



Iran:

The last executioner of children

CONTENTS

1. Introduction	1
2. Iranian law and the death penalty	6
3. Executions of children	14
4. Children facing execution	19
5. Campaigning wins reprieves	26
6. Recommendations	29
APPENDIX I: List of child offenders executed	31
APPENDIX II: List of child offenders on death row	33

published by:
Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

AI Index: MDE 13/059/2007

1. Introduction

Two weeks after his 18th birthday in 2006, Sina Paymard was taken to the gallows to be hanged. As he stood there with a noose around his neck, he was asked for his final request. He said that he would like to play the ney – a Middle Eastern flute. Relatives of the murder victim, who were there to witness the hanging, were so moved by his playing that they agreed to accept the payment of *diyeh* (blood money) instead of retribution by death, as is allowed under Iranian law. Sina Paymard remains under sentence of death in Reja'i Shahr prison in Karaj.

Iran has the shameful status of being the world's last official executioner¹ of child offenders – people convicted of crimes committed when they were under the age of 18. It also holds the macabre distinction of having executed more child offenders than any other country in the world since 1990, according to Amnesty International's records.²

In many cases, child offenders under sentence of death in Iran are kept in prison until they reach 18 before execution. In this period, some win appeals against their conviction. Some have their sentence overturned on appeal and are freed after a retrial. Some are reprieved by the family of the victim in cases of *qesas* (retribution) crimes and are asked to pay *diyeh* instead. Some are executed.

Although executions of child offenders are few compared to the total number of executions in Iran, they highlight the government's disregard for its commitments and obligations under international law, which prohibits in all circumstances the use of the death penalty for child offenders. The executions also gravely undermine the particular obligation that all states have relating to the protection of children – one of the most vulnerable groups in society.



Sina Paymard
© www.stopchildexecutions.com

HOW IRAN WAS LEFT BEHIND

The execution of child offenders has all but stopped elsewhere in the world. Governments in all regions have ratified relevant international treaties that ban such executions and changed their domestic law to enforce the ban.

1994 – Yemen raised the minimum age for the imposition of the death penalty to 18 at the time of the offence under its Penal Code, as did **Zimbabwe** under its Criminal Procedure and Evidence Act.

1997 – China amended its criminal law to abolish the death penalty for child offenders.

2005 – the USA outlawed executions of child offenders after the Supreme Court ruled in *Roper v Simmons* that they violated the US Constitution.

Additionally, **Pakistan** adopted the Juvenile Justice System Ordinance in **2000**, which abolished the death penalty for people under the age of 18 at the time of the offence. The ruling was declared void by the Lahore High Court in 2004, but in 2005 the Supreme Court reinstated the Ordinance, a ruling that is under appeal. Meanwhile the Ordinance remains in force.³

The international consensus against executing child offenders reflects the widespread recognition that because of children's immaturity, impulsiveness, vulnerability and capacity for rehabilitation, their lives should never be written off – however heinous the crimes of which they are convicted. The guiding principle must be to maximize a child offender's potential for eventual reintegration into society. Execution is the ultimate denial of this principle.

International law

By sentencing child offenders to death, Iran is contravening international law and standards in three ways.

First, it is violating its treaty obligations. The international community has adopted four human rights treaties that explicitly exclude child offenders from the death penalty. Nearly all states are now party to one or more of these and are therefore legally obliged to respect the prohibition. Two of the treaties have worldwide scope:

- ▶▶ the **International Covenant on Civil and Political Rights** (ICCPR), which provides in Article 6: "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age"; and
- ▶▶ the **Convention on the Rights of the Child** (CRC), which provides in Article 37, "Neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by persons below eighteen years of age".

Iran is a state party to both treaties. It is therefore obliged to uphold their provisions and report periodically on the measures it has taken to give effect to the treaties.

Iran ratified the ICCPR in 1975 without reservations. Since then, none of the successive governments has altered this position. However, when ratifying the CRC in 1994, the government stated that it “reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the international legislation in effect”. In response, the Committee on the Rights of the Child, which monitors implementation of the CRC, expressed its concern that the “broad and imprecise nature of the State party’s general reservation potentially negates many of the Convention’s provisions and raises concern as to its compatibility with the object and purpose of the Convention.”⁴ Amnesty International considers that if the reservation is invoked to allow for the execution of child offenders, it would defeat the very object and purpose of the CRC. Iran’s reservation should therefore be removed or, in any event, never invoked as legal authority to allow for the execution of child offenders.

Secondly, Iran is violating customary international law. Amnesty International believes that the exclusion of child offenders from the death penalty is now so widely accepted in law and practice that it has become a rule of customary international law and so binding on every state. In this respect, the UN Human Rights Committee has affirmed that states are prohibited from entering any reservation allowing for the execution of children because the prohibition against execution of children represents customary international law.⁵

Thirdly, Iran is violating a peremptory norm – one of the few rules of international law of such importance to the international community as a whole that all states must abide by them in all circumstances.⁶ The prohibition on the use of the death penalty against child offenders is one such rule.

On 10 January 2005, the Speaker of the Judiciary reportedly dismissed reports that Iran executed child offenders as “foreign propaganda... aimed at distorting the image of the Islamic Republic”. The same month the Committee on the Rights of the Child noted that the Iranian delegation appearing before it had stated that Iran had suspended executions of people for crimes committed before they were 18.⁷ However, on 19 January 2005, the same day that the Committee examined Iran’s report, 17-year-old Iman Farokhi was executed in Iran. The Committee deplored the fact that “such executions have continued since the consideration of the State party’s initial report, including one such execution on the day the second report was being considered.”⁸

Towards abolition

Despite, or perhaps in response to, the Iranian authorities’ record, a growing movement has emerged over recent years in Iran that is pushing for abolition of the death penalty for child offenders. This movement includes members of the government and judiciary. For instance, in around 2001, the judiciary introduced a draft law, initially entitled the Law on the Establishment of Children’s and Juveniles’ Court, that would prohibit the death sentence for minors.¹⁰ An amended version of this law, entitled the Law on the Investigation of Juvenile Crimes, was reportedly debated by the Islamic Consultative Assembly or *Majles* (Iran’s parliament) in mid-2006 and passed to a committee for further consideration. The committee reportedly passed the law back to the *Majles* in May 2007. Even though the law is far from perfect – for example, it excludes certain types of crime from the prohibition of the death penalty for child offenders – it reflects an ongoing internal debate and opens up the possibility of reform.

The momentum for change within Iran is being driven primarily by a courageous movement of human rights defenders and activists, including lawyers, journalists and children’s rights

“...there is every reason to believe that the Iranian Judiciary is freely ignoring the prohibition on the juvenile death penalty. This constitutes a clear violation of Iran’s obligations under the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights.”
Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions⁹

activists. These people have represented those facing the death penalty and prevented executions. They have highlighted miscarriages of justice. They have campaigned for abolition of the laws that allow executions of child offenders.

Many of these activists have been threatened, summoned for interrogation or harassed by the authorities in other ways. Some have been subjected to travel bans, preventing them from leaving the country. Attempts to gain permits to hold events and rallies against the death penalty have been blocked. Nonetheless, the activists have refused to be deterred.

Amnesty International has faced many obstacles when trying to investigate the death penalty in Iran. It has not been granted access to the country to assess human rights developments at first hand since shortly after the Islamic Revolution in 1979. Moreover, detailed and accurate information about the number of people under sentence of death in Iran is not readily available.¹¹ Death penalty cases are rarely reported in the press until the sentence has been upheld by the Supreme Court, a requirement before execution can take place. Sometimes, the first that is known about a case is when the execution is reported. Even when earlier information is known, it is often impossible to find out whether there have been any developments in the case and its progress.

IRAN: MAIN CHILD EXECUTIONER WORLDWIDE

Only three other countries have executed child offenders in the past three years, according to information received by Amnesty International. In three years, Iran executed more child offenders than all the other countries combined.

2004 – China executed one child offender.¹² **Iran** executed **three**.

2005 – Sudan executed two child offenders. **Iran** executed **eight**.

2006 – Pakistan executed one child offender.¹³ **Iran** executed **four**.

2007 – Iran is, at the time of writing (May), the only country known to have executed a child offender.

Amnesty International is publishing this report in order to draw international attention to this grave and long-standing violation of human rights and to support the valiant efforts being made in Iran by Iranians to stop child executions and to secure a complete end to the use of the death penalty for child offenders.

Amnesty International opposes the death penalty unreservedly for anyone, regardless of their age and regardless of the nature of the crime or the character of the condemned. Every execution is an affront to human dignity, a human rights violation of premeditated cruelty that denies the right to life proclaimed in the Universal Declaration of Human Rights. Ending executions of child offenders in Iran, while a major objective in itself, is just one step on the road to total abolition – but a vitally important step that should be taken without delay.

Amnesty International is calling on the Iranian authorities, both political and judicial, to take



immediate steps to end the shameful practice of executing child offenders. The authorities should impose a moratorium on all such executions until the law is amended to eliminate any possibility that those convicted of crimes committed before they reached the age of 18 can be executed.

The authorities should also, without delay, take steps progressively to reduce the range of offences under Iranian law which can incur the death penalty and to ensure that all court proceedings in which defendants face capital charges are conducted in full conformity with international fair trial standards, including the right of appeal to a higher tribunal and to petition for clemency if sentenced to death.

AI Germany action against child executions in Iran staged in Berlin on the 2006 World Day Against the Death Penalty.

© AI/Bilan

2. Iranian law and the death penalty

“The overwhelming international consensus that the death penalty should not apply to juvenile offenders stems from the recognition that young persons, because of their immaturity, may not fully comprehend the consequences of their actions and should benefit from less severe sanctions than adults. More importantly, it reflects the firm belief that young persons are more susceptible to change, and thus have a greater potential for rehabilitation than adults.”

Mary Robinson, former UN High Commissioner for Human Rights

Under the Islamic Penal Code of Iran, which entered into force after the Islamic Revolution in 1979, state-sanctioned killing can be the punishment for a large number of offences.¹⁴ Amnesty International takes no position on the Iranian legal system or the Penal Code per se, or with regard to its provisions, including those inspired by Islamic law. However, it believes strongly that the Iranian authorities are responsible for ensuring that Iran’s legal system conforms fully to international human rights law and standards, including the treaties that Iran is obliged to uphold under international law.

Capital crimes

The Penal Code distinguishes five types of crime: *hodoud* (crimes against divine will, for which the penalty is prescribed by Islamic law); *qesas* (retribution in kind, broadly akin to “an eye for an eye”); *diyeh* (compensation), *ta’zir* (crimes that incur discretionary punishments applied by the state that are not derived from Islamic law); and deterrent punishments, which include fines, cancellation of licenses, closure of business premises, forced residence, travel restrictions and denial of other rights (such as the right to work in a particular profession).¹⁵ The death penalty is provided for certain *hodoud* and *ta’zir* crimes, and is available under *qesas* for murder.

Hodoud crimes

Under the category of *hodoud* crimes, capital offences include adultery by married people; incest; rape; fornication for the fourth time by an unmarried person, having been punished for each previous offence; drinking alcohol for the third time, having been punished for each previous offence; “sodomy”¹⁶; same-sex sexual conduct between men without penetration

(*tafkhez*) for the fourth time, having been punished for each previous offence; lesbianism for the fourth time, having been punished for each previous offence; fornication by a non-Muslim man with a Muslim woman; and false accusation of adultery or “sodomy” for a fourth time, having been punished for each previous offence.

