an important new precedent: they have acknowledged the vulnerability and diminished moral liability of minors by placing them in the same category as "mentally incompetent" individuals.** What's more, they have, in breach of international law, prescribed the death penalty for anyone exploiting that vulnerability in their drug offense, even when that offense would not have otherwise warranted capital punishment.

Iranian marriage law has its own incoherencies. Like narcotics and *hudud/qesas* legislation, it also contravenes international human rights law. The law allows for the marriage of 13-year-old girls (in general) and even of girls as young as nine (with the court's permission), yet bars married girls under the age of 18 from claiming property bestowed to them in their marriage contracts (*mehrieh*) without authorization from the court or a guardian. The latter restriction – again – presumes that minors have impaired financial decision-making unless their mental maturity (*roshd*) is established in court. Likewise, **civil law prohibits children under the age of 18 from independently opening or withdrawing from a bank account, being party to contracts, engaging in financial transactions, or lodging any legal complaint about financial matters without the authorization of their guardian or a court order establishing their roshd.**

In their 2013 report to the United Nations Committee on the Rights of the Child, Iranian authorities referred to a range of provisions in various laws where "*a child is defined as the person who is under the age of 18*". *They include the 1990 Labor Act, which sets the age threshold for employment in hazardous jobs at 18; the State Employment Act of 1966, which sets the age of 18 as an eligibility criterion for official employment by the state; the Passport Act of 1973 and its subsequent amendments, which hold that individuals can apply for independent passports at the age of 18; and the bylaw of Organizing Street Children of 2005, which defines a street child as "a person under the age of 18 who lives totally or partially in the street."*⁶³ *Other laws which set the age of 18 as the age at which individuals gain certain rights and responsibilities include the bylaw governing the issuance of drivers' licenses, which stipulates that individuals under the age of 18 cannot apply for a license.*⁶⁴

While Iranian authorities have taken steps toward instilling respect for defendants' rights over the past decade, shortcomings in the law and its application still abound. Foreign and domestic efforts to bring visibility to individual cases, and to formulate arguments against the execution of child offenders, has thus far amassed a wealth of information. This wealth of information has yet to be fully exploited in engagements with Iranian authorities on human rights.

⁶² Full text of the bill translated to English by Abdorrahman Boroumand Center:
<https://www.iranrights.org/library/document/3262>

⁶³ Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention Combined third and fourth periodic reports of States parties due in 2013, Islamic Republic of Iran, CRC/C/IRN/3-4, Para. 11, available at:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIRN%2f3-4&Lang=en

⁶⁴ <http://www.hvm.ir/lawdetailnews.aspx?id=47462>

Iran's Response to Critics

The international community, including United Nations human rights bodies, have reported for decades on the myriad legal problems plaguing Iranian children's rights, all the while stressing Iran's obligations under international law. The low age of "maturity," lack of due process, and problematic use of the death penalty have been among the chief concerns brought to the attention of Iranian authorities. Iranian responses, when there are any, tend to skirt specifics and draw on cultural or religious generalities.

The execution of child offenders is in breach of international human rights treaties to which Iran is a party. Under Iran's Civil Code⁶⁵, international instruments such as the International Covenant on Civil and Political Rights (ICCPR), which the parliament ratified without reservation on June 24, 1975, and the Convention on the Rights of the Child (CRC), which the parliament ratified on February 20, 1994 with a reservation aimed at limiting its applicability, should have the force of law and thus be enforceable in national courts.

The vague and broad reservation stated that, "... ***the Islamic Republic is allowed to join the Convention provided that if at any time or for any reason its content should contradict civic laws or Islamic standards, the Islamic Republic of Iran is not obligated to adhere to it.***"⁶⁶

The Committee on the Rights of the Child (CRC) replied to this stance by stating that the "*narrow interpretation of Islamic texts by State authorities are impeding the [Iranian peoples'] enjoyment of many human rights protected under the convention.*" The Committee questioned the "*compatibility*" of Iran's reservation "*with the object and purpose of the Convention.*"⁶⁷ Further, the ICCPR which has been ratified without reservation, should be enforceable in national courts. Both these instruments protect children, anyone under the age of 18, and their human rights, including their right to life.

Since the 1980s, international human rights groups and Iranian civil society have reported on the abuse of the death penalty and due process violations in the Islamic Republic of Iran.⁶⁸ The burgeoning of Iranian civil society inside and outside the country, paired with advancements in technology and communication over the past two decades, have resulted in a more systematic documentation of executions. With wider dissemination of information on capital punishment in Iran, justifying the execution of child offenders in international fora has become increasingly challenging for the Islamic Republic of Iran.

⁶⁵ Civil Code of the Islamic Republic of Iran, 1928, Article 9.<http://rc.majlis.ir/fa/law/show/97937>.

⁶⁶ Hossein Raeesi, Legal Advisor to the Iran Human Rights Documentation Center, February 2015
ACCESS TO JUSTICE FOR CHILDREN: ISLAMIC REPUBLIC OF IRAN.

https://archive.crin.org/sites/default/files/iran_access_to_justice_sept2015.pdf

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en

⁶⁷ Concluding observations of the Committee on the Rights of the Child. 28 June 2000: "Noting information from the State party that a Governmental working group has been established to study the compatibility of existing laws with the Convention, the Committee is nevertheless concerned 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." CRC/C/15/Add.123

⁶⁸ See here for a collection of publications by Amnesty International:

<https://www.iranrights.org/library/collection/103/amnesty-international>; In a 2005 report, the

International Federation of Human Rights expressed concern regarding the use of the death penalty as a punishment for children: "Children are being executed every year in Iran: 25 minors have been condemned to death in 2004, and at least two of them were executed..."

Iranian authorities show little interest in engaging with international human rights groups and have generally refused these groups access to the country. They do, however, engage to some extent in human rights dialogues with governments and multinational bodies. This includes the UN special mandate holders who have repeatedly reminded them of the need for transparency and their obligations under international law.⁶⁹ In its interactions with the UN bodies, Iran's responses have varied over the years from silence, diversion and religious arguments to insults or promises of change. It has remained consistent in its refusal to provide data and access.

In his January 16, 1995 "Report about Human Rights in Iran," Special Rapporteur Reynaldo Galindo Pohl cited cases of two juveniles who had been sentenced to death the previous year. Pohl's later comment testifies to the inadequacy of Iran's response to his inquiries:

"As to the list of 78 prisoners given in the Special Representative's interim report to the General Assembly (A/49/514, para. 79), the Government of the Islamic Republic of Iran has provided information on two of them, Mohammad Bagher Bourzooi and Manouchehr Karimzadeh, who were pardoned and have been released (A/49/514/Add.2, p. 14)."

