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# Child Execution in Iran: Furthering Our Understanding of Child Execution as a Form of Structural Violence

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## Abstract

This article explores how the concepts of *structural violence* and *cultural violence* can explain the institutionalization and normalization of violence in children's lives in Iran, including the use of the death penalty, thereby providing a mechanism through which such violence can be challenged. The paper reflects on how an alternative to execution, the payment of blood money, *diyah*, mitigates but does not eradicate harms caused to child offenders convicted of *Qesas* offenses and how *diyah* is used by Iranian authorities to avoid fulfilling their legal obligations to children who offend. The article argues that eradicating child execution and the payment of blood money is dependent on challenging the *structural violence* that is embedded within Iran's legal structures and it reflects on recent improvements in the legal system.

## Introduction

Iran is one of only a few countries that still executes child offenders, despite being a signatory to the United Nations Convention on the Rights of the Child (UNCRC 1989), which explicitly condemns the use of the death penalty for children (Article 37). Other countries that still execute those convicted of offenses as children include Saudi Arabia and Yemen. This article focuses specifically on Iran as it has conducted the highest number of juvenile executions in recent years. For example, at least seventy-three young offenders were executed between 2005 and 2015, and seven in 2018 (Amnesty International 2018). The article discusses the justification of violence in children's lives in Iran, as demonstrated through the practice of child executions, and the influence of powerful bodies, such as the Guardian Council (*Shora-ye Negahban*),<sup>1</sup> whose views dominate and subjugate the rights of Iranian children. The article reflects on

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<sup>1</sup> The Guardian Council (also known as the Council of Guardians or the Constitutional Council) is the most influential body in Iran and is currently controlled by orthodox clerics. It consists of six theologians appointed by the Supreme Leader of Iran and six jurists nominated by the judiciary and approved by the parliament. The Guardian Council has to approve all bills passed by parliament and has the power to veto these if it considers them inconsistent with the constitution and Islamic law.

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how jurisprudence in Iran continues to focus on punishment as a way of regulating societal behavior. Through an engagement with Galtung's (1990) concepts of *structural violence* and *cultural violence*, we put forward an explanation of how the violence embedded in the Iranian legal structure legitimizes institutionalized violence across children's lives, including the use of child execution. Employing these two concepts can help us to understand how and why violence against children has been accepted and justified, thereby providing a framework for the conversations and debates necessary to challenge such violence and instigate change.

Galtung's (1969, 1990) typology of *direct violence*, *structural violence*, and *cultural violence* helps us to identify different forms of violence, even those that are less visible or apparent. According to Galtung (1969, 1990), violence is avoidable and an insult to basic human needs. He describes *direct violence* as a form of violence that is easily identifiable, such as killing and maiming, which involves a clear victim and an obvious perpetrator. In contrast to *direct violence*, *structural violence* has no specific perpetrator and "is built into the structure, and shows up as unequal power and consequently as unequal life chances" (Galtung 1969: 171). This form of violence is impersonal and not readily identifiable because oppression and social injustice are built into the fabric of a society through unjust laws, policies and practices. Galtung (1990: 291) defines *cultural violence* as "the symbolic sphere of our existence exemplified by cultural features such as religion and ideology, language and art, empirical science and formal science—that can all be used to justify or legitimize direct or structural violence." *Cultural violence* thus legitimizes both *direct violence* and *structural violence*, but is the hardest of the three forms of violence to identify, isolate and challenge.

Within the context of our article, *structural violence* refers to the systematic ways in which social structures—including legislatures and religious organizations—harm or otherwise disadvantage individuals. We demonstrate how religious narratives are used to legitimize *structural violence*, making it difficult to challenge and eradicate child execution. Although Galtung (1969) has clearly indicated that cultural features, such as religion, can be used as a justifier of *direct violence* and *structural violence*, we believe that this form of *cultural violence* is much more powerful than other cultural features when the entire legal system of a country (in our case, Iran), including its constitution and criminal and civil codes, as well as its education system and everyday narratives, is based on religion. This is because any opposition, whether implicit or explicit, to the country's laws and policies can have grave consequences, including criminal sanctions.

To provide the context for considering the impact of *structural violence* and *cultural violence* in children's lives in Iran, we begin by offering a brief overview of the Islamic Revolution in Iran and its relationship to the UNCRC. From here, we engage with ongoing debates and tensions between the UNCRC and the Islamic discourse on children's rights, particularly in relation to execution. The article then explores how employing the concepts of *cultural violence* and *structural violence* can enable us to understand how violence, in general, is justified in children's lives in Iran. We also consider the implications of a proposed alternative to execution, the payment of blood money, but ultimately, we argue that eradicating child execution is dependent on challenging the *structural violence* that is embedded in Iran's legal structure. The article highlights obstacles to reform but also reflects on recent improvements in the legal system, which suggest that there may be positive steps in the right direction.

