

Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/14/24/Add.1 para 478

Full recommendation:

We urge your Excellency's Government to take all necessary measures to ensure that the rights under international law of Sareimeh Ebadi and Bu-Ali Janfeshani are respected. Considering the irremediable nature of capital punishment and the fact that the death sentence for adultery is incompatible with your Government's obligations under international law, this can only mean suspension of the executions and eventually commutation of the death sentences.

Assessment using Impact Iran human rights indicators¹

The 2013 Islamic Penal Code criminalizes adultery. Under Article 225, women and men who meet the condition of *ihsan*² are punished by stoning. However, in cases where the implementation of a stoning sentence is not possible, a woman or a man who has been convicted of adultery may be executed by hanging upon the approval of the Head of the Judiciary.³ The punishment of fornication between a man and a woman who do not meet the condition of *ihsan* is 100 lashes.⁴

Under Article 6 of the ICCPR, the death penalty may only be imposed for “the most serious crimes” in accordance with international law. In its latest General Comment on Article 6, the Human Rights Committee explicitly stipulated that the term “the most serious crimes” must “be read restrictively and appertain only to crimes of extreme gravity, involving intentional killing. Crimes not resulting directly and intentionally in death [...], although serious in nature, can never serve as the basis, within the framework of Article 6, for the imposition of the death penalty.”⁵ The Committee further states “Under no circumstances can the death penalty ever be applied as a sanction against conduct the very criminalization of which violates the Covenant, including adultery”.⁶

¹ CCPR.6.2.S.1
CCPR.6.2.P.1

² Individuals who commit adultery are sentenced to stoning if they meet the condition of *ihsan*. Under Article 226 of the 2013 Islamic Penal Code the conditions of *ihsan* are as follows:

“(a) *Ihsan* of a man is defined as a status that a man is married to a permanent and pubescent wife and has had vaginal intercourse with her whilst he has been sane and pubescent and can have vaginal intercourse with her whenever he so wishes. (b) *Ihsan* of a woman is defined as a status that a woman who is married to her permanent and pubescent husband and the husband has had vaginal intercourse with her whilst she was sane and pubescent and she is able to have vaginal intercourse with her husband.” Article 227 of the Islamic Penal Code adds that “parties to a marriage shall not meet the conditions

of *ihsan* [mentioned in article 226] during periods such as travel, imprisonment, menstruation, lochia, any illness that prevents sexual intercourse, or any illness that puts the other party at risk such as AIDS and syphilis”, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

³ The 2013 Islamic Penal Code, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

⁴ The 2013 Islamic Penal Code, Article 230, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

⁵ UN Human Rights Committee (HRC), General comment no. 36, Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35, <https://www.refworld.org/docid/5e5e75e04.html>

⁶ UN Human Rights Committee (HRC), General comment no. 36, Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35, <https://www.refworld.org/docid/5e5e75e04.html>

The Article 90 Commission of the Parliament investigates complaints from citizens made against the operations of the Parliament itself, the Executive and the Judiciary.⁷ There is no publicly available information on data relating to the number of complaints received, investigated and adjudicated vis-à-vis cases of arbitrary deprivation of life.

The death penalty based on the charge of adultery is in violation of international law. Therefore, the death sentences held against Sareimeh Ebadi and Bu-Ali Janfeshani, if performed, would represent arbitrary deprivation of life. The Government of the Islamic Republic of Iran did not respond to the UN Special Procedures regarding the cases of Sareimeh Ebadi and Bu-Ali Janfeshani and there is no readily available information that might indicate that their sentences have been suspended and eventually commuted.

Recommendation Status:

This recommendation has **NOT** been implemented.

⁷ Iran Human Rights Documentation Center, <https://iranhrdc.org/internal-regulation-on-the-commission-of-article-90-of-the-constitution/>