In 1999, in his interim report on the situation of human rights in the Islamic Republic of Iran, Special Representative Maurice Copithorne also lamented the lack of official data. Though the Iranian authorities had agreed to provide official statistics on the number of executions, he noted, "*no such statistics have yet reached the Special Representative's attention.*"⁷⁰

Decades later, key information on Iran's justice system remains inaccessible and the country's position on its CRC adherence has remained broad and vague. In 2005, a report by the Special Rapporteur on extrajudicial, summary, or arbitrary executions, Philip Alston, echoed his colleagues' observations that Iranian authorities are unresponsive when it comes to child offenders and the death penalty.

⁶⁹ "It should be borne in mind that under Article 6.5, of the International Covenant on Civil and Political Rights, of which Iran is a full signatory, minors under 18 years of age are exempt from the death penalty, regardless of the seriousness of the crimes they have committed." <https://wwwiranrights.org/library/document/226/report-on-the-situation-of-human-rights-in-iran>; "Although reporting of executions by the Iranian press has been severely restricted, information has been obtained regarding 39 executions between 1 January and 14 July 1994. This figure is lower than in previous years, but it cannot be interpreted to mean that the number of executions has been drastically reduced in view of the policy of silence on the subject described in previous reports. In order to confirm that there has been a real reduction, it would be necessary to have open, local access to information. Until such time as the press resumes the practice of publishing information on all executions, it will be impossible to make a proper evaluation of the data collected, or to verify that the number has actually decreased. A number of significant cases are described below." <https://wwwiranrights.org/library/document/378/1994-un-commission-on-human-rights-report-on-the-situation-of-human-rights-in-iran>; <https://wwwiranrights.org/library/document/338/law-and-human-rights-in-the-islamic-republic-of-iran>; <https://wwwiranrights.org/library/document/104/iran-breifing-1987>; In his January 16, 1995 Report on the Situation of Human Rights in Iran, Special Rapporteur Reynaldo Galindo Pohl cited reports of cases of two juveniles subject to the death penalty in the previous year. In concluding recommendations, Pohl emphasized: "It should be borne in mind that under Article 6.5, of the International Covenant on Civil and Political Rights, of which Iran is a full signatory, minors under 18 years of age are exempt from the death penalty, regardless of the seriousness of the crimes they have committed."

<https://wwwiranrights.org/library/document/296/report-on-the-situation-of-human-rights-in-the-islamic-republic-of-iran>. See also Special Rapporteur's 1993 report on the execution of child offenders:

<https://www.hrw.org/report/2008/09/10/last-holdouts/ending-juvenile-death-penalty-iran-saudi-arabia-sudan-pakistan-and#>; <https://wwwiranrights.org/library/document/2631>

⁷⁰ <https://wwwiranrights.org/library/document/393/1999-un-commission-on-human-rights-report-on-the-situation-of-human-rights-in-iran>

"Furthermore, we respectfully request a comprehensive and detailed indication of the details of individuals who have been sentenced to death for crimes committed when they were less than 18 years of age, even if such sentences have not yet been confirmed by the Supreme Court. These requests were contained in previous communications of the Special Rapporteur on extrajudicial, summary or arbitrary executions dated 9 February and 21 April 2005, in relation to the situation of at least 30 individuals under the age of 18 who were reportedly sentenced to death and were held in juvenile detention centres in Tehran and Raja'i Shahr. It is regrettable that no response has yet been received."⁷¹

Philip Alston qualified Iran's limited responses as "cooperative but incomplete," saying that they failed to address the subject (sentencing individuals to death for crimes committed under the age of 18) directly.

Iranian representatives' engagement with the CRC committee, composed of human rights experts from around the globe who convene to review the country's adherence to the Convention, has caused similar frustrations. Issues such as the minimum age of maturity and the juvenile justice system are recurrent in the Committee's interactions with Iran. Following meetings held with Iranian representatives in May of 2000, the Committee published concluding observations on June 28 of the same year.⁷² While applauding Iran's achievements – including the increased access to education for children and the hosting of a large number of refugees, including children – it also called to account official Iranian reporting, saying it lacked

"a self-critical evaluation of the prevailing situation of the exercise of children's rights in the country" and a view of the child "as an active subject of human rights." The Committee also underlined "significant gaps in information relating to general measures of implementation, general principles, particularly non-discrimination and the best interests of the child, civil rights, and freedoms and special protection measures." The Committee followed up on its assessment by recommending that "the State party review its legislation so that the definition of the child and minimum age requirements conform to the principles and provisions of the Convention, and in particular that they are gender-neutral, and ensure that they are enforced."

Remarking that it was "seriously disturbed" by the execution of child offenders, the Committee noted the incompatibility of the penalty with the Convention and strongly urged the State party to "take immediate steps to halt and abolish by law the imposition of the death penalty for crimes committed by persons under 18."

In January 2005, the Committee recommended again that the Islamic Republic of Iran:

*"take the necessary steps to immediately suspend the execution of all death penalties imposed on persons for having committed a crime before the age of 18, ... and to abolish the death penalty as a sentence imposed on persons for having committed crimes before the age of 18, as required by article 37 of the Convention [on the rights of the child]"*⁷³

⁷¹27 March 2006 Report of the Special Rapporteur, Philip Alston, Extrajudicial, summary or arbitrary executions. Addendum. Summary of cases transmitted to Governments and replies received

https://www.iranrights.org/attachments/library/doc_422.pdf

⁷²https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2F15%2FAdd.123&Lang=en ; <https://www.refworld.org/docid/3ae6afc520.html>

⁷³ The Committee considered the second periodic report of the Islamic Republic of Iran (CRC/C/104/Add.3) at its 1015th and 1016th meetings (see CRC/C/SR.1015 and 1016), held on 20 January 2005. https://www.iranrights.org/attachments/libAr Ary/doc_14.pdf

In its concluding observations published in March 2005, the Committee noted that Iran had not yet reported back on any action taken in response to the concluding observations from 2000.⁷⁴

In more recent years, the Islamic Republic of Iran has been more engaged, in particular through the activities of the judiciary's Human Rights Council, and more aggressive defense of its human rights records and attack of its critics. Yet there is still no data being provided, no access given to independent observers, and no convincing explanation from authorities of their refusal to respect the country's international commitments regarding children's right to life.