## Setting the Scene: Iran's Revolution

Islamic movements gained worldwide popularity during the 1970s, rejecting Western development and socialist progress that were seen as threats to Muslim societies (Aghaie 2016; Piadar 1995). The Islamic movements emphasized adherence to “Muslim intelligentsia” by committing Muslim nations to “recreating fully operational social, economic and political systems of Islam in all Muslim societies” (Piadar 1995:16). These movements sought to abandon the prevailing social, political and economic systems that were seen to be imitating the United States (US) and they opposed both pressure from Eastern European (communist) countries and efforts to mimic Western development. The political movement in Iran culminated in the Iranian Revolution (also known as the “Islamic Revolution”) of 1979. This movement advocated cultural independence through the construction of a local Islamic model of modernity—one which could bring prosperity to Iran’s social, political and economic conditions (Aghaie 2016; Piadar 1995).

Prior to the Islamic Revolution, religion was deemed to be a private matter and the Iranian State took charge of enforcing religious mandates. After the revolution, religious authority became integral to both private life and public policy, and Sharia law was declared the law of the land. Thus, the Constitution of Iran mandates that the Iranian State has to consider Islamic criteria when enacting new statutes such that, in framing policy and laws in relation to all aspects of life, the government cannot transgress the framework of Sharia law (Afkhani 1994; Aghaie 2016).

To ensure compliance with Sharia law, the Guardian Council, noted above, was created; controlled by orthodox clerics, the Guardian Council is the most influential political and religious body in Iran. All bills in Iran’s Islamic Consultative Assembly (Iran’s Parliament—*Majles-e Shoraye Eslami* or *Majles*, for short) must be approved by the Guardian Council, which has the power of veto if it considers the bills inconsistent with the constitution and its interpretation of Islamic law. The Guardian Council consists of twelve members: half are specialists in Islamic law, selected by the Supreme Leader, and half are civil jurists nominated by the Supreme Judicial Council and appointed by the *Majles*. Due to the structure of the legal system and the immense power that the religious authorities hold, it has been very difficult to change some of the discriminatory laws in Iran, including those which breach the basic principles of the UNCRC—and other international covenants—such as the “right to life” (Amnesty International 2016). The theocratic Islamic Republic of Iran has tried to create a binary atmosphere between the “good” and the “evil.” If one believes and abides by the laws and policies, one is therefore closer to God and in the “safe zone”; otherwise, one embodies the forces of Satan and deserves to be punished. Hence, when religion is used as a feature of *cultural violence*, “Heaven and Hell can also be reproduced on earth” (Galtung 1990: 297). We believe that *structural violence* is an inevitable outcome of the existence of the Guardian Council and that it is legitimized by the presumed sanctity of the foundation on which it is built. Indeed, as Schabas (2002: 365–366) states, “Islamic law is regularly cited as an insurmountable obstacle to the abolition of the death penalty,” although he clarifies that this is perhaps “more of a pretext than anything else for the enthusiastic resort to capital punishment by what are profoundly undemocratic and repressive States.”

## Iran and the United Nations Convention on the Rights of the Child (UNCRC)

The UNCRC—the most-ratified international treaty in history (Freeman 1996; Wyness 2018)—establishes rights for children in all areas of their lives. There is, however, considerable debate about the universality of such international treaties, and the concept of global children's rights is contested in light of cultural relativism and the vastly different conceptions of childhood that exist (Bentley 2005). For example, Pupavac (2011: 307) argues that “[s]eeking to enforce post-industrial cultural norms in developing societies, without intending to transform the material conditions of childhood substantially, is perverse, and only reinforces international inequalities.” She asserts that, to enhance the quality of children's lives at a global level, we must acknowledge the “interdependent between material progress and social progress” (Pupavac 2011: 307). Similarly, Schabas (2002: 377) argues that “international law arguments may be less convincing in the Islamic world, where an entrenched and immutable religious doctrine” exists. This does not mean, however, that breaches of children's rights should remain unchallenged or ignored; as Thomas (2011:9) claims, “if implementing the Convention was easy, there might be little value in having it.”