The law of *hodoud* also provides for the death penalty as one of four possible punishments for those convicted of the vaguely worded offences of “being at enmity with God” (“*mohareb*”) and “being corrupt on earth” (“*mofsed fil arz*”). These terms are defined in the Penal Code as “Any person resorting to arms to cause terror, fear or to breach public security and freedom will be considered as a *mohareb* and to be corrupt on earth.”¹⁷ Further articles clarify that those convicted of armed robbery, highway robbery, membership of or support for an organization that seeks to overthrow the Islamic Republic; and plotting to overthrow the Islamic Republic by procuring arms for this purpose will be regarded as *mohareb*. References in other articles relating to *ta’zir* crimes, and other laws, specify other circumstances where someone may be considered a *mohareb*, which include espionage and forming a group to harm state security. Corruption on earth is not further defined in the *hodoud* section of the Penal Code, but a number of other laws provide for the possibility that certain crimes may in some circumstances fall into this category, including crimes such as economic corruption, embezzlement, repeated drug smuggling, forgery of banknotes, hoarding and profiteering.

Judges apparently have a wide degree of discretion in deciding whether a particular crime is so serious that it amounts to one of these categories and therefore can be punished by death rather than a term of imprisonment or other penalties.

As *hodoud* crimes are regarded as a crime against God, they are not open to pardon by the Supreme Leader on the recommendation of the Head of the Judiciary in the same way as *ta’zir* or discretionary punishments are. However, in the case of adultery, “sodomy”, same-sex sexual conduct without penetration, and lesbianism, if the person has confessed to the crime and repented (publicly sought forgiveness from God), then the judge in the case has the power to seek a pardon from the Supreme Leader or to insist on the implementation of the verdict.¹⁸

Qesas-e nafs (retribution in kind)

In cases of *qesas*, where a victim is killed or injured, the sentence is retaliation or “retribution in kind”. This means that in cases of murder, the family of the victim has the right to ask for their relative’s killer to be put to death. The family can also choose to forgive the culprit and accept payment of *diyeh* instead.

In the Iranian legal system, there is a distinction between cases where the penalty is “execution” (*hokm-e edam*) and *qesas*, although people sentenced to *qesas* are often reported in the media to have been sentenced to death. In Iranian law, murder is treated as a private dispute between two civil parties – the state’s role is to facilitate the resolution of the dispute through the judicial process. In this sense, the death penalty, as in *hokm-e edam*, is regarded as being imposed by the state, whereas *qesas* is imposed by the family of the victim. As a result, sentences of *qesas* are not open to pardon or amnesty by the Supreme Leader.

Under international law, Iran remains fully responsible for respecting and protecting the rights of those under its jurisdiction, irrespective of the role that private parties may play in the administration of justice. In a case of *qesas*, Iran must respect the rights of any child offender by

ensuring that the process it facilitates does not allow for the offender's execution and protects the child offender from any acts by private parties that would lead to an execution.

Ta'zir crimes

There is only one crime in the *ta'zir* section of the Penal Code for which execution is mentioned – “cursing the Prophet [of Islam]” (Article 513). The death penalty is also provided for crimes covered in the Anti-Narcotics Law introduced in January 1989, and amended in 1997.¹⁹ These crimes include smuggling or distribution of more than 5kg of hashish or opium, or more than 30g of heroin, codeine, methadone or morphine. People who commit a fourth offence of cultivation of narcotic plants, recidivist (repeated) possession of opium and hashish, and the manufacture or supply of various chemicals that can be used in the manufacture of drugs can also receive the death penalty.

Punishments for *ta'zir* crimes are open to pardon – for example, Article 38 of the Anti-Narcotics law allows for death sentences imposed under this law to be sent to the Amnesty Commission “if there are reasons by which the punishment... can be mitigated.” Moreover, repeat offenders whose cumulative possession of heroin, morphine or cocaine or their derivatives exceeds the stipulated amounts are regarded as “corrupt on earth” and punishable by death – that is, their crimes may be regarded as falling under the *hodoud* section of the Penal Code and, therefore, would appear not to be open to pardon. The Anti-Narcotics Law also provides for the death penalty for armed smuggling of narcotics – from media reports about the executions of alleged armed drug smugglers, it appears that in at least some cases, although it is not specifically stated, perpetrators are designated as “being at enmity with God”, a *hodoud* offence.

Iranian legislation on child offenders

In terms of juveniles in Iran's justice system, Article 49 of the Penal Code states: “[M]inors, if committing an offence, are exempted from criminal responsibility. Their correction is the responsibility of their guardians or, if the court decides, by a centre for correction of minors.”

A minor is defined as “a person who has not reached the age of maturity as stipulated by Islamic jurisprudence”. The age of majority in Iran is nine for girls and 15 for boys, implying that children of these ages and above can be sentenced to death. Amnesty International is aware of one girl on death row in Iran for a crime committed when she may have been only 13, and several cases of boys who were 15 at the time of the offence, and one who may have been only 14.

Officials from the Iranian Government and the Judiciary have repeatedly stated that Iran does not execute children, even though it is known that some offenders have been executed before they reached the age of 18. However, in most cases the authorities wait until child offenders have turned 18 before executing them. It is not clear whether the authorities understand that such executions still constitute executions of child offenders and therefore violate Iran's international obligations.

Juvenile Crimes Investigation Act

Legislation that would reportedly prohibit the use of the death penalty for offences committed by people under the age of 18 was put before the *Majles* in around 2001, and in mid-2006 the *Majles* gave an initial reading to the Juvenile Crimes Investigation Act. In May 2007, the draft law was reportedly passed back from a committee for reconsideration by the *Majles*. If finally passed, the legislation would still have to be approved by the Council of Guardians, which has the responsibility for checking its adherence to Islamic law, before it enters into force. It is believed that the Council of Guardians is unlikely to approve the legislation.

Although the draft law has some welcome provisions, it also contains serious flaws that would limit its effectiveness in preventing the execution of child offenders. These flaws fall into five areas: confusion over which courts have jurisdiction in juvenile cases; the procedures to stop an execution; the right to appeal; the granting of pardons; and the distinction between *qesas* and the death sentence.

Jurisdiction: Article 14 of the draft law provides that prosecution, investigation and trial in any case where a juvenile is accused of a crime will be undertaken by the juvenile court, provided that the punishment for the crime is less than three years' imprisonment or that it involves a crime against chastity. However, Article 1 states that "[a]ll the offences of persons younger than 18... shall be investigated by the Juvenile Court." This is the specialized court that would be established by the draft law. At the same time, Article 10 states that "[i]n the event that children and juveniles commit offences, the investigation of which falls within the jurisdiction of the Provincial General Court, the Provincial General Court specifically assigned to investigate Juvenile Offences shall investigate them as directed by the present Law."

Article 1 seems to be at variance with Article 10. In Article 1, all cases of crimes by juveniles will be investigated by the newly established juvenile court, while Article 10 retains the jurisdiction of the Provincial General Court.

It is crucial for all laws to be clear about which court has jurisdiction over which cases. The draft law therefore needs to be clarified or amended.

Stopping an execution: Article 17 states: "In crimes other than those requiring the punishment of *hadd* [divine punishment], the enforcement of the judgment shall be stopped if the two parties reach a compromise during its enforcement or if the complainant withdraws the complaint."

This implies that in *hodoud* (plural of *hadd*) cases, the punishment cannot be stopped. In such cases, there appears to be no possibility of remission of sentence after judgement, even if a case is dropped by the complainant, who can be either a private individual or the prosecution.

Right to appeal: Article 27 states: "The juvenile court's rulings and decisions... can be **appealed against in all cases** [emphasis added]. The deadline for the appeal is 20 days from the final notification [of the verdict]."

This right to appeal is broader than in the Law on Appeals, which specifies the crimes that may be appealed,²⁰ and implies that the right to appeal is granted in all cases, including *hodoud* and *qesas*. Appeal goes to a higher court (usually an appeal court), and then the Supreme Court,

and can challenge the judgement and sentence, or errors in the process. A successful appeal does not necessarily guarantee a lesser sentence. Where an appeal is upheld, the case is generally sent back to a lower court for retrial. The lower court can again pass a death sentence, which would be subject to the same process of approval as before and the possibility that a higher court could again choose to reject the sentence. In this event, the case would generally be passed back to a lower court once again, leading to the possibility that someone could be sentenced to death an indefinite number of times.

Forgiveness/pardon: Article 30 states that all juvenile crimes are pardonable. It adds that in the event of pardon by the plaintiff, "prosecution, the conduct of investigations or the carrying out of the sentence will be stopped."

This is referring to *ta'zir* and deterrent punishments as laid down in Article 12 of the Penal Code and further defined in Articles 16 and 17 (see above). This clearly excludes *hodoud* and *qesas* punishments from the right to pardon. Since most death sentences are imposed for crimes in these categories, most child offenders sentenced to death would still be unable to seek pardon for their crime if the draft becomes law.

Death sentences: Articles 33 and 35 specify the different punishments that can be imposed on juveniles. They both state that in cases of juveniles aged between 15 and 18, crimes punishable by death or life imprisonment for adults will be replaced by two to eight years' detention at a correctional centre.

While this seems to be a very positive aspect of the law, it is not clear if it covers both *qesas* and *hodoud* cases. As shown above, the Iranian judicial authorities appear to distinguish between the death sentence (*hokm-e edam*) and the judicially sanctioned retaliatory killing of a convicted murderer (*qesas*), and therefore consider murder to be punishable by retribution, not a death sentence handed down by a court.

The distinction was made explicit on 11 October 2005 by the late Minister of Justice, Jamal Karimirad, acting in his capacity as spokesperson for the Iranian Judiciary, when he told the Iranian Students' News Agency that if this law was passed by the *Majles*, those under the age of 18 would no longer be executed (*hokm-e edam*). However, he made a distinction between *qesas* and other crimes carrying the death penalty, stating that *qesas* was a private not a state matter, and as such would not be covered by the draft law, although he did say that attempts were being made to address the issue of *qesas* as well.

It is unacceptable for the Iranian authorities to separate cases of murder from other crimes carrying the death penalty. Legislation is urgently required, whether in the form of the draft law, appropriately amended, or in some other form, to ensure that no one in Iran is sentenced to death for any crime, including murder, committed when they were under the age of 18.

The judicial process

In Iran, most criminal cases come before General (sometimes referred to as Public) Courts (*Dadgah-e 'Omomi*). Cases relating to national security – which included espionage, insulting or defaming the founders of the Islamic Republic and the Supreme Leader, drug smuggling and profiteering – come before Revolutionary Courts²¹ (*Dadgah-e Enghelabi*). These were established following the Islamic Revolution in 1979 as a temporary measure, but later

enshrined in law. Both courts are governed by the Code of Criminal Procedures for General and Revolutionary Courts.²²

Under the Law on Appeals²³ and the Code of Criminal Procedures²⁴ all death sentences, whether in *hodoud*, *ta'zir* or *qesas* cases, are subject to appeal, which must be lodged within 20 days of the verdict. If the sentence is confirmed on appeal, the case is sent to the Supreme Court for consideration. If a fault is found with the conviction or sentence by the appeal court or the Supreme Court, the case is usually sent back to a lower court for retrial.