On November 16, 2011, Mohammad Javad Larijani, the secretary general of the Islamic Republic of Iran's High Council for Human Rights, reacted to the Report of the newly-appointed Special Rapporteur on the Situation of Human Rights in Iran, which decried executions without due process of law. Larijani replied by pointing out that the death penalty is practiced in many countries, by the United States in particular, and that Iran uses capital punishment for crimes such as rape, murder, and drug offenses.⁷⁵ On March 12, 2012, Larijani sought to undermine the Rapporteur's credibility:

*"The Rapporteur has practically engaged in propaganda against the Islamic Republic of Iran. In his report, instead of referring to credible and official sources and mentioning human rights trends and models in the Islamic Republic of Iran, the Special Rapporteur has chosen to ignore the principle of fairness by quoting unofficial and suspect sources, and has included details that are mostly false and distorted."*⁷⁶

In a speech given in Iran on March 24, 2014, Larijani attributed all calls for reform to Western meddling and influence, ignoring decades of efforts inside the country by Iranians of diverse backgrounds:

*"Now it has become clear that the accusations levelled against the Islamic Republic of Iran have been directed at the foundations of the system and the Shari'a. The crux of what the West says is that we, the Iranian nation and the Muslims in general, have no right to regulate our lives on the basis of Islam. But depriving nations of that right is not only a blatant violation of their independence but is also seen as a colossal betrayal of human society because human civilizations grow thanks to the existence of such diversities which enrich the important experience of humanity."*⁷⁷

In May 2015, Mohammad Javad Larijani responded to critics of inconsistencies in Iranian law:

"On the international scene, we have no issues with conventions on the rights of the child, though the issue of the death penalty for people less than 18 years of age is still an excuse to attack us. I believe the position our laws have adopted in this regard is much more rational since our law [concentrates] and is based on the concept of maturity and our legal bases are defensible."

"In this very regard, the new Law on the Rules of Criminal Procedure lays down the principle that individuals under 18 are not to be handed harsh sentences unless the judge determines otherwise. Generally speaking, the

⁷⁴ "the Committee regrets that the State party did not provide information on its follow-up actions regarding most of the Committee's previous concluding observations (CRC/C/15/Add.123) following consideration of the State party's initial report (CRC/C/41/Add.5), such as in relation to the reservations (para. 7), the definition of the child (para. 20), freedom from discrimination on grounds of sex (para. 24), the right to life (paras. 28 and 30) and juvenile justice (para. 54). The Committee notes that many of the same concerns and recommendations are reiterated in the present concluding observations." <http://undocs.org/en/CRC/C/15/Add.254>

⁷⁵ https://www.google.com/url?q=https://www.un.org/press/fr/2011/Conf111116-IRAN.doc.htm&sa=D&ust=1553394442694000&usg=AFQjCNE1rr5PhQ2jSCUJ9MWu_6B2rmZXzA

⁷⁶ https://www.google.com/url?q=https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc%3Dy%26docid%3D4f644d6c2&sa=D&ust=1553394442695000&usg=AFQjCNHgYCwfhs4DNl9ifKrtATQrD_I7Gw

⁷⁷ <https://www.iranrights.org/library/document/2566>

*Convention on the Rights of the Child looks at the child from a biological standpoint whereas, from our perspective, the child is a social issue.*⁷⁸

In November of the same year, concerns over the age of maturity and child executions were again raised by the Committee on the Rights of the Child.⁷⁹ Their meeting provides a rare window into the international dialogue with Iranian representatives, which are largely inaccessible to the general public.

At the meeting the Committee Chair referred to reports on the execution of two child offenders in October 2015, noting the inconsistency between verified source reports and Iran's official report to the Committee:

"We clearly have read your report – and I quote – 'No death sentence is issued for children' ... That's what your information says but there are contradicting sources that say that there are currently 160 child offenders on death row in prisons in Iran. Please feel free to challenge that allegation."

In response, Iran's representative stressed that "Right now, with the existing law as it stands, there is no preemptive punishment, which is execution ... [Execution for those] ... under the age of 18 is not being implemented.

Other Committee members tried without much success to steer the conversation toward factual evidence.

"when we look at your 2015 Islamic penal code - there is a possibility for judges to attenuate the death penalty for minors but there doesn't seem to be a clear prohibition under the law. And I understood from what you said that until the child is 18, it will not be implemented as a punishment. However, if a child has committed an act that you see as worthy of the death penalty, then you will wait until the child is 18 and then they can be executed."

The response was one commonly used by Iranian officials to justify executions of child offenders for murder, and to absolve the State from responsibility:

"... [according to] the criminal responsibility age and the categorization that our lawmakers had, if a [child] between the age of 15 and below 18, commits killing, the qesas would be issued. This is the right of the blood owners in order to forgive and pardon the criminal or carry out and execute the qesas. Therefore, it's not the case to keep them until 18, and after 18 execute them. No it's not such a thing in our law."

To another member's question about the low maturity age resulting in children being treated as adults, Iran's representative responded: *"[These changes] It couldn't be done overnight. These aren't something that can be done easily. It takes time. It's a time consuming process."*

This last response was not compelling to a Committee member who had participated in Iran's assessment 10 years prior, and who noted: *"I have seen in the intervening period what has happened in your country and I think we actually are back to the questions we raised in 2005."*⁸⁰

The Committee members' frustration is apparent in the March 14, 2016 concluding observations:

⁷⁸ Comments made at the Conference on the Outlook for the Rights of the Child in the Islamic Republic of Iran and reported by the High Council for Human Rights' Information Center.

<https://www.iranrights.org/library/document/3043>

⁷⁹ <https://www.youtube.com/watch?v=18sCG9eP6Bc&eature=youtu.be>

⁸⁰ Ibid

"These laws are in contravention of juvenile justice standards, and of international human rights instruments ratified by the Islamic Republic of Iran, which impose an absolute ban on the execution of persons who were under 18 years of age at the time of their offence, regardless of the circumstances and nature of the crime committed. Despite the efforts by the Reconciliation Commission and the establishment of the task force on prevention and deprivation of life under the Executive committee on the protection of the rights of children and adolescents, no progress has been observed towards implementing the repeated recommendations of the Secretary-General, of the High Commissioner, special procedure mandate holders and, most recently, the Committee on the Rights of the Child."⁸¹

The Committee reiterated its previous appeals for Iran to revise its laws and commute all existing sentences for child offenders on death row:

- (a) End the execution of children and persons who committed a crime while under the age of 18;**
- (b) Take legislative measures to abolish the death sentence for persons who committed a hudud or qesas crime while under the age of 18 years, that is currently established in the Islamic Penal Code without leaving any discretion to the courts;**
- (c) Commute all existing sentences for offenders on death row who committed a crime while under the age of 18 years."⁸²**

These recommendations,⁸³ like the multitude of statements and recommendations⁸⁴ made by the special representatives on the situation of human rights in Iran and the UN Secretary General, have fallen on deaf ears. Representatives from Iran continue to defend the Islamic Republic's laws and practices, to stress "the very potent logic" of qesas and the law of talion (eye-for-an-eye punishment), to criticize UN mandate holders, and to dispute the statistics and evidence presented in their reports.⁸⁵ Consistent with their policy

⁸¹ Concluding observations on the combined third and fourth periodic reports of the Islamic Republic of Iran. https://www.iranrights.org/attachments/library/doc_366.pdf;

⁸² Ibid. "The Committee takes note of Supreme Court order 737 (2015) and Article 91 of the Islamic Penal Code of 2013 providing for a possibility of retrial and exempting, under special conditions, children below the age of 18 years from hudud and qisas punishments involving the death sentence "if they do not realize the nature of the crime committed or its prohibition, or if there is uncertainty about their full mental development, according to their age" and applying correctional measures instead. However, the Committee expresses serious concern that such exemptions are under the full discretion of judges who are allowed but are not mandated to seek forensic expert opinion, and that several persons have been re-sentenced to death following such retrials. See also 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, July 15 2015.