Notably, Iran was one of over forty signatory states that expressed concerns and added caveats to the scope and operation of specific articles within the UNCRC (Birnbaum et al. 2014; Cregan and Cuthbert 2014). When ratifying the UNCRC in 1994, Iran entered a general reservation that stated: “The Government of the Islamic Republic of Iran 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.” The reservation enables the government to veto its commitment to children's rights if they are deemed not to accord with Sharia law. Recently, the UNCRC (2016) argued that the wording of this reservation is imprecise and has allowed Islamic laws to be invoked in a general way, which is not compatible with the UNCRC's overarching aim. Furthermore, the UNCRC raised concerns about an Iranian Supreme Court judgment in July 2012 that states that in the case of conflict between domestic legislation and international conventions, the former should prevail.

Although Iran has made some positive commitments to children's rights (for example, promoting the rights of disabled children, supporting international cooperation and assistance on infant mortality and child malnutrition, and committing to the provision of free primary education (Foreign Policy Centre 2009; Office of the United Nations High Commissioner for Human Rights 2007)), the country's failure to uphold its legislative responsibility for child protection has been a recurring theme within international human rights organizations (Boms and Arya 2007; Children's Rights Information Network 2015). In particular, the reliance on a particular interpretation of Sharia law that justifies both corporal and capital punishment of children, as well as other forms of institutionalized violence against children, is of concern.

The International Covenant on Civil and Political Rights (ICCPR 1966), to which Iran is a signatory, and the UNCRC both explicitly forbid capital punishment for all children under the age of eighteen: “Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed below eighteen years of age” (UNCRC 1989: Article 37). While execution may be an extreme example of institutionalized violence—and while it is a relatively rare occurrence—that a country condones the use of execution suggests that violence is seen as an appropriate and

acceptable response to children's behavior. Indeed, the retention of the death penalty is just one of many human rights issues within Iran; challenging the use of capital punishment should also lead to progressive change in other areas (Schabas 2002).

## Institutionalized Violence in Children's Lives

Boms and Arya (2007) describe the infliction of violence and harm against children in Iran as "state sponsored child abuse" due its prevalence within public institutions such as detention centers and schools. For example, the Iranian educational system sometimes normalizes violence, such as through conceptualization of martyrdom as the "holy defense." (The "holy defense" or "sacred defense" refers to the eight-year Iran-Iraq war during which a thirteen-year-old boy held a grenade in his hand and threw himself under an Iraqi tank to halt the Iraqi army (see Lesson 9: "Sacrifice and Altruism" [*isar va fedakari*], Social Education, Grade 5).) Moreover, the Iranian State permits corporal punishment within schools. While the physical punishment of children in schools and by families is sanctioned by many countries, including Australia, South Korea, and the US (Gershoff 2017), many countries, particularly within the Council of Europe, have implemented legislation to prohibit it, reflecting the wealth of research linking corporal punishment to physical aggression and other problematic behavior in children (DCSF 2007; Douglas and Straus 2006; Ma et al. 2021; Simons et al. 1998). As Douglas and Straus (2006: 312) argue, "a society in which CP [corporal punishment] is prevalent is likely to be a society in which other types of violence are prevalent"; the social contexts in which the physical punishment of children is common are likely to have a greater acceptance of other forms of interpersonal violence.

Iran does not have a comprehensive system for preventing or reporting child abuse, such as physical punishment (Mohammadi et al. 2014). Attempts have been made to use Islamic texts to argue against corporal punishment. For example, research undertaken by Alzahra University in Tehran states that parents should not discipline their children by using violence or abusive language and that Sharia law "forbids any attack on the human body... [including] attack by smacking or other forms of corporal harm" (UNICEF & Alzahra University 2007: 60). A meta-analysis of research on child abuse, however, found that 43.5% of children in Iran had experienced physical abuse, including being hit by their parents (Mohammadi et al. 2014).

Children in Iran are also exposed to violence and subjugation through the implementation of legislation that undermines their rights and exposes them to potential sexual abuse and control. The low age of marriage and, therefore, the implied age of sexual consent, particularly for girls (thirteen lunar years), is problematic as it may expose children to sexual abuse and exploitation, harm their reproductive health, and hinder their access to education or economic opportunities (Birnbaum et al. 2014). In addition, in Iran, a male guardian may petition a court to marry a child below the minimum age, such that in practice, there is no absolute minimum age for marriage (and thus, in effect, no minimum age of sexual consent) (Birnbaum et al. 2014). Article 27 of the Child Protection Act for Unsupervised or Ill-supervised Minors (2013) exacerbates the problems of early marriage, by allowing a child's legal guardian to marry the child, raising the possibility of adoptive fathers marrying and sexually abusing their adopted child

(ICAVI 2014). Again, some Islamic scholars stress that Sharia law, itself, neither specifies the age of marriage, nor forces people to marry if they are not physically or psychologically ready: “Allah does not impose upon any soul a duty but to the extent of its ability” (Montazeri et al. 2016). The Guardian Council, however, has insisted on its own understanding of Sharia law, portraying it as divine and timeless, so girls are still at risk of early marriage.

