



*Mission Permanente  
de la République Islamique d'Iran  
auprès des Nations Unies  
et des autres Organisations Internationales à Genève*

*In the name of God, the Compassionate, the Merciful*

N° 2050/2836

17/02/2014

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other international organization in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to note: IRAN 20/2013 dated 28 November 2013, has the honor to submit herewith the replies of I.R of Iran with regard to the issue of Unsupervised or III supervised Children and Youth Protection Bill.

The Permanent Mission of the Islamic Republic of Iran avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights, the assurances of its highest consideration.

Geneva, February 14, 2014



Office of the United Nations High Commissioner for Human Rights (OHCHR)  
Palais des Nations  
CH-1211 Geneva 10

- Regardless of some major issues about the form, structure and content of the joint correspondence by some of the Reporters of the United Nations Human Rights Council on Thematic Procedures especially misconception of the reporters about the legal and judicial concept of "Guardian of Child" under Iranian law and considering that on the basis of the Iranian Legal System the conventional, legal, judicial, social and ethical concept of the term "Guardian of Child" is different compared to the term "godfather or godmother or guardian or the legal establishment of adoption" and under Iranian law the term "Guardian" is not the same as the term "godfather" in its conventional concept in some legal and other systems.

And drawing the attention of the esteemed reporters to several errors in referring to the number of the Articles and the contents of the Law which demonstrates the lack of attention in the making the report,

- Regardless of the constructive and progressive dimensions of in the Protection Law of parentless children or children with unsuitable guardians, in making Iran's Legal System further consistent with Iran's international commitments regarding protection of the Rights of Child including health and educational rights and preventing all types of physical or sexual abuses and financial constraints as well as concurrent careful monitoring of the protective organizations such as the State Welfare and Attorney General, please note the following:

Article 2 - The State Welfare Organization, hereafter briefly called as "the Organization", is responsible to deal with guardianship of parentless children and adolescents.

Article 5 - The following people may be eligible to apply for guardianship of child and adolescent subject to this law through the Organization.

A. Couples who have been married for five years or more and do not have children from this marriage, provided that one of them is not over the age of 30,

B. Couples with children provided that at least one of them is over the age of 30,

C. Single mothers and girls who are at least 30 years of age may be granted exclusively the legal guardianship of girls,

Article 11 – The applications must be submitted by the applicants to the Organization and the Organization is committed to presenting its expert opinion to the competent court after two months. The court will study the conditions for eligibility as required by law and with respect to the comments of the Organization will issue a six-month tentative guardianship order. The issued order will be served to the Attorney General, applicant and the Organization.

Article 12 – The court may annul the issued order during the term of tentative guardianship by the request of the Attorney General and or the sole guardian or guardians of child or adolescent with prior notice given to the Organization and also by request of the Organization if they fail to fulfill every condition required by law.

15 This law will issue and serve the decree for guardianship to the mentioned entities in Article 11.

Article 14 – The court will issue the decree for guardianship only if the guardianship applicant transfers some portion of his/her properties or wages to the child or adolescent placed under guardianship. It is the court which will decide about the type and amount of the said properties or wages. In cases that the court recognizes the necessity of granting the guardianship of the child or adolescent; and it does not find it expedient or possible to request the applicant to provide objective guarantee; the court may issue an order to obtain a written affidavit from the applicant to transfer some portion of his/her properties and wages in future. After the consent of the applicant and fulfilling the order, the guardianship decree will be issued.

Article 19 – In case of the death of the sole guardian or guardians subject to a pension fund, the people under the guardianship will be considered as the dependents of the deceased person and will enjoy the benefit of the pension until the appointment of the new guardian.

Article 24 – If the Attorney General and the Organization assume the need for annulment of the guardianship decree, they will inform the competent court.

- There is no obligation in any parts of this law for forced or early and temporary marriage.

And as Article 26 of the law states: whenever the guardian decides to get married, he/she must give the person's information to the competent court. If they get married, the Organization will be committed to report the marriage to the competent court in order to decide whether they are eligible to continue the guardianship together or to annul the decree, this is related to the assumption that one of the guardians gets married to a third person. In particular, the marriage between the guardian and the adopted child during or after the guardianship is forbidden; unless, the competent court, after taking the advisory opinion of the Organization finds it in the best interest of the adopted child. It is considered as a judiciary or legal matter and thereby leaves nothing for forced or early marriage.

- The mention of the age of 13 in some laws does not mean that they are forced to get married, but it could be treated as respect for conventions and traditions of the people who are living in border areas and some Arabic speaking parts in southwest of Iran.

- Implementing the contents of the Convention on the Rights of Child, the Study Center for Judicial Development has accomplished extensive studies in this field and presented them to the Parliament as judicial bills which are in the process and also pending approval.