If the Supreme Court confirms the death sentence, the defendant can lodge an objection, and another branch of the Supreme Court, sitting as the discernment or review body (*sho'be-ye tashkhis*), will review the case. Otherwise, the verdict is sent to the Head of the Judiciary, who reviews the case before sending it to the judge responsible for implementing verdicts. The Head of the Judiciary has the power to issue a stay of execution.

In *qesas* cases, once the verdict has been approved by the Supreme Court, it is sent to the Council for the Reconciliation of Differences (*Shura-ye hall-e ekhtelaaf*). The Council tries to mediate between the defendant and the victim's family to enable the payment of *diyeh*. For *diyeh* to be paid, all the blood relatives of the victim must forego their right to demand the killer's death, and to accept the *diyeh*, which the killer (often with the help of his family) must be able to pay. Iranian officials have stated that strenuous efforts are made to win the agreement of blood relatives to accept *diyeh*, particularly in cases of child offenders.²⁵

Under Article 24 of the Penal Code, the Supreme Leader has the power to grant pardons or to reduce or commute sentences, on the recommendation of the Head of the Judiciary "in accordance with Islamic principles", a phrase that appears to exclude *qesas* and *hodoud*²⁶ cases, where the right to pardon is not viewed as lying with the realm of the state. The Regulations Governing the Amnesty Commission state in Article 10(1) that all death sentences can be subject to pardon, with the exception of *qesas-e nafs* (presumably on the grounds that the right to pardon lies solely with the victim's blood relatives). However, Article 9(7) states that crimes such as espionage, corruption (*ertesha*), rape (*zena ba 'onf*), kidnapping and armed robbery are excluded from pardon. These crimes can, in some or in all circumstances, carry the death penalty, when classified as *hodoud* offences.

This appears to mean that for many types of crimes punishable by death in Iran, there is no, or only very limited, possibility of pardon or commutation by the state. This contravenes Article 6(4) of the ICCPR which states:

*"Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases."*²⁷

Most of the child offenders currently on death row whose cases are known to Amnesty International were sentenced to *qesas*, or to death for rape. Therefore, they cannot seek a pardon or commutation from the Head of State. Rather, their fate, once their death sentence has been confirmed, lies in the hands of the Head of the Judiciary.

Unfair trials

Under international human rights law, those suspected of or charged with crimes punishable by death are entitled to the strictest observance of all fair trial guarantees at all stages of the legal proceedings, including during the investigation stage, as well as to certain additional safeguards. The UN Human Rights Committee has stated that “the death penalty should be quite an exceptional measure” and should only be handed down after a trial that observes all the procedural guarantees for a fair hearing.²⁸ Any death sentence imposed after a trial that does not conform to all fair trial guarantees would amount to arbitrary deprivation of the right to life.

In Iran, serious failings in the justice system commonly result in unfair trials, including in cases where child offenders and other defendants face the death penalty. These failings include: lack of access to legal counsel and to a lawyer of one’s choice; ill-treatment in pre-trial detention; allowing confessions extracted under duress to be used in proceedings; the use of detention centres outside the official prison system; denial of the right to call defence witnesses; failing to give adequate time to the defence to present its case; and imprisoning defence lawyers if they protest against unfair proceedings.²⁹

For example, a defendant’s right to legal counsel is one of the key safeguards for a fair trial, enshrined in international law,³⁰ and applies to all stages of the judicial process. The Human Rights Committee and other human rights bodies have further recognized that the right to a fair trial requires that any accused should have access to a lawyer during detention, interrogation and preliminary investigations. The right of detainees to be assisted by a lawyer when charged is also enshrined in the UN Basic Principles on the Role of Lawyers. Principle 6 notes specifically that individuals charged with serious crimes should have access to a lawyer “of experience and competence commensurate with the nature of the offence,” who should be provided free of charge if the defendant does not have the means to pay for such services.

The Committee on the Rights of the Child stresses that “legal or other appropriate assistance must be present. This presence should not be limited to the trial before the court or other judicial body, but also applies to all other stages of the process, beginning with the interviewing (interrogation) of the child by the police.”³¹

In Iran, however, defendants only have the right to a lawyer after investigations are complete and they have been formally charged. This results in prolonged periods of incommunicado detention as well as interrogation without the presence of lawyers, both of which facilitate the use of torture or other ill-treatment to obtain confessions. The Islamic Penal Code specifies that confessions to *hodoud* and *qesas* offences may be used as a sole means of proving an offence.³² Lawyers may be present during committal proceedings, but are not allowed to speak until the end of proceedings. In “sensitive” cases, the judge has the discretionary power to exclude lawyers from the hearing that decides sentencing.³³ If a defendant cannot afford a lawyer of their own choice, one is appointed for them by the court.

The UN Working Group on Arbitrary Detention, reporting on its visit to Iran in February 2003, noted: “[T]he absence of a culture of counsel, which seriously undermines due process... The Group noted that many ordinary law prisoners have no understanding of the role of counsel and do not request the assistance of State appointed counsel. The latter are in any event few in number, and largely unmotivated owing to the low pay. As for the choice of counsel by political prisoners, this is increasingly difficult owing to the serious risk of harassment.”³⁴

International fair trial standards include the right to a public hearing, the right to trial by a competent, independent and impartial tribunal, the right not to be compelled to confess guilt, and the right to equality before the law and courts. These are embodied in Article 14 of the ICCPR and Article 40 of the CRC.

In Iran, the judge may refuse a public trial if it is deemed incompatible with accepted principles of "morality or public order".³⁵ Access to clients by lawyers is at the discretion of the judge in cases that relate to national security or "corruption".³⁶ Trials before Revolutionary Courts are almost always held in secret, and proceedings are often summary.

The rules of evidence in Iran are based on the constitutional principle of the presumption of innocence. However, this is limited in practice by the importance attached to confessions in Iranian courts.³⁷

Equality before the law is undermined by the rules of evidence in Iran. Evidence by a man is equivalent to that of two women, and in cases dealing with some offences, such as adultery, testimony by a woman alone or given jointly with just one man cannot be accepted as evidence.³⁸

The right to trial by a competent, independent and impartial tribunal is undermined in Iran because the Judiciary lacks the structural independence guaranteed by the Constitution. There is also a lack of separation of powers between the investigator, prosecutor and judge in some parts of the country. In 1994, in a reform of the Revolutionary and General Courts, these functions were vested in the presiding judge of the case under investigation. In 2002, the prosecution function was reinstated in General and Revolutionary Courts.³⁹ However, at the time of writing, it appears that this has not been rolled out throughout Iran. In at least some areas outside the major towns, the functions of investigator, prosecutor and judge remain merged: judges both investigate and prosecute allegations, and then pass sentence, making an impartial hearing impossible. Amnesty International continues to receive reports of summary trials, particularly before Revolutionary Courts in the provinces, where defendants are brought before a single judge who questions them briefly, without the presence of a lawyer, and then hands down a sentence.

3. Executions of children

"Amnesty International's sources of information are not reliable... people under 18 are not executed."

Judiciary spokesperson, Jamal Karimi-Rad, 8 May 2005⁴⁰

"There is much talk about the execution of young people under 18 in Iran which is not true... although the penal laws provide for the execution of those under-18, that sentence has not been enforced in our country until now... In cases concerning murder, where the culprit is under 18, utmost effort is made to win the satisfaction of the blood relatives."

Nasser Seraj, Deputy State Public Prosecutor for Security Issues, May 2007⁴¹

The Iranian government denies that it executes child offenders. The facts tell a different story. Amnesty International has recorded 24 executions of child offenders in Iran since 1990, 11 of whom were under 18 when executed (see Appendix I). Eight of these executions are highlighted below.

Atefeh Rajabi Sahaaleh

Atefeh Rajabi Sahaaleh was hanged in public on 15 August 2004 in the centre of Neka, Mazandaran province. She was 16 years old at the time and had been sentenced to death for a fourth conviction of "crimes against chastity". The next day, *E'temad* newspaper, quoting a judiciary official, stated that Atefeh Sahaaleh was 22.

A women's activist who went to Neka to investigate the case was shown by the family a copy of Atefeh Sahaaleh's birth certificate and the death certificate issued by the authorities

following the execution. The year of birth on both documents was 1988. These documents were also shown to the producers of a secretly filmed BBC documentary about her execution.⁴²

Atefeh Sahaaleh was arrested several times as a child by a branch of the Revolutionary Guard responsible for public morality and order, during a raid on a café, during a raid on a party, and after she was found alone in a car with a boy. She received her first conviction for “crimes against chastity” when she was 13. On this occasion, she was sentenced to a short prison term and 100 lashes. According to the BBC documentary, she was allegedly abused by guards in Behshahr prison. Atefeh Sahaaleh was convicted of “crimes against chastity” on two subsequent occasions, and received further sentences of flogging and short terms in prison.

Shortly after her release after her third term in prison, Atefeh Sahaaleh was arrested by members of the morality police while at home alone. According to reports, the reason given for the arrest was a petition that accused Atefeh Sahaaleh of being a “source of immorality” and of having sexual relations with various men outside of marriage. The petition claimed to be from Neka residents, but only carried the signatures of local police officials.

Atefeh Sahaaleh was charged with “acts incompatible with chastity” and was tried by Judge Rezaie in a Revolutionary Court in the neighbouring town of Behshahr. She had a court-appointed lawyer.

During the trial, she was said to have been interrogated fiercely by Judge Rezaie and to have confessed to having had sexual intercourse with a man named Ali Darabi. According to reports, she had entered into an abusive relationship with the 51-year-old man three years earlier, at the age of 13, but had told no one.⁴³

During the trial, Atefeh Sahaaleh is said to have lost her temper, shouted at the judge that she had been the victim of the older man, and thrown off her headscarf in protest. The judge reportedly reprimanded her and later said that she had “undressed in public”.⁴⁴ Atefeh Sahaaleh was convicted of “crimes against chastity” and was sentenced to execution by hanging because it was her fourth conviction on this charge. It is believed that the sentence was passed three months before her execution – in about May 2004. Ali Darabi was also sentenced to receive around 100 lashes.

According to investigations by Iranian human rights activists and journalists, Atefeh Sahaaleh suffered from mental illness and had been assessed as a suicide risk by a psychologist. Following the death sentence, a petition was signed by 43 Neka residents calling for the execution not to be carried out because “she suffers from severe psychological issues”.⁴⁵ In her own letter of defence, Atefeh Sahaaleh wrote: “There are medical records which show that I suffer from mental impairment, and during certain times of the day, of complete mental lapses. I would like Your Honour to listen to my request for freedom”.⁴⁶

The case was heard unusually quickly by the Supreme Court in Tehran, which upheld the death sentence. According to reports, Judge Rezaie personally took the case to the Supreme Court, which heard the case in one day. The Supreme Court verdict, filmed by the BBC, read: “Atefeh Rajabi Sahaaleh, age 22, daughter of Safar. Since she has confessed to this crime, and it is her fourth time, we issue the verdict of execution. Execution will take place in a public place in Neka, so that the public may learn from it.”

According to eyewitnesses, as Atefeh Sahaaleh was taken to the crane for execution, she repeatedly asked Allah for forgiveness. Judge Rezaie, who had passed the death sentence on her and then, according to reports, had been instrumental in taking the case to the Supreme Court, tied the noose around her neck. When asked later why the case was rushed, Judge Rezaie was reported to have said that, in his opinion, there was too much “immorality” in Neka.