Children may be subjected to state-implemented corporal punishment for some criminal offenses, including *Hodoud* and *Qesas* crimes (discussed below), including amputation and lashing (Nayeri 2012). That such punishments—and the executions of both children and adults—occur in public, normalizes the use of violence, such that other examples of violence also appear justified and remain unchallenged.

The existence of Guardian Council has been instrumental in sustaining the above-mentioned laws. Its members have legitimized their resistance to modifying some of the discriminatory laws by insisting that they are the holders of the truth due to the sanctity of their foundation and, therefore, try to shut down any debates that they deem incompatible with Sharia law. As Galtung (1990) states, *structural violence* “impedes consciousness formation” that is the recognition and rejection of unfair treatment. The impediment of consciousness formation sometimes occurs subtly through the constant iteration of the importance of protecting public morality by adhering to authentic religious values. As Lohrenscheit (n.d.) points out, the detrimental impact of *structural violence* is “slower, subtler, more common, and more difficult to repair” than *direct violence*. We believe that invoking religion to suppress and silence *any* individual or political criticism to the point that is not perceived as wrongdoing is a form of *cultural violence*.

## Child Execution as an Example of Extreme Violence in Children’s Lives

Child execution is perhaps the ultimate example of *cultural violence* against children in Iran that is justified through religious discourse: under Sharia law, girls nine (lunar) years and older and boys fifteen (lunar) years and older can be sentenced to death. Accurate records of the number of children and young people across the world who are sentenced to death and/or are executed are unavailable. Government and other official figures are often considerably lower than those recorded elsewhere due to political sensitivities and, arguably, the fear of public condemnation (OHCHR 2016). Executions may be conducted in secret, or the offender’s age may be misrepresented, either deliberately or because the young person’s age is disputed. Nevertheless, between 2005 and 2018, Amnesty International (2018) recorded ninety-nine executions of individuals convicted when they were under the age of eighteen; Pakistan, Saudi Arabia and Yemen are also known to have sentenced juvenile offenders to death recently, but the highest number of juvenile death sentences has been in Iran, with at least three people who were convicted before the age of eighteen being executed in 2020 (Amnesty International 2021). Furthermore, of the 138 recorded executions of juvenile offenders conducted in the world between January 1990 and 2018, ninety-three occurred in Iran—more than twice as many as all other countries combined. Many of those held on death row have been and continue to be members of minority groups (Amnesty International 2018).

## Changes to the Iranian Penal Code

Fluctuations in the recorded rate of child executions are common in Iran, although the reasons for oscillation are not always known (Amnesty International 2016). The amendments to the penal code in Iran, discussed below, may have reduced the number of children sentenced to death, but it is clear that the practice still continues, with at least eighty child offenders on death row in 2018 (Amnesty International 2019). Prior to 2012, offenses were categorized according to the type of punishment, with punishment being differentiated by the crime's theological, legislative, or judicial origins:

- *Ta'zir* is a punishment for narcotics smuggling. The degree and type of punishment is left to judicial discretion but can include the death penalty.
- *Hodoud* is a punishment for which the degree and type has been specified in Sharia law, and covers crimes, such as adultery, *moharebeh* (enmity to God), sodomy and “spreading corruption on earth”—some of which can result in the imposition of the death penalty.
- *Qesas* is a retributive form of punishment specified in Sharia law in which the punishment should be “equal” to the offense—“an eye for an eye.” Thus, the penalty for homicide is a mandatory death sentence, unless the family accepts financial compensation (blood money) (Foreign Policy Centre 2009).

The former head of the Judiciary, Ayatollah Mahmood Hashemi Shahroudi, issued two circulars in 2003 and 2008 requesting judges not to order the death penalty for children. Different provinces were not uniform in implementing the provisions of the circulars, however, stating that the principles of the law outweighed the recommendations within the circular (OHCHR 2016). In 2009, after internal and external pressure from various bodies, the *Majles* ratified a draft of a new penal code which proposed ending the execution of children. The draft was repeatedly rejected by the Guardian Council, however, which stated that it conflicted with Sharia law. Finally, in 2012, the Guardian Council approved the new penal code (OHCHR 2016).

