

Children in Iran: Crime, Marriage, Legal Recognition and International Treaty Obligations

CHILD RIGHTS in Iran are impeded by domestic laws

Laws relating to children are spread across the Civil Code, Penal Code, Criminal Procedure Code, Labour Code and several selected family and juvenile laws. The Constitution stipulates that all law must be based on “Islamic criteria” and that all laws, regulations and relevant planning must be directed towards facilitating the formation of family and ensuring its composition in line with “Islamic laws and morality” (Art. 4).

- The rights of the child are therefore sidelined by the needs of the family. Those needs are determined by a specific interpretation of “Islamic criteria”.

RESERVATION TO THE CRC does not meet accepted standards

Iran ratified the Convention on the Rights of the Child on 13 July 1994 with the reservation that it “reserves the right not to apply provisions or articles that are incompatible with Islamic Laws and the internal legislation in effect.” The reservation is incompatible with the object and purpose of CRC; so all provisions in the treaty remain fully obligatory to Iran:

- Such a general declaration would allow Iran to suspend any of the provisions in CRC, which is contrary to customary international law reflected in Art. 19(c) of the Vienna Convention on the Law of Treaties.
- The invocation of internal legislation would give primacy to domestic laws over international obligations, which is contrary to Art. 27 of the Vienna Convention.

MINIMUM AGE OF CRIMINAL RESPONSIBILITY restricts protection and permits discrimination

- Under the Iranian Penal Code the “age of maturity” as a basis for the minimum age of criminal responsibility is different for girls (9 years) and boys (15 years) (Art. 147). This leaves a protection gap for girls between the ages of 9 and 18, and boys between 15 and 18.
- The minimum age for girls does not conform to international legal standards because the disparity between genders violates the principle of non-discrimination in ICCPR and CRC Arts. 2(1) and ICESCR Art. 2(2).

JUVENILE EXECUTIONS are not prohibited

Iran has not made an absolute prohibition of the death penalty for juveniles. Instead, it emphasizes on forgiveness as an alternative to harsh punishments in the Penal Code and dismisses the necessity of a precise age of criminal responsibility.

- The application of the death penalty to persons below the age of 18 is expressly prohibited under ICCPR Art. 6(5) and CRC Art. 37(a).
- Certain offences such as murder and rape may lead to the execution of a minor.

MINIMUM AGE OF MARRIAGE is not absolute and affects other rights

The Iranian Civil Code sets the age of minor marriages in Iran at 13 for girls and 15 for boys (Art. 1041). Marriage of girls below that age is predicated upon their guardian’s permission, while taking the child’s best interest into consideration and the approval of the relevant court.

- The right to information protected by ICCPR Art. 19(2) and CRC Art. 17 may be violated in situations of early marriage, when the child is not fully informed of protective sexual health practices and the complications which may arise from pregnancy.
- The right to health recognised in ICESCR Art. 12 and CRC Art. 24 may be violated when the low age of marriage interferes with the child’s right to reproductive health.

PROTECTIVE FRAMEWORK of children does not recognise their independent legal status

The Iranian Constitution and Child Protection Law focus on the protection of the family or the penalization of persons who commit crimes against the child. This framework places duties upon guardians, but does not afford sufficient recognition of the child as a legal subject and an individual rights-bearer:

- The lack of such a rights-focused approach negatively affects children in relation to the minimum ages of majority, criminal responsibility, puberty and marriage.
- The non-derogable right of individuals to be afforded recognition before the law is recognized under ICCPR Art. 16, and the right of the child to have a legal subjecthood is reflected in CRC Art. 5.