Atefeh Sahaaleh’s father was not informed that his daughter was going to be executed that day, and found out from a family member after the event. He was therefore denied the opportunity to say goodbye to his daughter.

The mistake about Atefeh Sahaaleh’s age only came to light after the execution when her family received her personal effects and death certificate.

Shadi Sadr, a leading human rights defender and lawyer, lodged a complaint against Judge Rezaie for wrongful execution on behalf of Atefeh Sahaaleh’s family. Three years on, no decision has yet been made regarding this complaint.

Iman Farrokhi

Iman Farrokhi was executed in Tehran on 19 January 2005 for a crime committed when he was 17 years old. He was accused of fatally stabbing Mohammad Ali Ghasemzadeh while hiking in the mountains outside Tehran in October 2000. Iman Farrokhi reportedly fled the scene, but was arrested on 21 November 2000. He was detained at a youth detention facility, but escaped in February 2001.⁴⁷

In November 2002, Iman Farrokhi was sentenced to three years in prison for carrying an illegal weapon and theft, and was transferred to a prison in Jiroft, southern Iran. This case led to his identification, as a result of which he was brought to trial before a children’s court in Tehran for the murder. Iman Farrokhi reportedly confessed to killing Mohammad Ali Ghasemzadeh and was sentenced to 80 lashes for the consumption of alcohol, and to *qesas* for murder.⁴⁸ In 2004, the death sentence was upheld by Branch 4 of the Supreme Court.

Ayaz Marhoni and Mahmoud Asgari

Ayaz Marhoni and Mahmoud Asgari, both Iranian Arabs, were publicly hanged in a square in Mashhad on 19 July 2005. Amnesty International believes that Mahmoud Asgari was 15 or 16 and Ayaz Marhoni was 16 or 17 at the time of the crime. Both were flogged 228 times before their execution. The true nature of their alleged crime is disputed.

Photographs of the two boys being transported to their execution and of the execution itself were publicized around the world, and prompted international condemnation. One photo shows them crying while being interviewed by journalists en route to their hanging. Another shows the boys blindfolded, standing on a truck underneath metal gallows, with two masked men standing behind them, fixing the nooses around their necks. Another shows them dangling from the crane. Witnesses said it took around 20 minutes for Ayaz Marhoni and Mahmoud Asgari to die, and a large crowd appears to have watched the execution.

The official report, covered in the daily *Quds* newspaper and the Iranian Students’ News Agency (ISNA) website, states that they were convicted of “homosexual acts by coercion”,⁴⁹ understood to be the rape of a 13-year-old boy. They were also convicted of drinking alcohol,

theft and causing public disorder, for which they were sentenced to flogging. *Quds* newspaper contained a detailed account, apparently based on statements by the 13-year-old boy's father, of his son's rape at knifepoint.⁵⁰ Mahmoud Asgari was also reported to have been convicted of extortion and assault with a knife, and Ayaz Marhoni of intentional wounding. For these offences they were sentenced to fines and terms of imprisonment. They were executed before serving their prison sentences.

Since the executions, some sources have said that Ayaz Marhoni and Mahmoud Asgari were a couple who were executed for engaging in consensual sexual acts with each other, and possibly with the 13-year-old boy. Other sources dismiss this account.

Amnesty International is not in a position to make a judgement about the true reason for the execution. It is denied research access to Iran and therefore could not meet those close to the case. No court documents were ever made available, and it is believed that the trial was closed. The case, and the controversy surrounding it, demonstrates the difficulties in gathering and verifying information on Iran.

Rostam Tajik

Rostam Tajik, a 20-year-old Afghan national, was executed in public in Esfahan on 10 December 2005. The previous day the UN Special Rapporteur on extrajudicial, summary or arbitrary executions had called on the Iranian authorities not to proceed with the execution. *Hamshahri* newspaper described the scene:

*"The convict, an Afghan called Rostam, was tied hand and foot, and walked in between two officers, with shivering legs... The audience, by applauding, asked for the execution to take place. A young doctor checked Rostam and after confirming his health, announced that the accused is ready for execution... Two officers took him to the place of execution. They put the rope around his neck and he was executed"*⁵¹

Rostam Tajik had been sentenced to *qesas* by Branch 9 of the General Court of Esfahan for the murder of a woman, Nafiseh Rafi'i, in May 2001 when he was 16 years old.

Majid Segound

Majid Segound (or Sagvand) was 17 when he was executed in public in Khorramabad, capital of Lorestan province, on 13 May 2006, along with an unnamed 20-year-old man. According to Iranian press reports, the two had abducted, raped and murdered a 12-year-old boy, Kamran, in April 2006. Majid Segound and the unnamed man reportedly confessed to the crime during interrogation. The two were tried in an extraordinary session – an accelerated process – and were executed just one month after the murder.

Mohammad Mousavi

Mohammad Mousavi was reportedly hanged on 22 April 2007 in Shiraz when he was aged 19. His family are said not to have been notified of his execution. According to reports, Mohammad Mousavi was sentenced to *qesas* for a murder committed when he was 16.

Sa'íd Qanbar Zahi

Sa'íd Qanbar Zahi was hanged in Zahedan prison on 27 May 2007. A member of Iran's Baluchi minority, he was sentenced to death at the age of 17 along with six other Baluchi men in March 2007. Information provided to Amnesty International suggests that the seven may have been arrested because of their family ties to those suspected of involvement in blowing up a bus carrying members of Iran's Revolutionary Guards Corps on 14 February 2007 in Zahedan, in which at least 14 people were killed.

According to media reports, Sa'íd Qanbar Zahi and the six others all "confessed" on Iranian state television to a number of crimes that allegedly took place in Sistan-Baluchistan province, including attacks and carjackings. The "confessions" linked an Iranian Baluchi armed opposition group, Jondallah, also known as the Iranian Peoples' Resistance Movement (*Jonbesh-e Moqavemat-e Mardom-e Iran*), to these crimes, and to the attack on the bus.⁵² Unconfirmed reports suggest that those who "confessed" were tortured, including by having bones in their hands and feet broken, by being "branded" with a red-hot iron, and by having an electric drill applied to their limbs, shredding their muscles.

According to Iranian state television, Sa'íd Qanbar Zahi was tried on 11 March 2007. The report said that he was tried in open court attended by the families of his alleged victims. He was accused of murder, participation in a bombing in December 2006 and of guarding hostages in Pakistan in 2006.

Particular concerns about the fairness of trials of Baluchis, especially in the wake of the bus bombing, were raised by the summary trial and execution of an Iranian Baluchi man, Nasrollah Shanbeh-Zehi, who was also shown "confessing" to the bus bombing on Iranian television on behalf of Jondallah. He was executed in public at the site of the bombing on 19 February 2007, five days after his trial.

4. Children facing execution

Amnesty International is aware of 71 child offenders who are currently under sentence of death in Iran (see Appendix II), eight of whom are highlighted below. However, the lack of information made available on the death penalty in Iran means that this number may only be a fraction of the true total. It is also possible that some of these child offenders may have been executed since information about their death sentences reached Amnesty International.

According to international human rights standards, detainees under the age of 18 in detention should be held in separate facilities to adults. In Iran, juvenile offenders are normally held separately from adults in juvenile detention facilities known as Centres of Correction and Rehabilitation run by the Iranian Prison Service. Prior to 2005, most child offenders on death row in the Tehran area were held in the Tehran Centre of Correction and Rehabilitation. However, following the escape from this centre of Hossein Gharabaghloo (see below), all other child offenders held there on death row were moved to Reja'i Shahr prison in Karaj, outside Tehran, where conditions are said to be harsh.

Sina Paymard

Sina Paymard, the young man reprieved at the gallows in 2006 by relatives of the murder victim after he had played the flute (see Introduction), was a 16-year-old drug addict at the time of the crime. In October 2004 he had gone to a park in Tehran to try and buy cannabis. When a fight broke out between him and the man from whom he was trying to buy cannabis, he stabbed the man with a pocket knife. He said that he was under the influence of drugs at the time. Branch 71 of Tehran Province Court sentenced Sina Paymard to *qesas* for murder. Branch 33 of the Supreme Court upheld the sentence.

According to his lawyer, human rights defender Nasrin Sotudeh, Sina Paymard had been diagnosed with bipolar disorder by a psychiatrist, for which he was treated between 2001 and 2002. His lawyer says that the sentencing court did not properly consider evidence that Sina Paymard was suffering from a mental disorder, and in November 2006 submitted new documents to the court, calling for a review of the case.

Sina Paymard's father described the emotional day of his son's planned execution:

"We... asked the officials to allow us to see Sina once more. Nobody listened to us. Then the prison officer said Sina had asked for his instrument. Sina plays the flute. I gave it to him... that was Sina's last wish at the gallows... He started playing and all the families started crying... One of the women, who was apparently one of the [representatives of the murder victim], went to the other party and [agreed to accept blood money]. She then went to the other [members of the victim's family]... and they listened to her."⁵³

In January 2007, the Head of the Judiciary granted Sina Paymard a stay of execution while negotiations took place between his family and his victim's family over the *diyeh*. The victim's family demanded *diyeh* of more than US\$160,000, which Sina Paymard's family struggled to collect. In April 2007, after the family finally raised the money, the victim's family reportedly refused to accept the payment.

Sina Paymard remains held under sentence of death in Reja'i Shahr prison in Karaj.

Delara Darabi

Delara Darabi, aged 20, faces execution after being convicted of the murder of her father's 58-year-old female cousin Mahin in September 2003. She was 17 at the time of the crime.



Delara Darabi
© www.myspace.com/helpdelara

Delara Darabi initially confessed to the murder, but later retracted her statement. She said that her boyfriend, Amir Hossein Sotoudeh, was the murderer and that she had admitted responsibility to protect him from execution, claiming that he had told her that as she was 17 she could not be executed.⁵⁴

Delara Darabi was initially sentenced to death by Branch 10 of the General Court in Rasht on 27 February 2005. In January 2006, the Supreme Court found "deficiencies" in the case and returned it to a children's court in Rasht for retrial.

Following two trial sessions in January and June 2006, Delara Darabi was sentenced to death for a second time by Branch 107 of the General Court in Rasht. Amir Hossein Sotoudeh was sentenced to 10 years' imprisonment for complicity in the murder. Both received sentences of three years' imprisonment and 50 lashes for robbery, and 20 lashes for an "illicit relationship". Delara Darabi's death sentence was confirmed by the Supreme Court on 16 January 2007.

Delara Darabi has been detained in a women's prison in Rasht since her arrest in 2003. Her detention conditions have been poor, and she has suffered from depression in prison. Her father has said that she is not fed properly and is treated badly by the prison staff. Delara Darabi has had only sporadic access to her family. Visitation rights are frequently denied and the family have sometimes been turned away on arrival.

OPEN LETTER FROM DELARA DARABI'S FATHER

11 JANUARY 2007

"My daughter Delara is accused of a crime that she did not commit... Three years ago when she told me of the incident, I took her myself to the authorities to be protected by law. A law and a judiciary system that I have now realized, to depth of my bones, that have no sense of justice whatsoever.

"Today my child's life is not only being threatened because of her pending death sentence but also her life is in danger because of how she is being mistreated in the women prison ward number 3 of city of Rasht, Iran.

