

Islamic Republic of Iran: Promoting violence against children
International Coalition against Violence in Iran (ICAVI)

Children in Iran are prone to becoming victims of violence or mistreatment and being deprived of their childhood due to laws and practices which do not represent the best interests of the child. Article 1041 of Iran's Civil Law permits children under the age of puberty, boys under 15 and girls under nine lunar years¹ to be married, but this age can be lowered by the application of the father or the male guardian to the courts². An inclusion to Article 27 of the 'Child Protection Act for Unsupervised or Ill-supervised Minors,' ratified and approved on 2nd October 2013 by the Guardian Council, will allow legal guardians to marry the child currently in their care³. This may well give rise to paedophilia at home.

One in five children aged six to eleven face abuse at home by caregivers, and corporal punishment in schools is common⁴. The rate of execution of juveniles is higher than in other countries that practice the death penalty. Poverty has given rise to street children. According to the Iranian Children's Rights Society, around 25,000 to 30,000 children live on the street in Tehran and around 100 to 150 are killed every month for various reasons including abuse and harsh working conditions. Children who live in prison with their incarcerated mothers suffer from physical and psychological violence. Violence against children is varied and covers a wide range of areas that it is not possible to review in a single paper. However this paper will focus on three areas of child abuse in Iran:

- Children with their incarcerated mothers
- Child execution
- Legalising paedophilia: adoption and a new law which grants the right to adoptive parents to marry their adopted child

Children living with incarcerated mothers

There are no specific provisions in penal law for children who are incarcerated with their mothers or who are born while their mother spends time in prison. Of the 234 articles and many more sub-articles of the prison regulations, which deal comprehensively with prisons and prisoners⁵, only one article (Article 69) refers to women and children. Otherwise, laws governing prisons do not refer to the gender, ethnic, religious, sexual or political orientation of the prisoners. Article 69 of the prison regulations states that: 'Prisoners will be allocated a place on vocational courses according to their background' and the sub-article indicates that female prisoners can bring their children up until the age of two, but in the same line it states that in every prison there should be a separate place for children between two and six years of age. Alternatively, they should go into state care.⁶

In preliminary findings for an upcoming ICAVI research project into child abuse in Iran's prisons, women prisoners have reported on the situation of children who are incarcerated with their mothers, documenting that they face a chronic lack of access to adequate food, hygiene, personal care and the provision of health and safety. In practice, prison regulations are not carried out as stipulated in the prison laws. In one case study, the mother talked of the horrors that her four-year-old child had witnessed. The abuse of children in prisons goes unnoticed as they live in the same quarters as their mothers and other inmates. Prison authorities impose the same physical abuse on children as they do on their mothers, including pushing, kicking and stopping them from going to the toilet, while they also face a lack of air circulation (both too cold and too hot), a lack of adequate medical care and a lack of access to educational programmes. Furthermore, psychological forms of abuse of children in custody include: the use of profane language, shouting, threats, torturing the mother in front of the child and separating the mother from her child for significant periods of time.

¹ This is the equivalent of 8 years and 7 months

² Article 49 Penal Code of Iran available online at: Iran Human Rights Documentation Centre, Islamic Penal Code of the Islamic Republic of Iran – Book Five, July 2013, <http://www.iranhrc.org/english/human-rights-documents/iranian-codes/100000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html#.UqRwq6UkHGk>, and Article 1041 Civil Code available on-line at: <http://www.refworld.org/pdfid/49997adb27.pdf>

³ Ibid.

⁴ Iranian Children's Rights Society, <http://www.iranianchildren.org/news.html>

⁵ Regulations adopted by the separation and classification of prisoners Judiciary 9/9/1385 (2006) Council oversees the implementation of Article 9 of prison regulation supply and adopted by the Parliament

⁶ Standard Minimum Rules for the Treatment of Prisoners Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

In the framework of children's rights in Iran, two basic issues are in need of reform: legislation and the regulatory system on the one hand, and disorder on the other. However, there are many issues that derive from the political nature of the government. Given the political context of the judicial system, the government can apply a wide range of pressure against prisoners, sometimes deliberately resorting to torture irrespective of the age or condition of the prisoner. Children who live with their incarcerated mothers often come from families where the father is absent or in prison himself.

Child execution

The pre-2012 penal code categorised crimes according to punishment. The punishment is differentiated by the crime's theological, judicial or legislative origins.

1. Qesas is a retributive form of punishment specified in Shari'a (i.e. Islamic law) in which the punishment should be equal to the crime. The penalty for homicide is death unless the family accepts financial compensation.
2. Hodoud is a punishment for which the degree and type has been specified in Shari'a. It covers crimes such as sodomy, adultery and moharebeh (enmity to God).
3. Ta'zir is a punishment for narcotics smuggling. The degree and type of punishment is left to the discretion of the judge. The death penalty for smuggling narcotics is a Ta'zir crime under Iran's anti-narcotic law.

The new penal code⁷ largely maintains the same categories of crime and the new punishments are more or less the same. However the Islamic Republic of Iran announced that it had abolished child execution. Yet, according to Articles 145 and 146 of the new penal code, the age of criminal responsibility is still 'puberty', meaning nine lunar years for girls and 15 for boys, in both cases violating the Convention on the Rights of the Child. Under Article 87, execution for discretionary punishments has been abolished for children under 18 and replaced with correctional measures. Although this article abolishes the execution of juveniles for certain crimes, most juvenile executions are for Qesas homicide-related crimes.