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIRN%2fQ%2f3-4&Lang=en

⁸³ "Those who committed a crime when they were under the age of eighteen are executed in special circumstances and at the discretion of the judge once they have reached the legal age [for the death penalty]. Qisas is not the right of the government but rather the right of citizens. The government's role in respect to qisas extends as far as striving to obtain the mercy and forgiveness of the victims' parents. In some 40-45 percent of cases the Islamic system has been successful in promoting the culture of forgiveness and mercy. However, qisas has a very potent logic." 4 August 2016, Head of the Judiciary's Human Rights Council <https://www.iranrights.org/library/document/3009>

⁸⁴ <https://www.iranrights.org/library/document/3471>;

<https://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21093&LangID=E>;

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23279&LangID=E>;

<https://www.jurist.org/news/2019/02/un-rights-experts-urge-iran-to-halt-execution-of-childhood-offender>;

<https://www.iranrights.org/library/document/3534>

⁸⁵ Responding to the report, Larijani has sufficed to dismiss Rehman's report as "baseless" and "unrealistic." Echoing Larijani's statement, Iranian Foreign Ministry spokesman Bahram Qassemi also said Iran believes that the extension of the mandate of the special rapporteur for another year is "unjustifiable and unnecessary." Once again, Qassemi

of previous decades, Iranian authorities dispute UN statistics but fail to provide their own official statistics, in-country access to independent investigating bodies, convincing arguments to justify the low age of maturity, or specific CRC articles that stand in contradiction to Islamic principles.

Iranian representatives' rhetoric on their inability to change laws rooted in religion and tradition is not supported by facts. In most Muslim-majority countries, children are not sentenced to death, and multiple case studies of such countries indicate that raising the age of maturity is both feasible and necessary. Iran has not only committed to international instruments that are clear on the definition of a child, but has itself drafted legislation, including the most recent drug law approved by the Council of Guardians, that aligns with the position of the CRC, experts, and practitioners. The conviction that individuals below the age of 18 do not have the maturity of adults and should not be punished as such is also supported by scientific research on brain development and teens' assessment of risks and emotional responses.



Scientific Research

Recent scientific research surveyed in a study carried out for Abdorrahman Boroumand Center by Western Michigan University's Dr. Robert Griffith⁸⁶ (see attached) has demonstrated major neurological and behavioral differences of evident legal import between juveniles and adults. Such differences suggest a universal biological validity for the concept of reduced culpability in minors which is not to be dismissed with appeals to culture and tradition.

Empirical facts of neurology demonstrate that structures of the human brain correlated with judgment, motivation, emotional moderation, and stability of character undergo profound changes at least through the age of 18. Neural pathways proliferate in the first year of life, granting children an enhanced ability to learn. In the process of synaptic pruning, these pathways are gradually pared down to a smaller, more stable set, resulting in more consistent character and self-control over time.⁸⁷ The prefrontal cortex (an area of the brain implicated in impulse control and higher executive function) undergoes significant structural change during puberty and adolescence as myelination (a kind of neuronal insulation which

stopped short of presenting any evidence proving Rehman's latest report as irrelevant and unfair. Radio Farda report from the United Nations Human Rights Council, March 3, 2019. <https://en.radiofarda.com/a/iran-responds-to-un-rapporteur-on-human-rights-/29800606.html>

⁸⁶ Dr. Griffith has been certified in assessment psychology by the American Board of Assessment Psychology and, as a master's level clinician, has worked in residential, jail and hospital settings. At Western Michigan, he teaches courses in personality assessment, intellectual assessment, brain behavior relationships, and forensic psychology. Abdorrahman Boroumand Center is grateful to the Scientific Responsibility, Human Rights & Law Program of the American Association for the Advancement of Science for facilitating Dr. Griffith's contribution.

⁸⁷ Huttenlocher (2002)

results in more efficient and regular nerve transmissions) increases.⁸⁸ Pathways to the amygdala (a deep brain structure which plays a strong role in emotional functioning) grow over the first three decades of life and such growth correlates negatively with emotional response, a finding which suggests that children and adolescents will exhibit more emotional volatility and less control than adults.⁸⁹ A study of neurological patients with ventromedial prefrontal cortex lesions, which approximate the state of child and adolescent neurological development, showed greater propensity for egocentric moral judgments, suggesting that adolescents may exhibit antisocial or selfish behavior they can later outgrow.⁹⁰

These findings are complemented by work in the field of behavioral psychology: in one study, adolescent subjects were more likely to engage in risky behavior while playing a driving game with peers present than while playing alone.⁹¹ A review of another study affirmed that, regardless of gender or ethnicity, adolescents plan less for the future and give less consideration to future outcomes than adults.⁹² Other researchers have found that children aged 11-13 were more than three times as likely as young adults, and twice as likely as those aged 14-15, to be "seriously impaired" in their capacity to understand legal decision making, suggesting that in legal proceedings specifically, minors will lack an adequate appreciation of circumstances in which their lives may hang in the balance.⁹³

Dr. Griffith also examines the ways in which legal systems around the world have shown initiative in adapting to this evolving scientific standard of juvenile responsibility. One progressive, "restorative" model of sentencing for juvenile offenders' foregrounds remorse, forgiveness, the impact of the offense on the victim and community, and reparation for harm. This model aims to reinforce moral and social control, favoring collective healing over punitive sanctions. Judiciaries in Norway, Sweden, and Austria subscribe to this model, shielding all defendants under 15 from prosecution of any kind and fostering programs of social intervention. In Canada, minor violent offenses such as assaults in school are similarly handled through an extrajudicial sanctions program that emphasizes such reparative strategies as group conferencing and community service.

Information collected by ABC on cases of alleged juvenile offenders sentenced to death suggests that findings from the above studies on behavioral and neurological change, susceptibility to peer pressure, emotional volatility, and decision-making apply equally to Iranian children who face the country's criminal justice system. Consonant with the fact that emotionally-charged altercations in which homicides take place are exactly the sort of situation where minds vulnerable to peer pressure, impulse, and short-term thinking would be most likely to commit a grave act, among 88 alleged juvenile offenders whose executions have been reported by ABC since the beginning of 2009, 57 faced murder charges.⁹⁴

⁸⁸ Blakemore and Choudury (2006)

⁸⁹ Swartz et al (2014)

⁹⁰ Bradley et al (2014)

⁹¹ Defoe et al (2015)

⁹² Kamban and Thompson (2009) reviewing Steinberg (2008)

⁹³ MacArthur as cited by Kamban and Thompson

⁹⁴ The charges against eight of the 88 involved sexual offenses with no murder, and the charges against another twelve involved drug offenses with no murder.