"It is my child's human right not to be tortured. It is her right to have basic living and meal standards. But there are no such standards here. They do not properly feed her. We have no visitation rights. Today that I am talking to you, I, her mother and sisters went to visit her but for unknown reasons again they refused a visit...

"Help me and help us until justice is properly served. There are no signs of humanity and justice in here."⁵⁷

In January 2007 Delara Darabi attempted to commit suicide, but was saved when cellmates alerted prison officials. Prior to her suicide attempt, her family and lawyer made repeated requests that she be moved to another prison because of her deteriorating physical and mental state.

In March 2007 her lawyer, Abdolsamad Khoramshahi, told *E'temad* newspaper that he had filed an appeal against her death sentence, which will be heard by a different branch of the Supreme Court.⁵⁵ On 5 April, it was reported that the file had been transferred from the Head of the Judiciary to the Supreme Court, but on 25 April it was reported that her death sentence had been further confirmed by Branch 7 of the Supreme Court, sitting as a sentencing discernment or review body, and that the verdict had been sent back to the Head of the Judiciary for consideration.⁵⁶

Shahram Pourmansouri

Shahram Pourmansouri, a 17-year-old Iranian Arab, was one of 11 members of an extended family who attempted to commandeer a scheduled flight between the southern Iranian cities of Ahvaz and Bandar Abbas, and force it to fly to Dubai in the United Arab Emirates in January 2001. Security forces already on board ended the hijack attempt on the runway at Ahvaz, reportedly shooting and injuring Shahram Pourmansouri's brother-in-law, Khaled Hardani, in the process. The family were reportedly trying to escape the poverty they were experiencing as members of Iran's Arab minority.⁵⁸

Shahram Pourmansouri was sentenced to death, along with his brother Farhang and brother-in-law Khaled Hardani, on charges of "acts against national security"⁵⁹ and "enmity with God", rather than on charges relating specifically to hijacking an aircraft. The sentence was upheld by



"The only face I see in front of me every day is a wall. For three years, I have been defending myself with colours, forms and words. These paintings are an oath to a crime I did not commit. Unless the colours bring me back to life, I greet you who have come to view my paintings from behind that wall."

Delara Darabi

© www.stopchildexecutions.com

the Supreme Court. The Amnesty and Clemency Commission reportedly rejected an application for a pardon lodged by the men's lawyer.

The executions were scheduled for 19 January 2005. The day before, on 18 January, the Head of the Judiciary reportedly ordered that all three executions be stayed because of the ages of Shahram and Farhang Pourmansouri. In announcing the stays of execution, the spokesperson for the Judiciary stated that people under the age of 18 were not executed in Iran. The day scheduled for the execution was also the day on which the Committee on the Rights of the Child was considering Iran's periodic report.

The men's lawyer said that his clients were being kept in solitary confinement in Reja'i Shahr prison in Karaj. He apparently wrote to the Head of the Judiciary on 31 December 2004, stating that the three did not have a fair trial as "the court did not follow the protocols of justice".⁶⁰

In May 2006 Khaled Hardani told Amnesty International from Evin Prison in Tehran that their cases had been referred to the Board of Monitoring and Follow-up, which had failed to issue any decision. He said that they had been left not knowing their fate: "It is possible that they could call me in the next hour and say that your sentence has been confirmed and you must be executed tomorrow morning."

Speaking about the impact of living under a death sentence, he said: "For six years, the Islamic Republic has kept me, and my two brothers-in-law, under the sentence of death... Have you ever experienced receiving a death sentence? Have your partner, parents, brother, sister and relatives been told that tonight a close relative of yours is going to be executed? Can you imagine the horror and shock of hearing such news? But me, two of my close relatives, and our families have been going through this – not for a night or two or a few nights, but for a period of over two thousand nights."

It was reported in March 2007 that the three men had gone on hunger strike, apparently because they had been transferred to Reja'i Shahr prison from Evin Prison and believed that their death sentences were about to be implemented.

Abbas Hosseini

Abbas Hosseini faces execution for a premeditated murder committed when he was 17 years old. He has been under sentence of death for two years.



Abbas Hosseini © Private

An Afghan refugee, he was born in Mashhad in 1986 after his family fled to Iran from Afghanistan to escape the conflict there. In July 2003, he stabbed a man to death who he accused of making sexual advances towards him.

Abbas Hosseini was detained in a juvenile detention centre in Mashhad for six months, before being transferred to the central prison in Mashhad. He confessed to the murder. A medical examination conducted some 10 months after his arrest rejected the plea of insanity at the time of the crime.

Abbas Hosseini was sentenced to *qesas* on 3 June 2004 by a lower court in Mashhad. The sentence was upheld by the Supreme Court in Mashhad on 30 September 2004. His family repeatedly pleaded with the family of the victim to pardon Abbas Hosseini and accept *diyeh*, but without success.

On 10 April 2005, the order to implement the death sentence was issued and execution was scheduled for dawn on 1 May 2005. However, on 30 April it was announced that the Head of the Judiciary had ordered a one-week stay of execution, reportedly to give the victim's family another opportunity to accept *diyeh*.

A week later, the day before the rescheduled execution was to take place, the Head of the Judiciary ordered the Judiciary in Mashhad not to proceed with the execution. The case was then reportedly sent to the Central Judiciary in Tehran for review.

Amnesty International issued an Urgent Action on behalf of Abbas Hosseini on 15 April 2005, with a further action on 3 May. On 8 May, *Kayhan* newspaper published a statement by the Judiciary spokesperson, which acknowledged appeals sent by the Urgent Action network and denied that Abbas Hosseini would be executed. It stated: "Amnesty International's sources of information are not reliable... people under 18 are not executed."

Abbas Hosseini remains in Mashhad Prison under sentence of death. According to his family and lawyer, he has displayed exemplary behaviour in prison from where he completed his secondary education.

Reza Alinejad

Reza Alinejad is at risk of execution for a killing committed when he was 17 years old. The incident happened on 26 December 2002 in a street in Fasa, a city near Shiraz in central Iran. Reza Alinejad says that two men – Esmail Daroudi and Mohammad Firouzi – attacked him and his friend, Hadi Abedini, with a martial arts weapon. He says he pulled out a pocket knife during the struggle and accidentally stabbed and killed Esmail Daroudi.

Mohammad Firouzi reportedly admitted that he and Esmail Daroudi had started the fight and that Reza Alinejad and his friend had been forced to defend themselves because they could not escape. Reza Alinejad and Hadi Abedini were reportedly injured in the attack and needed hospital treatment. An eyewitness also said that Reza Alinejad had acted in self-defence. Despite these testimonies, Reza Alinejad was sentenced to *qesas* for murder by Section 6 of the Provincial Court in Fasa on 4 October 2003.

In December 2004 the Supreme Court rejected the death sentence, accepting that Reza Alinejad had acted in self-defence. The judge acknowledged that the instigators of the dispute were Esmail Daroudi and Mohammad Firouzi, that they had attacked and injured Reza Alinejad and Hadi Abedini, and that the stabbing by Reza Alinejad had not been intentional.

The Supreme Court sent the case back to another lower court for investigation. The case was heard by Branch 101 of Fasa Provincial Criminal Court, which on 15 June 2005 sentenced Reza Alinejad to death again. It concluded that Reza Alinejad could have fled the scene and had therefore acted unreasonably. On 9 May 2006, the Supreme Court upheld the death sentence.

Reza Alinejad has been detained in Adelabad Prison in Shiraz since his arrest in 2002.

Ali Alijan

Ali Alijan, aged 19, was taken to be executed on 20 September 2006 for a crime committed when he was under the age of 18. He was taken to the gallows and had the noose tied around his neck. At the last minute, the family of his victim halted the execution.

Ali Alijan was sentenced to *qesas* for the murder of a young man called Behrooz in March 2004. During his trial before Branch 71 of Tehran Province Criminal Court, Ali Alijan said that Behrooz and three of his friends had thrown fireworks at the family shop and that Behrooz had slapped his elderly father on the face. A few days later, he stated that he saw the group near the shop and clashed with them. "One of them had a knife and stabbed me lightly a few times. I took the knife and stabbed Behrooz once"⁶¹ Ali Alijan insisted that the killing was not premeditated and that the knife belonged to one of Behrooz' friends.

After Ali Alijan was sentenced to *qesas*, his lawyer appealed, but the verdict was upheld by the Supreme Court.

Ali Alijan's family persistently pleaded with Behrooz' family to forgo their right to retribution and accept *diyeh* instead. On the day Ali Alijan's execution was scheduled, they again went to the family, who this time agreed and asked the officials to halt the execution. Ali Alijan's family were given two months to produce the *diyeh*.

Amnesty International does not know whether Ali Alijan's family could pay the *diyeh* or any other developments in the case.

Hossein Gharabaghloo

Hossein Gharabaghloo was 16 when he reportedly stabbed his friend Mahmoud to death during a fight on 1 December 2004 in Robat-e Karim, near Tehran. He was arrested and taken to the Tehran Centre of Correction and Rehabilitation. He escaped before his trial, which was due to begin on 19 April 2005. He was then recaptured, and on 1 November 2006 he was tried by Branch 71 of Tehran General Court, which sentenced him to *qesas*. The death sentence was confirmed by Branch 31 of the Supreme Court on 13 December 2006. It is understood that Hossein Gharabaghloo is in Reja'i Shahr prison awaiting execution.⁶²

Naser Qasemi

Naser Qasemi, a resident of Siyah Kamar Sofla, near Mahidasht, Kermanshah, was only 15 years old at the time of the killing for which he was convicted. He has been in prison facing execution for more than eight years, during which he has been sentenced to death on no less than three occasions.

According to the verdict, issued on 20 August 1999, Naser Qasemi went with his uncle to a farm to steal maize. The owners noticed them and tried to stop them. In the fight, the uncle's gun allegedly fell to the ground and Naser Qasemi fired it. One person died. The uncle escaped but Naser Qasemi was arrested.

Naser Qasemi was tried in October or November 1999 and sentenced to payment of *diyeh*. Branch 37 of the Supreme Court ruled that this verdict contravened Islamic law, and subsequently Branch 29 of Kermanshah General Court sentenced Naser Qasemi to *qesas*. The Supreme Court then found the verdict deficient because of the lack of a confession. Branch 33 of

Kermanshah General Court sentenced him to *qesas* again, and Branch 37 of the Supreme Court confirmed the sentence.

At the stage of seeking permission for execution, the Assistant Public Prosecutor of the Supreme Court ruled that the investigation should have been conducted by the children's court and sent it there for investigation. Subsequently, Branch 106 of Kermanshah Criminal Court (Children) again sentenced Naser Qasemi to *qesas*.

The relatives of the victim want 70 million rials (approximately US\$7,500) as *diyeh* which Naser Qasemi's family cannot raise.

5. Campaigning wins reprieves

Campaigning against the death penalty both inside and outside Iran has made and can make a difference. In a few cases, convictions leading to death sentences have been overturned and the person has been released. In many more, stays of execution have been won. Campaigns have also prompted the Iranian authorities to publicly comment on cases, initiate reviews of cases, order retrials and grant pardons or amnesties.

The two cases below illustrate the importance and potential impact of campaigning against the death penalty.