- With respect to the details of the measures which have been taken so far in order to ensure the child's right to live healthy and securely especially in relation to the Criminal Justice System, I would draw your attention to the contents of Chapter 10 of Iran's New Penal Code on penalties and child and adolescent's correctional and security measures; Articles 88 to 95 from June 2013 is binding which have entered into force since Jun 2013:

Article 88 – Children and adolescents who commit discretionary (Taziri) crimes and at the time of committing the crime are, according to Iranian calendar, at the age of 9-15, the court, where appropriate, will take one of the following decisions:

A. To deliver them to their parents or legal guardian who should commit to correcting and monitoring them regarding the child or adolescent's good treatment,

Note – Where appropriate the court can demand a commitment from the people mentioned in this paragraph to do the following and inform the court about the results within the deadline:

1. Referring the child or adolescent to a Social Worker or Psychologist or other experts and cooperate with them,
2. Sending the child or adolescent to educational and cultural institutions for schooling or professional training,
3. Treating or addressing child or adolescent's drug addiction under medical supervision,
4. Preventing the child or adolescent from harmful relationship with others at the court's discretion,
5. Preventing the child or adolescent from harmful situations and places,

B. –Surrendering them to other natural or legal persons if the court finds it in the best interest of the child or adolescent with their obligation to fulfill the mentioned orders in paragraph A in case of the incompetency of the legal guardian or parents of the child or adolescent and or lack of access to them subject to the provisions of Article 1173 of Civil Law,

Note –Surrendering the child to qualified persons depends on their consent.

C. Advising them by the judge,

D. Warning and notifying and or demanding a written affidavit in order not to repeat the crime,

E. Keeping them in rehabilitation centers between 3 – 12 months for first to fifth degree discretionary (Taziri) crimes,

Note 1 – The decisions mentioned in paragraphs D and E are only applicable to children and adolescents between the ages of 12 to 15. Implementation of paragraph E regarding children and adolescents which commit crimes with first to fifth degree discretionary (Taziri) punishment are mandatory.

Note 2 – Whenever an immature person commits a crime incurring prescribed or retributive sentence provided that he/she is, according to lunar calendar, between the ages of 12 to 15, he/she will be sentenced to one of the measures

mentioned in paragraphs C or E; otherwise, in their case, one of the measures mentioned in paragraphs A to C will be adopted.

Note 3 – Referring to the decisions mentioned in paragraphs A and B of this Article, the Juvenile Court based on the findings and reports of the social workers on the condition of the child or adolescent and their behavior, can review its own decision repeatedly as it deems necessary in the best interests of the child and adolescent.

Article 89 – Adolescents who commit discretionary crimes and are at the time at the ages of 15 – 18 according to the Iranian calendar, are subject to the following punishments:

- A. Residential treatment at Rehabilitation Centers ranging from 2 to 5 years for crimes in place of first to third degree discretionary (Taziri) punishments.
- B. Residential treatment at Rehabilitation Centers ranging from 1 to 3 years in place of fourth degree discretionary (Taziri) punishments.
- C. Residential treatment at rehabilitation centers ranging from 1 to 3 months, or payment of fine from ten million (10,000,000) Rials to forty million (40,000,000) Rials, or doing 180 to 720 hours of free public services in place of the fifth degree discretionary (Taziri) punishments.
- D. Paying a fine of one million (1,000,000) Rials to ten million (10,000,000) Rials, or completing 60 to 180 hours of unpaid public services for in place the sixth degree punishments.
- E. Paying a fine of up to one million (1,000,000) Rials in place of seventh and eighth degree discretionary (Taziri) punishments.

Note 1 – The daily working hours as a public service provider should not exceed a daily maximum of four hours.

Note 2 – The court may issue a verdict for the convicted person based on his/her condition to stay at home in specific hours at court's discretion or, in case, to be kept in a rehabilitation center two days of weekends from 3 months to 5 years instead of punishment mentioned in paragraphs A to C of this Article.

Article 90 – Based on reports of the child and adolescent's condition and their behavior in the rehabilitation center, the court may review its own decision and reduce the detention term to one third or switch the detention to surrendering the child or adolescent to their parents or legal guardian. The court's review will

be carried out provided that the child or adolescent has spent one-fifth of his detention term in a rehabilitation center. In this case, the court's decision is considered as final. This decision will not impair the child or adolescent's right to probationary release and other legal commutations on the condition of fulfilling their requirements.

Article 91 – In the case of crimes resulting in *Hudud* or *Qisās*, whenever a mature person under the age of 18 does not understand the nature and severity of the committed crime and or there would be any doubts about their mental maturity, the punishments assumed in this chapter will be based on the circumstances of their age.

Note – The court, at its own discretion, could use forensics opinion or all other options in hand to recognize the mental maturity.

Article 92 – Crimes which require blood money or other financial liability, the Juvenile Court will make its decision based on the regulations on the payment of blood money and compensation.

Article 93 – The court could commute the punishment to half and change the child or adolescent's correctional and security measures to other measures if the requirements for commute are met.

Article 94 – In case of all discretionary (*Taziri*) crimes committed by adolescents, the court could postpone issuing the verdict or suspend the implementation of the punishment.

Article 95 – Criminal punishments of children or adolescents does not entail any criminal consequences.