Conclusion and Recommendations

Today Iran is the number one executioner of alleged child offenders and one of the last remaining countries in the world that continue the practice. In defending their choice to abide by these executions, authorities of the Islamic Republic of Iran advance arguments that have no basis in Iranian tradition and are of specious religious origin, inherently discriminatory, decried as unfair by Iranian academics and practitioners, undermined by multiple inconsistencies in Iranian law, and discredited by science. Close to four decades after Iranian lawmakers lowered the age of maturity in the Civil Code from 18 to 15 lunar years for boys and 9 lunar years for girls, foreign, international, and domestic stakeholders have continuously expressed strong opposition to the treatment of children as adults in criminal matters. The arguments of the Iranian authorities to justify laws and practices that are not in compliance with international standards do not stand up to scrutiny. Regardless of the assertions of Iran's representatives, Iran's current juvenile justice system is an anomaly of Iranian history, and Iranian representatives in international fora should be challenged to face the facts and move beyond their redundant monologues, live up to their international commitments, and adapt to the current demands and realities of the nation. For the scores of juvenile offenders on Iran's death row, change is urgent.

In its September 18, 2019 General Comment Number 24, the Committee on the Rights of the Child reiterated fundamental principles of juvenile justice grounded in the understanding that "[c]hildren differ from adults in their physical and psychological development" and that "[s]uch differences constitute the basis for the recognition of lesser culpability, and for a separate system with a differentiated, individualized approach" [Article 2]. The Committee further noted that "the developmental and neuroscience evidence indicates that adolescent brains continue to mature even beyond the teenage years, affecting certain kinds of decision-making" [Article 22]. As before, the Committee has stressed the categorical nature of the prohibition for alleged juvenile offenders:

A few States parties assume that the rule prohibits only the execution of persons who are below the age of 18 years at the time of execution. Other States defer the execution until the age of 18. The Committee reiterates that the explicit and decisive criterion is the age at the time of the commission of the offence.... The Committee calls upon the few States parties that have not yet abolished the imposition of the death penalty for all offences committed by persons below the age of 18 years to do so urgently and without exceptions. Any death penalty imposed on a person who was below the age of 18 at the time of the commission of the offence should be commuted to a sanction that is in full conformity with Convention [Articles 79-80].

The Committee's comments lend a renewed urgency to efforts toward ensuring that alleged child offenders in Iran are treated in full accordance with their human rights.

Recommendations:

To the authorities of the Islamic Republic of Iran

- ***Impose a moratorium on the death penalty in all cases, with a view toward its prompt abolition.***
- ***Abolish the death penalty in the Islamic Penal Code for individuals who commit hudud or qesas crimes while under the age of 18 years, without leaving any discretion to the court.***

- ***Amend the law to ensure that all persons below the age of 18 years, without exceptions, are considered as children and are provided with all the rights afforded children in international law.***
- ***Conduct a review of death row and publish or communicate to the United Nations the full list of individuals who have been sentenced to death for offences committed before they were 18.***
- ***Take necessary measures to ensure that judicial authorities enforce a ban on the application of the death penalty to persons who were below 18 at the time of the alleged offence.***
- ***Commute all death sentences for offenders on death row for crimes committed under the age of 18 years, in conformity with international juvenile justice standards.***
- ***Conduct a review of death row cases and systematically retry all cases in which courts accepted confessions despite allegations of these confessions having been coerced and confessions obtained during interrogation carried out without the presence of an attorney.***
- ***Ensure that all coerced testimonies and confessions obtained by means of torture, cruel, inhuman, or degrading treatment are excluded as evidence before a court, and that allegations of confessions or testimonies obtained under duress are duly investigated, punished and remedied.***
- ***Ensure that children are guaranteed legal or other appropriate assistance from the outset of the proceedings, during the investigations, in the preparation and presentation of the defense, and until all appeals and/or reviews are exhausted, in line with the CRC.***
- ***Allow for a public and open debate on the use of death penalty in Iran, including through the free expression of human rights defenders, lawyers and other members of civil society, free from intimidation.***

To medical professionals

In line with the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran's recommendations to the Iranian Legal Medicine Organization made in his 2019 report to the UN Human Rights Council:

- ***Establish and publish a methodology to conduct the mental assessment provided for in Article 91 of the Islamic Penal Code and ensure transparency regarding the identity and expertise of those involved.***

To the International Community, the United Nations, the European Union, and Member States

- ***Address death penalty for child offenders as a matter of priority concern in bilateral exchanges with Iran.***
- ***Use the UPR and other avenues to publicly call on Iranian authorities to put an end to child offender executions, to stop withholding data on such executions, and to allow access to the country to the UN Special Rapporteur on the Situation of Human Rights in Iran.***
- ***Enhance transparency and accountability in multilateral and bilateral human rights dialogues with the Iranian authorities by establishing benchmarks openly and ensuring more transparency regarding results and commitments.***
- ***Publicly call for members of Iranian parliament to pass legislation abolishing the death sentence for child offenders in Islamic Penal Code and ensuring that all persons below the age of 18 years, without exceptions, are considered as children and are provided with all the rights afforded children in international law.***

Appendix A

Review of Juvenile Psychology and Criminal Responsibility

for the Abdorrahman Boroumand Center

By Dr. Robert Griffith

Criminal Responsibility and Youth Offenders

Criminal responsibility or culpability in a crime does not have an international, uniform age or definition. In the United States, a person can be excused from criminal responsibility if criteria are met which can vary from state to state, with some states having no criteria. For example, the American Law Institute standard is as follows: "as a result of mental illness or mental defect [the individual] lacked substantial capacity either to appreciate the wrongfulness of his conduct or conform his conduct to the requirement of law." According to Packer (2009), there are two critical words that are important in this definition: "appreciate" and "wrongfulness." In adults, the impairment can be either in appreciation of wrongfulness or in the inability to conform conduct. The word "substantial" suggests that there is a significant degree of impairment, but not an absolute lack of ability (Packer, 2009).

There are also different ages at which charges can be brought against a person. In the United States, the lowest age for which criminal charges can be brought is 7 (North Carolina) and the highest age is 10 (Wisconsin). It should be noted that this varies internationally. For example, in Peru, the age at which a person can first be criminally responsible is 18. If a person is under 18, it is considered "an infraction" and that youth is then "subjected to socio-educative measures, though these could include the deprivation of liberty." Roughly the same criteria are applied in Brazilian law.

Cipriani (2012) notes the extreme variation in setting the minimum age for criminal responsibility for various regions of the world. He also states that "the level of MACR (minimal age of criminal responsibility) is not necessarily dictated by overall policy towards juvenile offenders." For example, those countries that set a higher age for criminal responsibility may not afford youth the ability to present their case to a court; this is because they are not charged, but youth below the minimum age may have to go through administrative procedures, some of which may result in limiting their personal freedom or liberties, even though these administrative procedures are said to be educative.