Article 90 of the new penal code stipulates that legally 'mature' individuals under 18 (boys 15-18 and girls 9-18) who are convicted of Hodoud and Qesas may be exempted from adult sentences –the death penalty - if it is established that they were not mentally mature at the time of the crime. Although the new code is an improvement on the previous Islamic penal code, in respect of the execution of juveniles, Iran still holds the highest rate of child executions.⁸

According to reports by human rights organisations, of the 32 executions of juvenile offenders in the world since January 2005, 26 occurred in Iran.⁹ In 2007, Iran executed eight juveniles. Iran is a signatory to the UN Convention on the Rights of the Child (CRC) which states that 'Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed below eighteen years of age,' and the International Covenant on Civil and Political Rights (ICCPR), which declares that 'sentence of death shall not be imposed for crimes committed by persons below 18 years of age'. Despite these commitments, in July 2008 the Stop Child Executions Campaign recorded that there were 130 children facing death in Iran.

Legalising paedophilia

The Guardian Council's approval and confirmation of the 'Unsupervised or Ill-Supervised Children and Youth Protection Bill' means that it has become law (an Act).¹⁰ Although the new Act has some positive points, such as the right of single women to adopt children and an adopted child's right to inheritance and their father's pension, it also has many ambiguities and a number of objectionable articles.¹¹ However, none are as dangerous to the moral, mental and physical integrity of the child (particularly the girl child) as Article 27. According to this Article, a child's legal guardian can marry the child. As a recent ACI report notes 'Article 27 of the Bill could lead to the girl child being adopted for nefarious purposes and at risk of abuse

⁷Human Rights Watch, Iran: Proposed Penal Code Retains Stoning, June 2013, <http://www.hrw.org/news/2013/06/03/iran-proposed-penal-code-retains-stoning>

⁸International Campaign for Human Rights in Iran, Juvenile Executions June, 2008 <http://www.iranhumanrights.org/2008/06/juvexecutions/>

⁹For a detailed report on child executions, please see Nazanin Afshin-Jam and Tahirih Danesh, From Cradle to Coffin: A Report on Child Executions in Iran, Foreign Policy Centre, June 2009, <http://fpc.org.uk/fsblob/1063.pdf>

¹⁰Guardian Council, Orphans and Child Protection Bill, September 2013 <http://www.shora-gc.ir/Portal/Home/ShowPage.aspx?Object=NEWS&ID=273ae197-fc64-4216-bb06-8dc75cca572b&WebPartID=eaaaa1e1-efd7-4bfb-91cd-e8154ab52c31&CategoryID=e2beada8-28bd-4ff4-a9f8-84d4ee0a2973>

¹¹These include denial of the right of the child to have an opinion or recourse to legal representation in cases where the child faces violence and abuse.

by paedophiles. The legislation seems to disregard the fact that based on other national laws¹², as well as Article 21 of the CRC¹³ and all other related documents, the child's best interest should be paramount in any placement. Here, instead of taking steps to criminalise any such act, the Guardian Council has legalised it'.¹⁴

Sexual and physical forms of child abuse at home are already rife in Iran, although documentation is rare, but it is believed that this Article would give rise to paedophilia as the father might consider a female daughter a potential wife and sexually abuse her in childhood. Equally, the mother could see a girl as a potential rival in the coming years and decline to give the care and love the child needs to develop her full potential.

Iran is a state signatory to all conventions on the rights of the child, and human rights, women's rights and child welfare activists demand amendments to Article 27 of the new Act on legal guardianship in Iran before it reaches implementation.

Conclusion

Abuse, violence and mistreatment of children in Iran, both in public and private spheres, has become a chronic phenomenon. The laws and practices in many cases do not place the best interests of the child at heart. Many aspects of violence may derive from poverty, ignorance and traditional practices that result from discriminatory laws and codes condoning child abuse. Regarding the cases of children living with their incarcerated mothers in prison, ICAVI suggests:

- The provision of proper care, both physical and psychological, in prison so that if the child is deprived of the choice to live outside the prison environment, she/he can still benefit from a minimum level of care inside.

For cases of child execution, ICAVI suggests:

- An immediate halt to all executions where the offence has been committed by a person below the age of 18.

Regarding Article 27 of the Adoption Bill which allows parents to marry their adopted child, ICAVI suggests:

- Revision of the Act and the exclusion of Article 27 in its entirety. Instead, an article should be included stating that an adopted child must be treated as one's own child and not as a potential future spouse.

¹² Including the Family Protection Law

¹³ Convention on the Rights of the Child (28 June 2000, CRC/C/15/Add.123, Concluding observations on initial report, pages. 37, 38, 39 and 40

¹⁴ Association des Chercheurs Iraniens (ACI), Islamic Republic of Iran Legalising Paedophilia? 'Unsupervised or Ill Supervised Children and Youth Protection Bill, October 2013, <http://aciiran.com/Legalising%20Paedophilia.pdf>