The revised, post-2012 penal code largely reproduced the same categories of offenses and punishments but introduced a few fundamental changes to the way the criminal justice system deals with juvenile offenders. The impact of these changes depends on the category of crime for which the offender is convicted. For instance, the new measures endeavor to remove juvenile offenders convicted of *Ta'zir* crimes from the criminal justice system. Thus, due to these recent changes, the implementation of child executions under *Ta'zir* and *Hodoud* laws has, in theory, at least, been halted or reduced (Tavassolian 2012).

*Qesas* punishments, however, can still be used against children, such that any child can be subject to “retribution in kind,” including execution for murder or manslaughter. The Iranian State argues that *Qesas* is a private matter between the families of the victim and the perpetrator, but its application requires the approval of the head of the judiciary (Ghassemi 2009).

Thus, despite announcing that it has abolished child execution, Iran has effectively only prohibited execution for *discretionary* punishments, replacing child execution with “correctional measures.” The use of the death penalty for *Qesas* homicide-related crimes is still permitted for children who are deemed legally and mentally mature—an individualized approach that allows judges considerable discretion. As Amnesty International (2016) highlights, judges and other legal representatives, may not be trained properly or may be



informed incorrectly about child development and the impact of violence on children's mental and physical well-being. Thus, with the exception of children who are deemed not to be "mentally mature" at the time the offense was committed, girls nine years and older and boys fifteen years and older may be sentenced to death for *Qesas*, unless the family of the victim accept "blood money." The judge has no discretion but is obliged to sentence the child to death if the family does not accept such financial compensation (Tavassolian 2012).

The Iranian Supreme Court issued a ruling in 2015 that entitled juvenile defendants sentenced to death prior to 2013 to petition for a retrial. Only a small proportion of eligible children have done so, however, partly because they lack knowledge of the ruling (OHCHR 2016) and because many lack the necessary emotional, financial, legal, and social resources to petition for a retrial. Furthermore, the Supreme Court has rejected several such petitions, reaffirming the death penalty for at least six juvenile offenders based on a determination that they were deemed to have sufficient mental maturity. Concerns have been raised that the criteria used to determine mental capacity vary significantly and are applied inconsistently, and that applying the criteria retrospectively is particularly problematic (OHCHR 2016).

Although the new penal code can be perceived as a positive change by limiting the extent of child execution, it does not abolish it all together; indeed, on average, five juvenile offenders were reportedly executed each year between 2012 and 2018 compared with an average of six in the previous six years (Amnesty International 2018). As such, Iran still falls short of its legal obligations to children (Amnesty International 2021). Furthermore, the new penal code still discriminates between boys and girls concerning the minimum age of criminal responsibility (Staines et al. 2021), such that girls have less legal protection than boys.

## ***Diyah* (Blood Money)**

Under Islamic law, any person, whether a child or an adult, who is convicted of murder, can pay compensation—*diyah*—to the family of the victim in lieu of the death sentence (Bassiouni, 2004). The victim's next of kin may reject the payment of *diyah* and may also choose to be the executioner.

Allowing *diyah* to be paid as compensation in place of execution affects children more than adults because children are not financially independent and have to rely on their parents/guardian to pay the compensation. Some nongovernmental organizations (NGOs) and charities, such as the student-run NGO, Imam Ali's Popular Students Relief Society, raise money to help families who cannot afford to pay *diyah*. Some argue that the Quran also urges Muslims to forgive those who commit murder and instead accept *diyah* (Ghassemi 2009; Nayyeri 2012). Imam Ali's Popular Students Relief Society reports, however, that in only one or two out of 100 cases does the victim's family pardon the offender (Hassanzade Ajiri 2016). It is worth noting that the founder of the above charity, Sharmin Meymandinejad, was arrested in 2020. According to the Persian-language media,

Meymandi Nejad and his agents distorted sacred [Islamic] principles to promote Western ideas. The source also accused Meymandi Nejad of using the charity to conduct extensive actions against Iranian society as well as insults against sanctities,

promotion of deviant religious ideas and working with hostile foreign-based [Persian-language] media (Sinaiee 2020).

This is not an isolated incident: the Iranian State punishes anyone who seems to be challenging its laws and policies, conceptualizing such actions as a “war against God.” The state-controlled media and television are then used to portray the perceived offenders as worthy of punishment. Thus, The Iranian State not only takes individuals’ liberty, which is a form of social injustice and *structural violence*, but also uses religious discourse to justify and legitimize its actions. Even if the Iranian State does not punish activists, such as Sharmin Meymandi-Nejad, the fear and threat of violence persists. We call this “silent violence” through which Iran takes an individual’s liberty without employing direct force. In response to such “silent violence,” individuals may engage in self-censorship and self-policing and may experience emotional turmoil.