Historically, courts around the world treated youth with a "welfare" approach rather than a due process one. Cipriani (2012) indicates that the change from the welfare-based to the due process approach occurred because of US Supreme Court cases in the 1960s such as *Kent v United States* and *In re Gault*. Criminal allegations against youth would now be heard in court. Cipriani (2009) states that there was a philosophical shift which meant that "offenders, once proven guilty, are held personally accountable for their actions. As such, there is significantly less focus on treatment and protection (for youth), while penal intervention becomes central."

How is the age of criminal responsibility determined? There seems to be an arbitrary process involved. Cipriani (2012) writes:

Lawmakers ultimately encapsulate in one age, at one point in time, in a specific socio-political-cultural context, some batch of ideas about children's capabilities and society's expectations about children's appropriate role. Upon that age, children may potentially bear criminal responsibility for their actions, and the state can first legitimately levy—in legal terms—criminal sanctions against them.

Delmage (2013) argues that maturity is an underlying factor that guides the decision regarding the minimum age of criminal responsibility, but the law has not been crafted to align with available neuroscience research. Delmage also notes that this idea of maturity is not always correlated with age: "A commonly discussed paradox is that an adult offender who, due to a learning disability, is functioning at the level of a ten-year-old would, in all likelihood, have a defense available to him or her, whereas a child offender of ten in all likelihood would not" (Delmage, 2013).

In sum, criminal responsibility generally indicates that the individual charged lacks a mental capacity at the time of the offense that would have been associated with recognizing right from wrong. Being excused from criminal responsibility means that the individual had a mental state at the time of the offense that led to a substantial deficiency or impairment in recognizing right from wrong. The age at which courts then begin to charge youth for criminal acts varies considerably around the world. Children at the threshold set by the state or country can be charged with a crime but, if the child does not meet the minimum age for criminal responsibility, interventions other than the court are typically used, if any interventions are made at all. Children who are not actually charged also cannot have a designated party argue their case in court. Yet, how is this age determined? For the most part, the age seems to be rather randomly assigned. Next, developmental neuroscience will be reviewed that may demonstrate how various issues involved with making such a decision have been explored. There does seem to be a disconnect between various juvenile sentencing practices and the research regarding how children's and teenagers' brain development impacts their decision making.

Part Two – Adolescent Brain Development

Even though in many aspects the minimum age for criminal responsibility seems to be randomly assigned, it should be noted that relevant developmental neuroscience has been taken into consideration in United States Supreme Court cases. For example, a brief submitted in the case of *Miller v Alabama* by the American Psychological Association, American Psychiatric Association, and National Association of Social Workers (2012) outlined research on the neuropsychological differences between adolescents and adults. The literature of these different groups submitted as evidence indicates that adolescents are different from adults based on immaturity, changeability, and vulnerability. Adolescents undertake four brain changes: increased myelination, synaptic pruning, increased connectivity to brain areas related to social and emotional processing, and incentive processing systems. The uneven distribution of changes in the adolescent brain influences their increased risk-taking and inability to self-regulate.

The neuroscience and social science submitted persuaded the court to rule in favor of Miller, who was sentenced to life in prison as a 14-year-old after he had been sentenced as an adult on charges related to capital murder in the course of arson. Justice Kagan, writing for the majority, said "Given all that we have said in *Roper, Graham* [other cases], and this decision about children's diminished culpability, and heightened capacity for change, we think appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon" (*Miller v Alabama* 2012).

Steinberg and Lamb (2017) argue the Supreme Court has increasingly utilized science, especially developmental science, in its rulings. After reviewing the four major Supreme Court cases over the past 12 years, they suggest further research is needed.

Years before MRI machines were developed, Peter Huttenlocher (for a summary, see his 2002 work) discovered that brain cell connections, or synapses, increased substantially during the first year of life. This is likely due to the massive amount of learning that takes place during that time period. Following these synaptic connections, there is a long period of synaptic “pruning” where these connections disappear.

Now, research has clearly demonstrated the adolescent brain is much different from the “adult” brain. The “adult” is in quotes because, despite the fact that 18-year-olds from around the world begin to take on many new responsibilities at that age, research indicates that neurological development continues at least until the age of 25. The concept of adolescence seems to suggest “autonomy.” Individuals at that age are typically given rights such as voting or can participate in the military.

A brain cell is called a neuron. We are born with most of the neurons we will ever have, but to learn, the brain needs to connect in a neuron-to-neuron manner. Those connections between neurons are called synapses. Everything that is learned results in such connections. In some places, such connections form early in life and in other places, later. “Studies carried out in the 1970s and 1980s demonstrated that the structure of the prefrontal cortex undergoes significant changes during puberty and adolescence” (Blakemore and Choudhury, 2006).

Myelination is the process by which axons that connect neurons together are coated. This process allows for increased speed and efficiency of sending signals through the axon. One clear example of a myelination problem is multiple sclerosis. Disruptions in a person’s functioning are present because of disruptions in the coating or myelination.

The prefrontal cortex appears to be the last area to be myelinated. This has implications for adolescent functioning. As the neuroscientist Robert Sapolsky (2004, more recently 2018) indicates: “The job of the frontal cortex (is) to bias [an] individual towards doing the harder thing rather than the easier thing.” This would be the optimal function of the frontal cortex once myelination is complete in the frontal cortex area. The brain of the adolescent is “incomplete” because myelination processes are incomplete in the frontal area of the brain. This leads to an adolescent being less mature, more prone to impulse control problems, less able to plan ahead and more likely to be vulnerable to drugs and alcohol and their effect. Because of these neurocognitive vulnerabilities, a 13-year-old adolescent may do something on impulse (without thinking ahead or planning, or doing the right thing) that may impact his or her entire life course.

Other brain areas are involved in such impulse control functions, as well. Swartz and colleagues (2014) emphasized connections to the amygdala, which plays a strong role in emotional functioning. They looked at the uncinate fasciculusto (a white matter tract connecting the amygdala and the pre-frontal cortex) and the functional activity of the amygdala. This particular white matter or myelinated tract develops over the first three decades of life. The authors found an inverse relationship between structural connectivity and amygdala activation to sad and happy faces. This association was mediated by age, where younger children showed reduced connectivity and increased amygdala activation. This suggests that increased cognitive control plays an important role in regulating the amygdala and affective experiences. As adulthood develops, better control over emotional responses may be expected.

Pagagnano and colleagues (2011) reviewed the proposed function of this same communicating white matter tract and indicated that it develops in the areas of emotional and memory functioning. They studied surgical removal of this tract due to disease. Subjects in which the tract was resectioned in the frontal lobe area did substantially worse than controls on measures of face naming and verbal fluency. Thus, with the loss of this white matter tract, individuals exhibited frontal lobe symptoms.