Leyla Mafi

Leyla Mafi was arrested during a raid on a brothel when she was 17. During interrogation she reportedly confessed to having worked as a prostitute since she was a child. In around May 2004, she was sentenced to death by a court in Arak for “acts contrary to chastity” – for running a brothel, prostitution, incest and giving birth to an illegitimate child. She had a court-appointed lawyer. She was also sentenced to flogging before execution.

An *E'temad* journalist who interviewed Leyla Mafi in prison uncovered a tale of a childhood of forced prostitution, rape and abuse, interspersed with arrests and sentences of flogging.

Leyla Mafi was forced into prostitution by her mother when she was eight and gave birth when she was nine. At around that time, she was sentenced to 100 lashes for prostitution. When she was 12, her family sold her to an Afghan man to become his “temporary wife”. Her mother-in-law forced her into prostitution and when she was 14 she was prosecuted and again sentenced to flogging – 100 lashes. She later gave birth to twins. Her family then sold

“I appreciate all of you, all known and unknown activists, who have tried to save her from the death penalty... Despite all her hard experiences, she is so glad for being among us... I hope we always remember the many women like Leyla who live in a critical situation in Iran.”

Shadi Sadr, Leyla Mafi’s lawyer

her to a married 55-year-old man with two children, who also forced Leyla Mafi into prostitution in his home.

According to the *E'temad* report, social workers tested Leyla Mafi's mental capacities on several occasions and each time found her to have the mental age of an eight-year-old. She had never been examined by a court-appointed doctor and was sentenced to death on the basis of her confessions, without consideration of her background or mental health.

Lawyer Shadi Sadr took up her case and an Urgent Action appeal by Amnesty International attracted widespread international media publicity. Activists inside and outside Iran campaigned against the death sentence.

In response, the Iranian authorities took the exceptional step of publicly commenting on the case, contesting Amnesty International's information about Leyla Mafi's age and mental capacity. They stated that she was mentally and physically normal, and that she had only been working as a prostitute as an adult. Nevertheless, on 26 December 2004, a Foreign Ministry spokesperson announced that Leyla Mafi's case would be reviewed.

On 27 March 2005, the Supreme Court rejected the death sentence and five-year prison sentence, but upheld the sentence of flogging. The case was sent back to a lower court in Arak for retrial. Branch 103 of the General Court in Arak subsequently acquitted Leyla Mafi of incest (which carries the death penalty), and of controlling a brothel. However, she was convicted of "an unchaste act with a next of kin (other than fornication)" and was sentenced to 99 lashes. She was also sentenced to three and a half years in prison for "providing the facilities for corruption and prostitution by being available for sexual acts". The judge ordered that following the completion of her prison sentence, she should live in a women's rehabilitation centre for eight months.

The 99 lashes were carried out in February 2006 at the headquarters of the Justice Department in Arak. Leyla Mafi was then taken to a women's rehabilitation centre in Tehran.

Nazanin Mahabad Fatehi

In March 2005, Nazanin Fatehi, aged 17, and her niece Somayeh, then aged 14 or 15, both from an economically deprived Kurdish family, were attacked in a secluded area near their home in Karaj, near Tehran. A group of youths surrounded the girls and tried to rape them. Nazanin Fatehi, who carried a knife for self-defence, stabbed one of them in the chest, killing him. The girls fled the scene and reported the incident to the police.

In January 2006, Nazanin Fatehi was sentenced to *qesas*; the mother of the deceased had demanded retaliation.

Speaking in tears at the trial, at which she was defended by a court-appointed lawyer, Nazanin Fatehi said: "I wanted to defend myself and my niece... However, I did not want to kill that boy. At the heat of the moment I did not know what to do because no one came to our help".

Following domestic and international pressure, including a high-profile campaign by Canadian/Iranian beauty queen Nazanin Afshin-Jam, the death sentence was overturned by the Supreme Court in May 2006, reportedly on the instruction of the Head of the Judiciary. The case was sent for retrial.

*"I know how hard each of you have worked to bring Nazanin home and I am grateful to all of you. Nazanin's father and siblings are very happy too. You brought us the only one wish that we had: freedom of our daughter. May Allah give all of you, our brothers and sisters, health and happiness for all that you have done."*⁶³
Maryam Fatehi, Nazanin Fatehi's mother



Nazanin Fatehi
© www.komitegozreshgar.blogfa.com

Lawyer Shadi Sadr took on the case and on 14 January 2007 the judges cleared Nazanin Fatehi of intentional murder, finding that she had acted in self-defence. However, they ruled that she had used disproportionate force when acting in self-defence, and ordered her to pay *diyeh* to the family of the youth she killed. Her lawyers are challenging that ruling.

Following payment of 400 million rials (approximately US\$43,000) in bail, mostly raised by online donations to the www.helpnazanin.com website, as well as donations from inside Iran and a large donation from a Canadian member of parliament, Nazanin Fatehi was released on 31 January 2007 and had an emotional reunion with her family.

6. Recommendations

Human rights defenders in Iran stress that international publicity and pressure, in support of local efforts, can help bring about change in the country. Amnesty International believes that campaigning can save lives and will eventually persuade the Iranian authorities to end the illegal execution of child offenders and bring their legal practices into line with their obligations under international law.

Towards that end, Amnesty International makes the following recommendations:

To the Majles

- ▶▶ Urgently revise the draft Juvenile Crimes Investigation Act to ensure that it explicitly prohibits the execution of those convicted of crimes committed before they reached the age of 18, including those sentenced to *qesas* for murder or to death for *hodoud* crimes that carry the death penalty. This would bring the law into line with Iran's obligations under the ICCPR and the CRC not to execute children and child offenders.
- ▶▶ Review all legislation in Iran under which a convicted person may be killed by the state, with the immediate aim of progressively restricting the scope of the death penalty, and with a view to the eventual abolition of the death penalty.
- ▶▶ Revise Iranian legislation to ensure that anyone facing judicial execution by the state can seek pardon or commutation of their sentence, in line with Iran's obligations under Article 6(4) of the ICCPR.

To the Head of the Judiciary

- ▶▶ Immediately implement a moratorium on all executions of those convicted of crimes committed before they were 18 until legislation is passed that bans such executions.
- ▶▶ Instruct all judges responsible for the implementation of sentences to ensure that no child offender facing a final death sentence already signed by the Head of the Judiciary is executed.

To the Supreme Leader

- ▶▶ Commute all death sentences where pardon or commutation may be sought.

To the Minister of Foreign Affairs

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

To the international community

- ▶▶ Press the Iranian authorities to announce an immediate moratorium on all executions of those aged under 18 at the time of the crime, including those sentenced to *qesas* for murder, with a view to abolition.

APPENDIX I: List of child offenders executed

The following list summarizes the information on executions of child offenders recorded by Amnesty International since 1990.

1990

1) Kazem Shirafkan was 17 when executed.

1992

2-4) Three boys – one aged 16, two aged 17 – were executed on 29 September.

1999

5) Ebrahim Qorbanzadeh was convicted of murder and executed on 24 October in Rasht when he was 17.

2000

6) Jasem Ebrahimi was publicly hanged on 14 January in Gonaveh for kidnap, rape and murder. He was 17 when executed.

2001

7) Mehrdad Yousefi, aged 18, was executed on 29 May in western Iran. He was convicted of a murder committed when he was 16 years old.

2004

8) Mohammad Mohammadzadeh was hanged on 25 January in the western province of Ilam. He had been convicted of the murder of Mousa Azadi five years previously, when he was 17 years old.

9) Salman, surname unknown, was executed for murder in Mashhad on 12 May. He had been convicted of the murder in 2000, when he was 17 years old. According to press reports, the courts waited until he was over 18 before carrying out the execution.

10) Atefeh Rajabi Sahaaleh (see Chapter 3).

2005

11) Iman Farrokhi (see Chapter 3).

12) Ali Safarpour Rajabi, aged 20, was hanged on 13 July for killing Hamid Enshadi, a police officer, in Poldokhtar. His death sentence was reportedly passed in February 2002 when he was 17 years old. He may have been only 16 years old at the time of the crime for which he was executed.

13-14) Ayaz Marhoni and Mahmoud Asgari (see Chapter 3).

15) Farshid Farighi, aged 21, was hanged in Bandar Abbas on 1 August. He was convicted of stabbing to death five men, reported to be taxi drivers, in separate incidents. The first of the killings was in 1998 when Farshid Farighi was 14 years old. He was reportedly arrested in 2000 when he was 16. He was flogged before he was executed.

16) At least one 17-year-old youth (name unknown) was among four men under the age of 23, named only as AP, BK, HK and HJ, who were executed in public on 23 August in Bandar Abbas, according to Kayhan newspaper.⁶⁴ *Kayhan* reported that HK and HJ had been convicted of kidnapping and rape, and that AP and BK had been convicted of rape and theft, and were flogged before they were executed.

17) A 22-year-old man (name unknown) from a village named as Doust Iran Nodan was reported to have been hanged at dawn in public in Fars province on 12 September. He had reportedly been sentenced to death for rape in 2000, when he was 17.⁶⁵

18) Rostam Tajik (see Chapter 3).

2006

19) Majid Segound (or Sagvand – see Chapter 3).

20) A man named as Sattar was executed in September. He had reportedly been sentenced to *qesas* by a court in Tehran on 26 January 2005, when he was 17, for the murder of a man named Mahmoud in Islamshahr, southern Tehran. The killing allegedly took place during a fight several months earlier.

21) Morteza M was reported to have been publicly hanged in Yazd on 7 November. According to reports, he was 18 at the time of execution and had been sentenced to death for the murder of his friend two years earlier.⁶⁶

22) Naser Batmani, aged 22, was hanged in Sanandaj Prison in late December 2006 for a murder committed when he was under 18, according to the Kurdistan Human Rights Organization. He was executed after serving a five-year prison sentence.

2007

23) Mohammad Mousavi (see Chapter 3).

24) Sa'ïd Qanbar Zahi (see Chapter 3).

APPENDIX II: List of child offenders on death row

The following list summarizes the information on child offenders facing executions known to Amnesty International, as of May 2007.

1 Sina Paymard (see Chapter 4)

2 Delara Darabi (see Chapter 4)

3 Shahram Pourmansouri (see Chapter 4)

4 Abbas Hosseini (see Chapter 4)

5 Reza Alinejad (see Chapter 4)

6 Hamid

Hamid (surname unknown) was sentenced to *qesas* for murder by Branch 21 of Tehran Province General Court in October 2005. The crime was committed on 27 July 2004, when Hamid was 17 years old.

According to reports, Hamid stabbed a man, Davood Karimi, during a scuffle with several men over an incident that had taken place earlier that day.⁶⁷ He confessed to police, stating that he had stabbed Davood Karimi because he was surrounded by several men who were attacking him, but that he had not intended to kill him.

The family of the victim asked to exercise their right to retribution and called for the execution to be carried out. No further details about the case are known.

7 Rasoul Mohammadi

Rasoul Mohammadi was 17 when he was scheduled to be executed at the same time as his father, Mousa Ali Mohammadi. Both were to be flogged 74 times before their execution.