Those who support *diyah* suggest that it not only prevents deaths by execution by encouraging forgiveness and compromise, but that it also brings less pain to the offender’s family than the death penalty. In addition, it provides financial assistance to the surviving relatives and reduces the burden on the state (and taxpayer) to maintain prisons (Pridmore and Iqbal 2004). According to the country’s Prosecutor General, *diyah* spared 358 Iranians from execution in 2014 (Agence France-Presse 2014). We believe, however, that *diyah* contributes to the sustainability of *structural violence* by preventing consciousness formation and fundamental change.

Even if a victim’s family accepts *diyah*, the impact on the convicted child and his or her family can be extreme. As mentioned above, not every convicted child’s family has the financial ability to pay compensation, placing those from low-income families at a disadvantage; this is particularly problematic because over 75% of children in Iran live in deprivation or moderate deprivation (Yousefzadeh Faal Deghati et al. 2012). Convicted children whose families are forced to sell their homes or possessions to pay *diyah* may experience feelings of shame and guilt, and may suffer negative impacts from a reduction in their family’s income or status. Furthermore, transferring the responsibility for decision-making to the victim’s family enables the authorities to argue that the Iranian State, itself, does not execute children, but that it is acting *on behalf* of the family (OHCHR 2016). The weight of this responsibility and the emotional impact on the victim’s family is also disregarded, as is the legality of such a decision, given that it is not made by a court of law (Article 6, ICCPR 1966).

The payment of *diyah* in Iran is, therefore, not an acceptable alternative to executions; it is imperative that national law be changed to end both juvenile executions and the payment of *diyah*. To do this requires the development of an understanding of how and why violence is justified in children’s lives in Iran.

## Discussion

Violence can take many forms; capital punishment is a clear example of *direct violence* against an individual, but violence can also be implicit within societies and/or relationships. As outlined above, Galtung (1990) defines *direct violence*, *structural violence*, and *cultural violence* as super-types; while *direct violence* is visible, *structural violence* and *cultural violence* are not explicit to an unguided eye, but are legitimized, normalized and internalized through the use of power. Galtung (1990) points to the policies

of Israel in relationship to Palestinians as one example of how the State of Israel utilizes religion to justify *structural violence*—using their religion to claim that they are the Chosen People and thus entitled to the land. Galtung (1990) argues that this justifies and normalizes their violence against the West Bank population and the treatment of them as second-class citizens. Galtung (1990: 291–292) states: “Cultural violence makes direct and structural violence look, even feel, right—or at least not wrong. . . . [C]ultural violence highlights the way in which the act of direct violence and the fact of structural violence are legitimized and thus rendered acceptable in society.”

Within the Iranian context, different layers of *structural violence* obtain their legitimacy through the Iranian State’s interpretation of Sharia law, here interpreted as *cultural violence*, which causes harm to individuals and population at large. As Farmer and colleagues (2006: 1686) put it: “Structural violence is one way of describing social arrangements that put individuals and populations in harm’s way... The arrangements are structural because they are embedded in the political and economic organization of our social world; they are violent because they cause injury to people.”

The Iranian State orchestrates *direct violence* and *structural violence* by using its interpretation of Sharia law to justify laws that permit child execution and other forms of violence against children. Following Galtung (1990) and Aghtaie (2017), we wish to be clear that Islam, as a whole, is not violent, but that specific attitudes or behaviors may be violent features of a culture, ideology or religion. The repeated and consistent exploitation of Islam to justify violence can be observed in other places; indeed, virtually every religion has engaged in violence (in the name of that religion) at some point in time. Thus, a specific interpretation of religion may lead to the expression of violent attitudes or behavior, but the religion, *itself*, is not violent. Within this framework, the related criminal laws in Iran (discussed above) and the structure of the judicial system (such as the existence of the Guardian Council) act as layers of *structural violence* that prevent change (Aghtaie 2016, 2017). As mentioned above, this type of violence is less overt due to its embeddedness in the fabric of the society. Therefore, the invisibility or acceptance of *structural violence* due to its presumed sacredness, results in *cultural violence* that can justify child execution—a form of *direct violence*.