Bradley and colleagues (2014) found that

...in a unique sample of neurological patients that focal lesions involving ventromedial prefrontal cortex, acquired during development, result(ed) in an abnormally egocentric pattern of moral judgment. In response to simple hypothetical moral scenarios, the patients were more likely than comparison participants to endorse self-interested actions that involved breaking moral rules or physically harming others in order to benefit themselves.

Clearly cognitive decision-making and moral development proceed in a trajectory that continues at least until the third decade. A meta-analysis by Defoe et al (2015) of experimental investigations of adolescent risk-taking suggests

Adolescents engaged in more risk-taking than adults on tasks with immediate outcome feedback but not on tasks with delayed outcome feedback, consistent with the notion that the presence of outcome feedback (perhaps particularly on rewards) might trigger the hyper activation of the ventral striatal him especially in adolescence, possibly resulting in heightened risk-taking behavior.

Noteworthy is the ventral striatum's role in reward. Defoe et al (2015) discuss experiments in which adolescents drove in a risky manner with their peers present versus driving alone. Risky choices increased with peers present. They also note that fMRI studies have shown ventral striatum activity substantially increased when adolescents performed a risky driving game with peers nearby-instead of being on their own.

Kambam and Thompson (2009) review research by Steinberg (2008) about adolescent decision making. They indicate that research on the adolescent's planning ahead and thinking about futures outcome is "consistent with earlier studies, they found that adolescents were less future-oriented than adults across all indices studied on this measure and task. The age differences that were noted did not vary by gender or ethnicity. (Kambam and Thompson (2009) also review findings from the MacArthur study which included 1400 adolescents, ages 11 to 24. In this study, subjects were given a battery of tests to better understand legal decision making and capacity to assist counsel. As indicated by Kambam and Thompson, "juveniles aged 11–13 were more than three times as likely as young adults to be "seriously impaired" in their competence related capacities and those aged 14–15 were twice as likely to be "seriously impaired." Although IQ is important in looking at such capacities, the "serious impairment" is actually in concert with a kind of normative timetable of developmental maturity.

In an interesting paper taking social psychology and criminology perspectives, Skrzypiec (2017) put forth a new approach to adolescent crime prevention using the theory of planned behavior. This theory takes into consideration three cognitive components. The attitude toward the behavior is important in this regard. For example, "a young person may see the outcome of stealing as a positive thing, as one will gain the object(s) stolen; or alternatively, as a negative thing, as one may face the consequences of getting caught."

With regard to normative subjective beliefs, “a person may feel motivated to comply with the family’s expectations to not engage in dishonest actions or, alternatively, motivated to comply with the expectations of friends who are transgressors and co-transgress.” Another factor is perceived behavioral control. Some adolescents may believe stealing is something they may never do, while others may have more permissive attitudes.

She discovered that moral norms and reputation enhancement played an important, but distal part of fighting, stealing and drug use with adolescents she studied.

Finally, in a seminal paper on the importance of moral development when reviewing mitigation for capital crimes, Walker et al (2018), recommended (adult) defense teams should review factors such as verbal intelligence, positing that moral norms are established through verbal reasoning skills. “Moral competence is shaped by the child’s whole environment during development, including the safety, security, parental affection and modeled behavior by the nuclear family.” In other words, the early shaping of moral competence is important. “Moral competence is not simply a given in human nature. It must be learned and it exists along a continuum from better to worse.” They consider evaluating empathy, sympathy, and compassion through evaluating the early environments of the client and the defendant’s training in moral competence. Walker and colleagues suggest that evaluating the adult defendant’s fetal exposure to substances and maternal stress in healthcare in addition to the postnatal environment “because all the brain regions involved in moral competence are highly sensitive to early adverse events and even early childhood depression.”

The findings of psychological and developmental neuroscience are taken into consideration and have great value for court systems around the world. Examples of juvenile justice systems will now be sampled.

Part Three - Juvenile Court Systems

First, diversion courts seem to take this research regarding brain development and behavior into consideration. Whether based on intuition (during the periods of welfare and therapeutic intervention) or changing ideologies (in the United States, the 1990s was such a period of change), it is clear that the history of juvenile justice in the United States moved from diversion and welfare considerations to retributive considerations in the 1990s. Even before the development of neuroscience and technical innovations such as MRIs or fMRI’s, progressive juvenile courts were using therapeutic interventions with a focus on restorative justice rather than retribution.

For example, regarding restorative (versus retributive) justice, Bishop and Decker (2008) comment,

Instead of focusing on the offender, these programs focus on the offense; on its effects on the victim and (with the exception of victim-offender mediation) the larger community of family and friends that support both victim and offender; and on apology, forgiveness, and reparation of harm. Broadly stated, the goals are to educate participants about the harms – especially the emotional harms and fracturing of relationships – caused by the offense; to repair the harms and to rebuild relationships and strengthen systems of informal social control. The establishment of restorative justice programs in the USA has not kept pace with similar developments in Western Europe, Australia, New Zealand, and Canada, though in some jurisdictions substantial progress has been made.

Second, there are countries such as Norway, Sweden, and Austria that have based their programs on diversion rather than retribution. In these countries, the age of criminal responsibility is 15. Below this

age, youth are not subjected to prosecution, but social interventions are put in place. Storgaard (2005) notes "in all Scandinavian countries [Denmark, Finland, Norway, and Sweden,] crime prevention efforts have a high priority and are to some extent acknowledged as just as important as prosecution." She indicates that the likelihood of "obtaining lower recidivism among juveniles via training programs is improved under the following conditions: when the treatment is concentrated on offenders who are at real risk of re-offending; when the treatment is intensive; when the treatment's form and content is closely connected to the concrete situation and when the treatment is fulfilled without deprivation of liberty."

In Austria, much emphasis is placed on prevention of delinquency, beginning in the preschool years and continuing into late adolescence and early adulthood. For example, during leisure time, many adolescents meet at parks for recreation and in the past, there appears to have been delinquent behaviors between different ethnic groups. However, monitoring by adults has been largely successful as a preventative measure. Such preventative measures make neurological sense: the adults that provide monitoring are presumed to have myelinated frontal lobes (and thus maturity) that can help supervise and manage problem areas and conflicts before adolescents get into trouble with the police (Bruckmüller, 2008).

Additionally, a diversion from court is common for adolescents in Canada. The Youth Criminal Justice Act provides for this. Bala and Roberts (2008) write that

In some communities in Canada, minor violent offences, such as assaults in schools are dealt with by extrajudicial sanctions programs that, for example, may involve victim-offender reconciliation or family group conferencing, and may result in an apology to the victim, personal service orders, restitution, community service or counseling for the offender (Bala and Roberts, 2008).