Rasoul Mohammadi and his father had been found guilty by a court in Esfahan of abducting 40 young girls, stealing their jewellery and raping at least four of them. They apparently confessed to the charges during interrogation. They were sentenced to 25 years' imprisonment, flogging and execution.⁶⁸

Their sentences were upheld by the Supreme Court. On 11 April 2005, the Assistant Public Prosecutor for the Office of Sentence Implementation announced that Mousa Ali Mohammadi would be publicly hanged on 16 April in Esfahan at 6.30am, and that his 17-year-old son would be hanged at the same time inside Esfahan Central Prison. However, prior to the execution, the case was referred back to the Supreme Court, apparently because of Rasoul Mohammadi's age.

Mousa Ali Mohammadi was publicly executed in Esfahan as scheduled, but Rasoul Mohammadi received a stay of execution, reportedly because of ambiguities about his age.

Amnesty International has no further information about Rasoul Mohammadi's current status.

8 Mehdi

A criminal court in Robat-e Karim sentenced Mehdi (surname unknown) to *qesas* in March 2006 for killing a boy, Hamid, according to *Hamshahri* newspaper.⁶⁹ His brother Morteza was sentenced to a term of imprisonment for complicity in murder. According to the report, Mehdi stabbed Hamid with a knife during a fight in a park in Robat-e Karim, killing him. At the time of the trial, Mehdi was 18 and Morteza was 21. The incident had happened two years earlier, when Mehdi would have been 16.

Hamshahri reported that Mehdi accepted the charge of intentional murder and that the mother of the victim had asked the court for a *qesas* sentence.

9 Hossein

Hossein (surname unknown) faces execution for a crime committed when he was 16 years old. According to *E'temad-e Melli* newspaper, Hossein was sentenced to *qesas* for the murder of a boy, Mahmoud, in Fadak park, Mussa-Abad, on 2 December 2004. During his trial before Branch 71 of Tehran Criminal Court, Hossein stated that he was acting in self-defence after Mahmoud attacked him, having already attempted to rape him.⁷⁰ However, a friend of the murdered boy stated that Hossein and his step-brother Behrooz arrived at the park carrying chains, and confronted Mahmoud.

After Hossein was sentenced to death, his lawyer appealed against the sentence on the basis that Hossein was only 16 at the time of the murder and referring to the earlier attempted rape. Nevertheless, on 1 March 2007 Branch 21 of the Supreme Court upheld the sentence.

10 Feyz Mohammad

Feyz Mohammad, an Afghan national, was sentenced to death by a juvenile court in Karaj in 2004. Aged 16 at the time, he was convicted of drug-trafficking, distributing approximately seven kilograms of morphine, and being a member of a drug-trafficking gang.

Feyz Mohammad reportedly confessed to transporting drugs for his boss, who was a drugs smuggler.⁷¹ It is not known whether he had access to a lawyer after his arrest, or in what circumstances he made this confession.

In September 2004, Amnesty International issued an Urgent Action on his behalf. No further information about the case is known.

11 Ali Alijan (see Chapter 4)

12 Hossein Gharabaghloo (see Chapter 4)

13 Ali Mahin Torabi

Ali Mahin Torabi, from Karaj, faces execution for the killing of a schoolmate named Mazdak during a playground fight in Bani Hashemi High School in February 2003. Ali Mahin Torabi was 16 years old at the time.

A Juvenile Court in Karaj sentenced Ali Mohin Torabi to *qesas* on 30 October 2003 and on 8 June 2004, Branch 27 of the Supreme Court upheld the sentence. Ali Mahin Torabi is in Reja'i Shahr prison in Karaj awaiting execution.⁷²

14 Mostafa

Mostafa (surname unknown) was convicted in around August 2005 of killing an intoxicated man in the Pars district of Tehran.⁷³ According to the report, Mostafa was 16 years old at the time and had been trying to stop the man from harassing a girl. The man reportedly started hitting Mostafa, who eventually killed him in the ensuing scuffle.

15 Mehyar

Seventeen-year-old Mehyar (surname unknown) was arrested in December 1999 for the murder of a 58-year-old woman in her home during a burglary. He was sentenced to *qesas* by Branch 2106 of Tehran

General Court. He also received a sentence of flogging for possession of alcoholic drinks, and three years' imprisonment for theft. It is common in Iran that people sentenced to prison terms in addition to the death penalty serve some or all of their prison sentence before execution.

16 Ne'mat

Ne'mat (surname unknown) was 17 when the Supreme Court upheld his death sentence in around May 2006, placing him at imminent risk of execution.

Ne'mat was reportedly arrested for the January 2003 murder of his sister Zohra's husband, Haydar Ali.⁷⁴ According to children's rights activist and lawyer Nasrin Sotudeh, he was 15 years old at the time.

After his arrest, Ne'mat reportedly denied involvement in the killing. However, following interrogation, he confessed. He was tried before Branch 106 of the General Court in Esfahan and sentenced to *qesas*.

17 Vahid

Sixteen-year-old Vahid was reportedly sentenced to death for the murder of his friend Mehdi. He claims that he killed him in self-defence after he tried to sexually assault him.⁷⁵ No further details are known. A youth named Vahid was executed in Evin Prison in September 2006, but it is not clear if this was the same person or not.

18 Hedayat Niroumand

Fifteen-year-old Hedayat Niroumand from Qarni village was reported to have been sentenced to *qesas* in December 2006 for killing his father.⁷⁶ Hedayat Niroumand had reportedly been arrested six months earlier – in around June 2006. It was reported that Hedayat Niroumand would not be executed until he reaches the age of 18.

19 Mohammad Jamali Paghale

Mohammad Jamali Paghale was 15 when he allegedly killed his friend. He was initially sentenced to five years' imprisonment by a children's court. However, the Supreme Court overturned this and issued a death sentence.

20 Hamid Reza

Hamid Reza, from Gorgan, was sentenced to *qesas* for a murder allegedly committed when he was 14 years old.

21 Ali Nourmohammadi

Ali Nourmohammadi was 16 when he killed one of his cousins in a fight. He was sentenced to *qesas* by Branch 24 of the General Court of Kermanshah, which has no jurisdiction over juvenile cases. All the other defendants in the case were over 18. Two others involved in the fight, Ali Nourmohammadi's uncle and another cousin, were sentenced to *diyeh* for injuring Ali Nourmohammadi. The sentences were confirmed by Branch 6 of Kermanshah Appeal Court.

Ali Nourmohammadi has been in prison for nine years hoping that the issue can be resolved within the family.

22 Rasoul Safari

Rasoul Safari was sentenced to *qesas* by Branch 1 of the General Court of Gilanharb on 7 September 2005 for a killing committed when he was 17. On 19 March 2006 Branch 33 of the Supreme Court found the verdict deficient.

According to reports, on 5 November 2004 Rasoul Safari had gone to the mountains with two friends. That evening, the man who was subsequently killed went to the mountains with a friend intending to frighten Rasoul Safari and his friends as a joke. They scared the three friends by throwing stones and howling like a wild animal. The three hurried from the mountains, but the man followed them and, with his head and face hidden, attacked them with a club (*gorz*). This led to a fight between the man and the

three friends, during which Rasoul Safari allegedly killed the man with a stab to the stomach.

During the trial, Rasoul Safari denied the charge and said: "I did not carry out a killing. The confessions I made were [made] under ...torture."

23 Behador Khaleqi

Behador Khaleqi was sentenced to *qesas* on 31 June 2005 by Branch 1 of Saqqez General Court for a killing committed when he was 16. The sentence was confirmed on 13 March 2006 by Branch 27 of the Supreme Court.

According to details given in the verdict, on 7 May 2005 Behador Khaleqi and some friends were involved in a drunken fight with another group during which someone was killed.

24 Naser Qasemi (see Chapter 4)

25 Amir Chalehchaleh

At the age of 17, Amir Chalehchaleh and two of his brothers became involved in a fight with another group during which a young person was killed. Amir Chalehchaleh was arrested and initially confessed but later denied that he had been the killer. He was sentenced to *qesas*.

In his appeal, Amir Chalehchaleh refuted his confession and identified one of his brothers as the killer. The brother had been released on bail and subsequently disappeared. The court rejected Amir Chalehchaleh's appeal and sentenced him to *qesas*.

The Supreme Court initially rejected the verdict on account of deficiencies in the investigation and the prosecution case, but subsequently confirmed it. However, the Head of the Judiciary has sent the case twice to the Discernment Branch of the Supreme Court, whose decision is awaited.

26 Rasoul Eyvatvandi (or Ayoutvandi)

Rasoul Eyvatvandi was 17 when he shot dead one of his friends in an act of revenge. He was sentenced to *qesas*, which was confirmed by the Supreme Court.

27 Nabovat Baba'i

In 2002 or 2003, a game between 17-year-old Nabovat Baba'i and another youth, Zabihollah Qasemian, turned serious after Zabihollah allegedly broke a light on Nabovat Baba'i's motorbike and fled into a nearby shop. Nabovat Baba'i followed him in and allegedly threw a metal rod at his head, injuring him. Delays in getting Zabihollah Qasemian to hospital contributed to his death.

The court sentenced Nabovat Baba'i to *qesas*, which was confirmed by the Supreme Court in 2006. The victim's father does not want retribution, but the victim's mother does.

28 Soghra Najafpour, resident of Gilan, sentenced to *qesas* for murder committed when she may have been only 13.

29 Mohammad Reza Turk from Hamedan, sentenced to *qesas* for murder.

30 Rasoul Nouriyani from Hamedan, who was sentenced to death for rape by Hamedan General Court.

31 Nazbibi Ateshbejan from Semnan, who was sentenced to death for supplying drugs when she was 16 years old by Branch 107 of Khorramabad General Court on 1 May 2006. The sentence was confirmed by the Supreme Court on 12 February 2006.

32 Siyavash Shirnejad from Nosratan, who was sentenced to *qesas* for murder by Branch 107 of Khorramabad General Court on 9 May 2006.

- 33 Mehyar Anvari** from Golestan, who was sentenced to *qesas* for a murder committed when he was 17, by Branch 3 of Khorramabad General Court. The sentence was confirmed by Branch 27 of the Supreme Court.
- 34 Mohammad Mavari** from Golestan was sentenced to *qesas* for a murder committed when he was 16, by Branch 2 of Kordkouy General Court. The sentence was confirmed by Branch 40 of the Supreme Court.
- 35 Abdolkhaleq Rakhshani** from Golestan; his sentence to *qesas* was upheld by Branch 2 of the Golestan Appeal Court on 16 March 2006.
- 36 Sa'ïd Arab** from Golestan, who was sentenced to *qesas* for murder.
- 37 Hani Momeni Yasaqi** from Golestan, who was sentenced to *qesas* by Gorgan General Court on 20 November 2004. Branch 26 of the Supreme Court upheld the sentence on 9 March 2005.
- 38 Sadegh Ahmadpour**, who was sentenced to *qesas* for a killing committed when he was 17 by Branch 104 of Shahikord General Court. The sentence was upheld by Branch 27 of the Supreme Court on 22 July 2004.
- 39 Ahmad Jabari** from Khuzestan, who was sentenced to *qesas* for a killing committed when he was 15. The sentence was upheld by Branch 29 of the Supreme Court.
- 40 Akoo Hosseini** from Kordestan, who was sentenced to *qesas* for murder. The sentence was upheld by Branch 27 of the Supreme Court.
- 41 Gholam Nabi Barahouti** from Yazd, who was sentenced to *qesas* for murder and theft, committed when he was 16, by Branch 10 of Yazd General Court on 6 February 2003. The sentence was upheld by Branch 27 of the Supreme Court.
- 42 Omaraddin Alkuzehi** from Yazd, who was sentenced to *qesas* for murder committed when he was 17 by Branch 101 of Taft General Court on 31 December 2003. The sentence was upheld by Branch 26 of the Supreme Court.
- 43 Mostafa Sa'ïdi** from Central Province, who was sentenced to *qesas* for murder in Saveh. The sentence was upheld by Branch 42 of the Supreme Court.
- 44 Zolf'ali Hamzeh** from Central Province, who was sentenced to *qesas* for rape and murder by Branch 2 of Saveh General Court.
- 45 Omid Sarani** from Sistan-Baluchistan, who was sentenced to *qesas* for a murder committed when he was 17, by Branch 102 of Zahedan General Court.
- 46 Ahmad Nourzahi** from Sistan-Baluchistan, who was sentenced to death for carrying and supplying heroin, apparently when he was 12.
- 47 Na'im Kolb'ali** from Sistan-Baluchistan, who was sentenced to *qesas* for drug addiction when he was 15, by Branch 102 of Zahedan General Court.
- 48 Habib Afsar** from Qom, who was sentenced to *qesas* for a murder committed when he was 15.