As Galtung (1990) and Aghtaie (2017) argue, *cultural violence* nourishes *direct violence* and *structural violence*, making it difficult to challenge or influence, particularly when religious discourse is used as a source of legitimization due to its sanctity. Using features of religion (*cultural violence*) to legitimize *direct violence* and *structural violence* may lead to the normalization of such acts. As Galtung (1990: 292) puts it, “One way cultural violence works is by changing the moral color of an act from red/wrong to green/right or at least yellow/acceptable.” The normalization or acceptability of child execution is further reinforced by Iran through the creation of a dichotomous discourse of “good” and “evil.” Hence, whoever challenges the basis of the government legal system and the judiciary (*structural violence*) and the implementation of its verdicts could be accused of acting against God and hence of being “evil” because that person is questioning the legitimacy of Sharia law. The presumed sacredness of the laws and policies creates an atmosphere of fear—the fear of being accused of blasphemy or of committing a sin for objecting to the presumed sacred laws—either of which can result in harsh punishment (Aghtaie 2016, 2017; Haeri 2009). Thus, when human rights activists, lawyers and/or international communities try to challenge the system in Iran by stating that child execution is a violation of human rights and of the UNCRC, such individuals or groups may be accused of blasphemy or treated as a threat to national security (OHCHR 2016). The possibility of harsh punishment makes it difficult to create a safe environment for

generating discourse for change, which can foster a reluctant political stability because few national organizations or individuals dare to criticize the justification for child execution.

Within this context, not only is *direct violence* used against juvenile offenders, but violence is also legitimized through the legal system and normalized by using a certain interpretation of Sharia law that is culturally violent. Considering that juvenile execution is not the only form of legitimized violence against individuals and other forms of violence against children are orchestrated by the Islamic Republic of Iran, violence is likely to become internalized as part of everyday life. Here, silent violence plays an important role in self-censorship and combating violent laws and policies that are enforced by the government. Even if these laws and policies are not internalized, challenging them is difficult due to their perceived sanctity. As Galtung (1990: 294) states: “A violent structure leave marks not only on the human body but also on the mind and the spirit.” Within the Iranian context, these marks on the mind and spirit might enforce self-censorship to avoid prosecution or committing a sin.

This does not mean that change is impossible, however, as demonstrated by the recent amendments to the penal code (discussed above), which led to positive changes, such as enabling some child offenders to challenge their death sentences and reducing the range of capital offenses. Indeed, although change may be slow and not always comprehensive, any change is significant as it reflects the possibility of reform and the power of *ejtehad*—religious reasoning. *Ejtehad* has been employed effectively by Muslim feminists in Iran in their quest for changing some of the discriminatory laws that have produced a fertile ground for violence against women. The view is that the historical interpretation of religion does not accord with modern times and that in order to transcend traditional Islam and attain the “true Islam,” we should employ dynamic *ejtehad* from a Muslim feminists’ point of view (Fazaeli 2007; Kadivar 1999). Lohrenscheit (n.d.: para. 12) believes that *ejtehad* “enables the religious leaders to relate the principles of Qur’an to contemporary social problems. This religious reasoning also opens rooms for interaction with new social situations and different belief systems in a rather more open-minded and flexible way.”

## A Way Forward

To facilitate fundamental change in how children are perceived and treated in Iran, we need to identify those structural and cultural aspects within Iranian society that legitimize *direct violence* against them. Addressing societal attitudes to punishment is a fundamental part of securing change; changing attitudes toward controlling and punishing perceived childhood wrongdoing may be best achieved by adopting a bottom-up as well as top-down approach. This means looking at the different layers of national structures, policies and laws, but also educational textbooks and the media, as these have the potential to produce a culture that justifies various forms of violence. These structures should consider and promote alternatives to punishment, such as restoration, rehabilitation and acceptance, which challenge the religious interpretation of the purpose(s) of punishment.

For example, obstacles to the abolishment of child execution include the emphasis placed on retribution, punishment, and “correction” by Islamic, ultra-conservative forces (Lohrenscheit n.d.), and the punitive approach of Iranian judges. Lohrenscheit (n.d.) notes that judges and prosecutors are unable to appreciate the concept of restorative justice but refer, instead, to the importance of punishment as a regulator of social behavior. The

concept of “responsibility” is understood only in the context of penal responsibility, not in terms of moral or ethical responsibility. Within this context, the notions of guilt and punishment are considered far more important than the idea of taking responsibility or repairing the harm caused.

Some activists and religious scholars who oppose child execution have used a different interpretation of religion as a tool to create a relatively safe discourse to facilitate change. They bring legitimacy to their argument by using the same tool—sacred texts—as those in power; this is seen in the context of gender-related issues in which activists have secured change by interpreting Sharia law from a Muslim feminist perspective<sup>2</sup> (Mehran 2003; Sadeghi 2006; Fazaeli 2007).