It seems that all youth diversion types of interventions seem to have a component of teaching, rehabilitative efforts, and an implicit idea that adolescents and adults differ significantly. This significance has a basis in developmental neuroscience, whether these types of programs acknowledge it or not.

Summary

This paper reviewed the notion of criminal responsibility and its diverse and seemingly random age assignment in various juvenile courts around the world. By no means was the review of developmental neuroscience in this paper complete. However, the best programs from this developmental perspective, do utilize the well-researched idea that adolescents and adults are different. In the 20th century, until the 1960s and 1970s, researchers believed that brain development was static after the early childhood years. This has radically changed. In this article, programs were illustrated that are not focused on retribution, but more focused on diversion or community monitoring. These programs seem to parallel or may be modeled after research in child and adolescent neuroscience.

Appendix B

Mitigation of Punishments for Offenders Under 18 in Iran's Islamic Penal Code

Adapted from Iran Human Rights Documentation Center's translation of Iran's Islamic Penal Code of 2013, Chapter 10 (Articles 88-95) :
"Punishment and Security and Correctional Measures for Children and Young People"

This Appendix details alternative punishments and measures that courts may issue for minor offenders per the Islamic Penal Code for the three categories of offenses: ta'zir, hoddud, and qesas.

TA'ZIR

"Discretionary" punishments, prerogative of the state

Article 18 of the Islamic Penal Code defines as "a punishment which does not fall under the categories of *hadd*, *qisas*, or *diya* and is determined by law for commission of prohibited acts under Shari'a or violation of state rules"

No capital crimes. Other offenses include espionage, fraud, bribery, kidnapping, defamation

Per Article 94, courts may postpone the deliverance of the judgment or suspend implementation of punishment in these cases



Boys and girls from 9 to 15:

- Handing over to parents or natural or legal guardians (subject to their acceptance) while taking promises to correct and educate the child or youth and taking care of their good behavior.
- Where the court finds it in the best interest of the child, this may include: referral of the child or youth to a social worker or psychologist or other specialists and cooperation with them; sending the child or youth to an educational and cultural institute in order to study or learn a skill; and required measures in order to treat or rehabilitate the addiction of the child or youth under the supervision of a doctor.
- Handing over to other natural or legal persons that the court finds to be in the best interest of the child or youth by ordering the measures mentioned in paragraph (a) where, considering article 1173 of the Civil Code, the parents or natural or legal guardians of the child or youth or not competent or available.
- Advising of the child or youth by the judge

- Cautioning and warning or taking a written promise not to commit an offense again (from age 12 to 15 only)
- Detention in the Correction and Rehabilitation Center from three months to one year in the case of ta'zir offenses of the first to fifth degree (from age 12 to 15 only)

Boys and girls from 15 to 18:

- Detention in Correction and Rehabilitation Center from two to five years in the case of offenses punishable in law by a ta'zir punishment of the first to third degree. Alternatively, at the court's discretion and considering the accused's condition and the crime committed: an order to stay at home during specific hours determined by the court, or detention in a Correction and Rehabilitation Center on weekends, for three months to five years
- Detention in Correction and Rehabilitation Center from one to three years in the case of offenses punishable in law by a ta'zir punishment of the fourth degree. Alternatively, at the court's discretion and considering the accused's condition and the crime committed: an order to stay at home during specific hours determined by the court, or detention in a Correction and Rehabilitation Center on weekends, for three months to five years
- Detention in Correction and Rehabilitation Center from three months to one year or a fine of ten million (10,000,000) Rials to forty million (40,000,000) Rials or providing one hundred and eighty to seven hundred and twenty hours of unpaid public services in the case of offenses punishable in law by a ta'zir punishment of the fifth degree. Alternatively, at the court's discretion and considering the accused's condition and the crime committed: an order to stay at home during specific hours determined by the court, or detention in a Correction and Rehabilitation Center on weekends, for three months to five years
- A fine of one million (1,000,000) Rials to ten million (10,000,000) Rials or providing sixty to one hundred and eighty hours of unpaid public services in the case of offenses punishable in law by a ta'zir punishment of the sixth degree.
- A fine of up to one million (1,000,000) Rials in the case of offenses punishable in law by a ta'zir punishment of the seventh and eighth degree.

HODDUD

Fixed punishment, divine prerogative

Article 15 of the Islamic Penal Code defines as "a punishment for which the grounds for, type, amount and conditions of execution are specified in holy Shari'a"

Capital crimes include: sodomy, adultery, theft, intoxication, "war on God," "corruption on Earth"



Boys below 12, girls below 9:

- Handing over to parents or natural or legal guardians (subject to their acceptance) while taking promises to correct and educate the child or youth and taking care of their good behavior.

- Where the court finds it in the best interest of the child, this may include: referral of the child or youth to a social worker or psychologist or other specialists and cooperation with them; sending the child or youth to an educational and cultural institute in order to study or learn a skill; and required measures in order to treat or rehabilitate the addiction of the child or youth under the supervision of a doctor.
- Handing over to other natural or legal persons that the court finds to be in the best interest of the child or youth by ordering the measures mentioned in paragraph (a) where, considering article 1173 of the Civil Code, the parents or natural or legal guardians of the child or youth or not competent or available.
- Advising of the child or youth by the judge

Boys from 12 to 15 years:

- Cautioning and warning or taking a written promise not to commit an offense again
- Detention in the Correction and Rehabilitation Center from three months to one year

Boys from 15, girls from 9:

- Where defendant “do not realize the nature of the crime committed or its prohibition, or of there is uncertainty about their full mental development, according to their age”: alternative measures listed for ta’zir above.

QESAS

Retributory punishments, prerogative of victim's family

Article 16 of the Islamic Penal Code defines as “the main punishment for intentional bodily crimes against life, limbs, and abilities”

Capital crimes include: homicide



Boys below 12, girls below 9:

- Handing over to parents or natural or legal guardians (subject to their acceptance) while taking promises to correct and educate the child or youth and taking care of their good behavior.
- Where the court finds it in the best interest of the child, this may include: referral of the child or youth to a social worker or psychologist or other specialists and cooperation with them; sending the child or youth to an educational and cultural institute in order to study or learn a skill; and required measures in order to treat or rehabilitate the addiction of the child or youth under the supervision of a doctor.
- Handing over to other natural or legal persons that the court finds to be in the best interest of the child or youth by ordering the measures mentioned in paragraph (a) where, considering article 1173 of the Civil Code, the parents or natural or legal guardians of the child or youth or not competent or available.

- Advising of the child or youth by the judge

Boys from 12 to 15 years:

- Cautioning and warning or taking a written promise not to commit an offense again
- Detention in the Correction and Rehabilitation Center from three months to one year

Boys from 15, girls from 9:

- Where defendant “do not realize the nature of the crime committed or its prohibition, or of there is uncertainty about their full mental development, according to their age”: alternative measures listed for ta’zir above

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