

Translation of the Selected Articles of the New Islamic Penal Code 2013¹

Rights of the Child

Article 88- The court shall make one of the following decisions, whichever is more appropriate, about the children and young people who have committed *ta'zir* offenses whose age at the time of commission is between nine to fifteen years according to the solar calendar:

- (a) Handing over to parents or natural or legal guardians while taking promises to correct and educate the child or adolescent and taking care of their good behaviour

Note- When the court finds it in the best interest [of the child], it can take promises from the persons mentioned in this paragraph to take measures such as the following and report the result to the court in a specified time:

- 1- Referral of the child or adolescent to a social worker or psychologist or other specialists and cooperation with them
- 2- Sending the child or adolescent to an educational and cultural institute in order to study or learn a skill
- 3- Required measures in order to treat or rehabilitate the addiction of the child or adolescent under the supervision of a doctor
- 4- Banning the child or adolescent from the harmful association with and contacting [specific] people at the discretion of the court
- 5- Banning the child or adolescent from going to specific places

- (b) Handing over to other natural or legal persons that the court finds to be in the best interest of the child or adolescent by ordering the measures mentioned in paragraph (a) where, considering article 1173 of the Civil Code, the parents or natural or legal guardians of the child or adolescent are not competent or available

Note- Handing the child to competent people is subject to their acceptance.

- (c) Advising [the child or adolescent] by the judge
(d) Cautioning and warning or taking a written promise not to commit an offense again
(e) Detention in the Correction and Rehabilitation Centre from three months to one year in the case of *ta'zir* offenses of the first to fifth degree

Note 1- Decisions mentioned in paragraphs (d) and (e) shall only be applicable on a child or adolescent between twelve and fifteen years. In the case of commission of *ta'zir* crimes of the first to fifth degree, application of provisions of paragraph (e) shall be mandatory.

Note 2- If a child who has not become mature commits any of offenses punishable by *hadd* or *qisas*, if s/he is from twelve to fifteen years of age, s/he shall be sentenced to one of the measures provided in paragraphs (d) or (e); otherwise, one of the measures provided in paragraphs (a) to (c) of this article shall be applicable.

Note 3- In respect of the measures mentioned in paragraphs (a) and (b) of this article, the Children and Adolescent Court, taking into account the investigations made and also the reports of social workers about the condition of the child or adolescent and his/her behaviour, can review its decision as many times as the best interest of the child or adolescent requires.

Article 89- The following punishments shall be given to young people who commit *ta'zir* crimes and they are between fifteen to eighteen years of age at the time of commission of the crime:

¹ For a comprehensive English translation of Articles 1- 288 of the new IPC see: Nayyeri, Mohammad, English Translation of Books I & II of the New Islamic Penal Code, available at: <<http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html>>.

- (a) Detention in Correction and Rehabilitation Centre from two to five years in the case of offenses punishable in law by a *ta'zir* punishment of the first to third degree.
- (b) Detention in Correction and Rehabilitation Centre from one to three years in the case of offenses punishable in law by a *ta'zir* punishment of the fourth degree.
- (c) Detention in Correction and Rehabilitation Centre from three months to one year or a fine of ten million (10,000,000) Rials to forty million (40,000,000) Rials or providing one hundred and eighty to seven hundred and twenty hours of unpaid public services in the case of offenses punishable in law by a *ta'zir* punishment of the fifth degree.
- (d) A fine of one million (1,000,000) Rials to ten million (10,000,000) Rials or providing sixty to one hundred and eighty hours of unpaid public services in the case of offenses punishable in law by a *ta'zir* punishment of the sixth degree.
- (e) A fine of up to one million (1,000,000) Rials in the case of offenses punishable in law by a *ta'zir* punishment of the seventh and eighth degree.

Note 1- Hours of providing public services shall not exceed four hours a day.

Note 2- Considering the accused person's condition and the crime committed, the court, at its discretion, instead of sentencing him/her to detention or a fine prescribed in paragraphs (a) to (c) of this article, can order the offender to stay at home in specific hours determined by the court or detention in the Correction and Rehabilitation Centre in the weekend for three months to five years.

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Article 91 – “In respect of crimes punishable by *hudud* and *qisas*, if the offenders, who are under 18 years old but have reached the age of maturity, do not understand the nature of the committed crime or its prohibition, or if there is a doubt about their mental development and perfection, then, according to their age, they shall be awarded one of the punishments provided in this chapter.

Note – In recognizing the mental development and perfection, the court may ask for the opinion of Forensic Medicine [Department] or employ other means which it deems appropriate.”

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Article 146- Non-mature children have no criminal responsibility.

Article 147- The age of maturity for girls and boys are, respectively, a full nine and fifteen lunar years.

Article 148- In the cases of non-mature children, safeguarding and correctional measures shall be applied in accordance with the provisions of this law.

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Article 158- In addition to the cases mentioned in previous articles, committing conduct which is considered by law as an offense, shall not be punished in the following cases:

- (a) If the commission of the conduct is mandated or permitted by law.
- (b) If the commission of the conduct is necessary for enforcement of a more important law.
- (c) If the conduct is committed upon the lawful order of a competent authority and the aforementioned order is not against Shari'a.
- (d) The acts committed by parents and legal guardians of minors and insane people in order to chastise or protect them provided that such actions are exercised within the customary and religious limits for chastisement and protection.
- (e) Athletic exercises and the accidents arising from them, provided that the causes of the accidents are not the violation of relevant rules of that sport, and such regulations do not violate the rules of Islamic Shari'a.
- (f) Every legitimate surgical or medical operation which is done by the consent of the patient or his/her parents or natural or legal guardians, or legal representatives, with due consideration

given to technical and medical and governmental regulations. In emergency cases obtaining consent is not required.

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Article 301-“Qisas shall be delivered only if the perpetrator is not the father, or a paternal grandfather, of the victim, is of sound mind, and of the same religion as of the victim”.

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Article 545-“In all cases of homicide where the victim is not a man, the difference between the *diya* and the *diya* of a man shall be paid from the Fund for Compensation of Bodily Harms.”

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Article 550- “The *diya* for murdering a woman is half that of a man”.

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Article 560-“The *diya* of [harm to] limbs and bodily abilities, up to one third of the full *diya*, is the same for man and woman; however if it reaches, or exceeds, one third of the full *diya*, the *diya* of woman shall be decreased to half.”

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Article 612 (Book Five)- Anyone who commits a murder and where there is no complainant, or there is a complainant but he has forgiven and withdrawn his application for *qisas*, or if *qisas* is not executed for any reason, if his act disrupts the public order and safety of the society or it is thought that it emboldens the offender or others [to commit murder again], the court shall sentence the offender to three to ten years' imprisonment.

Note- In this case, an accessory to the crime shall be sentenced to one to five years' imprisonment.