The Muslim feminist approach resonates with that proposed by key figures in the Islamic world, such as Grand Ayatollah Abdolkarim Moussavi Ardebili, who stated:

Islam suggests children who commit an offence, which is punishable if committed by an adult, be corrected. As I have mentioned in several of my jurisprudential publications, correction is different from punishment. Unfortunately many people do not draw a distinct line between the two. (UNICEF 2008: 15)

The Grand Ayatollah Abdolkarim Moussavi Ardebili believes that one of the most fundamental needs of children is to “grow and to develop in a safe environment filled with kindness, a healthy environment which is free of violence and abuse” (UNICEF 2011: no page). A leading Shia’s religious leader, Ayatollah Beheshti, echoes this view, commenting that “religion can be summarized in kindness. With violence and abuse one cannot solve any problems. A child cannot be disciplined in this way” (UNICEF 2011: no page).

While many children’s rights activists argue that capital punishment is against the principles of the UNCRC (1989), none of the religious leaders above use the discourse of “rights” to substantiate their argument because they believe that a human rights discourse is a secular understanding of human beings, which does not accord with the values held by the Islamic Republic of Iran. The common belief held by both religious leaders who oppose child execution and children’s rights activists is that children should live in an environment free from violence. Although the former frame their argument as being based on the needs of children and the latter on rights, both have the power to challenge institutionalized and *cultural violence* against children.

The power of a state to punish is enormous, but it becomes even more powerful when it uses religion to legitimize punishment. Some theological experts and religious leaders favor using religious texts to strengthen their position. For example, they refer to various *Suras* (chapters) and verses from the Quran that stress the importance of fair judgment, forgiveness, restraint, and the importance of human life, which conflict with capital punishment (Foreign Policy Centre 2009).

In recent years, some professionals and officials have initiated discourse around restorative approaches, the legal reforms necessary to ensure adherence to the UNCRC, and other relevant international standards—within the youth justice system and in wider familial, community, and social structures. For example, Braithwaite (2013) argues that restorative approaches are preferable to conventional ways of responding to perceived wrongdoing,

<sup>2</sup> Victims of road accidents who are female now receive equal amount of blood money as their male peers. In order to adhere to the principles of Sharia law, however, the Guardian Council has ruled that the difference in blood money for women is not paid by the offender but by the State’s Fund for Bodily Injuries. (Prior to this new law, women received half the amount paid to men.)

whereas conventional approaches focus heavily on punishment as a way of controlling and deterring undesirable behavior. Zehr (2013: 23) believes conventional approaches can be “deeply damaging, often encouraging rather than discouraging criminal behavior.” Conversely, restorative approaches involve all the stakeholders—offender, victim, and the broader community—and aim to restore damaged relationships and promote resolutions (Braithwaite 2013). The importance of child-centered training and altering the attitudes of legal professionals working with juvenile offenders cannot be dismissed, but it is only part of the solution and greater change is needed. Challenging the embedded *structural violence* that permits child execution, and the *cultural violence* that justifies violence toward children in other settings, by claiming the sacredness of Iranian law, must be considered equally important. As Schabas (2002: 377) suggests, “[p]erhaps there is a role for Islamic legal scholars who can demonstrate an alternative and more progressive view of religious law.”

## Conclusion

To transform Iran’s stance toward child execution with its commitments to children’s rights requires fundamental changes to be made, some of which may be particularly difficult to achieve. Perhaps the least controversial step would be to replace the death penalty with the payment of *diyah*. This measure, however, is beset with the drawbacks outlined above and is problematic insofar as it allows Iranian authorities to avoid fulfilling legal obligations to child offenders.

An alternative route is to continue attempts to change public attitudes toward punishment. This would require refocusing jurisprudence in Iran away from punishment as a way of regulating societal behavior toward restorative approaches that emphasize reparation. Reform should aim to ensure key juvenile justice principles of restorative approaches and to reflect a commitment to children’s rights in full and throughout the Iranian legal system.

Attempts at reform must also challenge the negative attitudes toward children who come into conflict with the law through sensitization, public education, and breaking down the barriers between children and individual decision-makers in local contexts. At the most fundamental level, there needs to be a challenge to the orthodox interpretation of religion in order to combat the *structural violence* that is embedded within Iranian society. A theory of *cultural violence* and *structural violence* could be employed to challenge particular interpretations of religious texts and, in turn, contest the ways in which these texts are used to excuse *structural violence*. This would provide a framework within which stakeholders could debate and oppose the acceptance and justification of violence against children and, therefore enable changes to be instigated gradually. Shifting the cultural ideology of those in power has the potential to affect change within political and religious institutions that perpetuate *structural violence* and *cultural violence*, and to reduce or abolish the *direct violence* experienced by children, including execution.

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