- 49 Alireza Movassili Roudi** from Qom, who was sentenced to death for a murder committed when he was 16.
- 50 Salman Akbari** from Ardabil, who was sentenced to death by Bakhsh Arshaq General Court on 13 July 2003 for a killing committed when he was 17.
- 51-53 Mohammad Pezhman, Rahman Shahidi and Hasan Mozaffari** from Bushehr, who were sentenced to death for rape.
- 54 Feyzollah Soltani**, who was sentenced to death by a Revolutionary Court in Yazd for carrying and supplying drugs, and drug addiction.
- 55 Khodamorad Shahemzadeh**, who was sentenced to death in Zahedan for carrying and supplying narcotics following his arrest in July 2005 when he was 17.
- 56 Hamzeh Setani** was sentenced to *qesas* for murder when he was only 17.
- 57 Beniamin Rasouli**, aged 17
- 58 Hossein Toranj**, aged 17
- 59 Hossein Haghi**, aged 17
- 60 Morteza Feizi**, aged 16
- 61 Sa'eed Jazee**, aged 17
- 62 Milad Bakhtiari**, aged 16
- 63 Farshad Sa'eedi**, aged 17
- 64 Mahmoud**, aged 17
- 65 Saber**⁷⁷
- 66 Sajjad**, aged 17
- 67 Farzad**, aged 15
- 68 Asghar**, aged 16
- 69 Iman**, aged 17, Golpaigan city
- 70 Mohammad Jahedi**⁷⁸
- 71 Masoud**, aged 17

Endnotes

- 1** In the Iranian legal system, there is a distinction between cases where the penalty is “execution” (*hokm-e ‘edami*) and *qesas*, retribution in kind, which is the penalty for murder. Iranian officials exclude *qesas* cases from the category of “execution”, but international law does not make this distinction because in both cases convicts are put to death by the state. In this report, “execution” is used to refer to all death sentences imposed in Iran, whether for murder or other types of crime.
- 2** After Iran, the USA has been responsible for the next highest number of executions of child offenders; US authorities executed 19 juveniles between 1990 and March 2005, when such executions were declared unconstitutional by the US Supreme Court.
- 3** The Juvenile Justice System Ordinance has not been fully implemented in all parts of Pakistan – although it has now been extended to the tribal areas, its procedural rules have not been passed so it remains inapplicable.
- 4** Concluding Observations of the Committee on the Rights of the Child: Iran (Islamic Republic of), UN Doc. CRC/C/15/Add.123, 28 June 2000, para 7.
- 5** UN Doc. CCPR/C/21/Rev.1/Add.6, 1994, para 8.
- 6** The Vienna Convention on the Law of Treaties defines a peremptory norm as “a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of international law having the same character”.
- 7** Committee on the Rights of the Child, 38th session. Concluding Observations: The Islamic Republic of Iran. Recommendation 30. UN Doc. CRC/C/15/Add.254, 31 March 2005.
- 8** Committee on the Rights of the Child, op cit, para 29.
- 9** Human Rights Council, fifth session, Agenda item 2. UN Doc. A/HRC/4/20, 29 January 2007.
- 10** The draft law can be viewed in Farsi at: <http://www.spk-gov.ir/News.asp?ItemID=5928>.
- 11** Although overall figures are not available, statements by officials occasionally refer to people under sentence of death. For example, in an interview with the Iranian newspaper *Ayyaran* on 17 March 2007, Hossein Ali Shahryari, a parliamentarian representing the city of Zahedan, stated that prisons in Sistan-Baluchistan province were holding more than 700 people under sentence of death. Emadeddin Baghi, a journalist and human rights defender who has researched the use of the death penalty in Iran, estimates that there may be as many as 1,400 people on death row in Iran whose sentences have been approved by the Supreme Court.
- 12** The Chinese authorities insisted that the person executed was a male over the age of 18 at the time of the crime.
- 13** The Pakistani authorities said the person executed was 18 at the time of the crime.
- 14** According to Emadeddin Baghi, there are 85 articles in Iranian law that carry the death penalty: 20 in the Penal Code, 11 in the Anti-Narcotics Law, 42 in the Military Penal Code and 12 in other laws.
- 15** See Articles 12-20 of the Islamic Penal Code.
- 16** Amnesty International considers the use of “sodomy” laws to imprison individuals for same-sex relations in private to be a grave violation of human rights, including the rights to privacy, to freedom from discrimination, and to freedom of expression and association, which are protected in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.
- 17** Article 183 of the Islamic Penal Code.
- 18** Articles 81, 126 and 133 of the Islamic Penal Code.
- 19** The law (in English translation) may be viewed at <http://www.unodc.org/enl/showDocument.do?documentUid=2511&node=docs&cmd=add&country=IRA>.
- 20** These are sentences of execution, *hodoud* punishments, sentences of *qesas* and sentences where

the penalty is more than six months' imprisonment or a fine of more than 1 million rials.

21 The functions of the Revolutionary Courts are described by the Judiciary at: <http://www.iranjudiciary.org/courts-revolutionarycourts-fa.html>.

22 The Special Court for the Clergy, established by a decree of Ayatollah Khomeini in 1987 to try Shi'a clerics or lay people whose cases are connected to the clergy, and which operates outside the framework of the judiciary, can also sentence people to death. However, Amnesty International is not aware of any cases of child offenders who have been sentenced to death by this court.

23 Article 19 of the Law on Appeals, 1993.

24 Article 232 of the Code of Criminal Procedures, 1999.

25 See, for example, the comment by Nasser Saraj in May 2007 in Chapter 3.

26 Except where specified under the Penal Code, where certain kinds of offenders who have confessed and repented may be pardoned by the Supreme Leader on the recommendation of the judge in the case.

27 This refers to the right to seek pardon from the state. The state has the duty to guarantee the right to seek pardon, although it can take into account the wishes of the family.

28 Human Rights Committee, General Comment No. 6 on the right to life, para 7.

29 Report of the Working Group on Arbitrary Detention, 27 June 2003, E/CN.4/2004/3/Add.2.

30 For example, Article 14 of the ICCPR.

31 Committee on the Rights of the Child, General Comment No. 10: Children's rights in Juvenile Justice, CRC/C/GC/10, 9 February 2007, para 23(g).

32 Other means of proving such crimes include testimony of witnesses or the knowledge of the judge "obtained through conventional methods".

33 Article 15 of the Code of Criminal Procedure.

34 Report of the Working Group on Arbitrary Detention, 27 June 2003, E/CN.4/2004/3/Add.2, p15.

35 Article 165 of the Constitution.

36 Article 128 of the Code of Criminal Procedure.

37 Report of the Working Group on Arbitrary Detention, 27 June 2003, E/CN.4/2004/3/Add.2.

38 Report of the Working Group on Arbitrary Detention, 27 June 2003, E/CN.4/2004/3/Add.2.

39 For a discussion on the lack of independence of the judiciary and the role of judges, see Amnesty International's report, *Iran: A legal system that fails to*

protect freedom of expression and association, AI Index: MDE: 13/045/2001.

40 *Kayhan* newspaper, 8 May 2005.

41 See Iranian Bar Association website visited on 9 May 2007 at <http://www.iranbar.org/far01p39.php#582>.

42 "Execution of a teenage girl", BBC documentary aired on the UK's BBC 2 channel, 27 July 2006.

43 "Execution of a teenage girl", op cit.

44 "Execution of a teenage girl", op cit.

45 "Execution of a teenage girl", op cit.

46 "Execution of a teenage girl", op cit.

47 *Iran* newspaper, 26 December 2004.

48 *Iran*, 26 December 2004.

49 "Lavaf beh 'Onf'".

50 *Quds* newspaper, 19 July 2005.

51 *Hamshahri* newspaper, 11 December 2005.

52 Jondallah, which has carried out a number of armed attacks on Iranian officials and has on occasion killed hostages, reportedly seeks to defend the rights of the Baluchi people. Government officials have claimed that it is involved in drug smuggling and has ties to terrorist groups and foreign governments. In March 2006, Jondallah killed 22 Iranian officials and took at least seven people hostage in Sistan-Baluchistan province. Following the incident, scores, possibly hundreds, of people were arrested; many were reportedly taken to unknown locations. In the months following the attacks, the number of executions announced in Baluchi areas increased dramatically. Dozens of people were reported to have been executed by the end of the year.

53 *E'temad-e Melli* newspaper, 21 September 2006.

54 *E'temad* newspaper, 31 January 2007, <http://www.etemaad.com/Released/85-11-11/97.htm>.

55 *E'temad*, 2 March 2007.

56 *E'temad*, 25 April 2007.

57 11 January 2007, translated by David Etebari, www.stopchildexecutions.com.

58 *IranMania.com*, 3 January 2005.

59 *Eqdam 'aleyhe ammiyat*.

60 *Iranian Students' News Agency*, 18 January 2005, <http://www.isna.ir/news.Main.asp>

61 *E'temad*, 21 September 2006.

62 *E'temad*, 14 December 2006; Iran Student Correspondents Association, 13 December 2006.

63 Translated by David Etebari on www.helpnazanin.com.

- 64** *Kayhan*, 24 August 2005.
- 65** *E'temad*, 13 September 2005.
- 66** Iran Student Correspondents Association
<http://www.iscanews.ir/fa/ShowNewsItem.aspx?NewsItemID=69148>.
- 67** *Iran*, 9 October 2005.
- 68** *Iran*, 11 April 2005, <http://www.iran-newspaper.com/1384/840124/html/casual.htm>; AFP, 16 April 2006.
- 69** *Hamshahri*, 6 March 2006.
- 70** *E'temad-e Melli*, 1 March 2007.
- 71** *Payk-e Iran*, 31 August 2004.
- 72** *E'temad*, 1 July 2004.
- 73** *E'temad*, 24 August 2006.
- 74** *E'temad*, 2 May 2006.
- 75** AFP, 16 November 2004, quoting *Shargh* newspaper.
- 76** Kurdish Human Rights Organization, 19 December 2006.
- 77** The lawyer in the case was sure that he was a child, but did not know the age.
- 78** The lawyer in the case was sure that he was a child, but did not know the age.