

## Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/14/24/Add.1 para 388

### Full recommendation

*I would respectfully reiterate my appeal to the Government of the Islamic Republic of Iran to take all necessary steps to avoid executions that would be inconsistent with accepted standards of international human rights law and to take steps to bring its legislation in compliance with Article 37(a) of the Convention on the Rights of the Child and Article 6 of the International Covenant on Civil and Political, to which it is a party. In particular, I urge your Government to expeditiously lift or commute the death sentences imposed against Amir Khaleghi and Safar Angooti c. All other efforts undertaken by your Government to prevent these executions are insufficient to meet its obligations under international treaties it is a Party to.*

### Assessment drafted using Impact Iran indicators<sup>1</sup>

#### A. Take steps to bring legislation in compliance with Article 6 of the International Covenant on Civil and Political Rights.

There is currently no standing moratorium on the death penalty in Iran. Most of the crimes that are punishable by death under Iranian law would not be considered “most serious” under international law. Iranian law allows the issuance of death sentences for various crimes. There are three types of death penalty punishments under Iranian law. *Qisas* execution, *hud`ud* execution and *tazir* execution. Currently the following crimes are punishable by death: intentional murder (*qisas*)<sup>2</sup>; sex offenses including adultery with married persons, rape, incest and sodomy (*hudud*)<sup>3</sup>; crimes against religion and society, including *moharebeh*, corruption, apostasy, and hypocrisy (*hudud*); repeating offenses for specific crimes including drinking alcohol, adultery with unmarried (*hudud*); and some drugs related offences, military espionage, disruption of the economic system, insulting the prophet Mohammad (*tazir*). The right to appeal is covered by Chapter 4 of the Iranian Criminal Procedure Code, which specifies appeals processes for each type of charge in articles 426 to 483.

<sup>1</sup> CCPR.6.1.S.1; CCPR.6.5.S.1; CCPR.6.2.S.1; CCPR.6.2.P.1;CCPR.6.5.O.1;CCPR.6.5.O.2

<sup>2</sup> The subject of “*Qisas*” is mentioned in the third book of the Islamic Penal Code, which covers Articles 289 to 537, Articles 301 to 311 (Chapter 3 in Part I, Book III), and Articles 381 to 385 (Chapter II in Book III).

<sup>3</sup> The subject of “*Hudud*” is mentioned in the second book of the Islamic Penal Code, which covers Articles 217 to 288. Among the crimes under this “title” that could lead to the death penalty are: Adultery (Chapter 1, Section 1 of the Second Book), Articles 224 and 225. Sodomy (Chapter 2, Part 1 of the Second Book), Articles 234 and 236. Insult to the Prophets (Chapter 5, Section 1, Book 2), Article 262. Theft for the fourth time (Chapter 7, Part 1 of the second book), Article 278. Moharebeh (War against God) (Chapter 8, Part 1 of the Second Book), Article 282. Corruption on Earth (Chapter 9, Section 1 of the Second Book), Articles 286 and 287.

Despite the existence of several means and mechanisms with complaints procedures regarding the violation of rights, such as the Judge's Disciplinary Court, the Article 90 Parliamentary Commission and, any appeals courts including the Supreme Court, there is little evidence to suggest that complaints are properly analyzed and adjudicated.

Iran does not have any administrative processes or independent human rights monitoring mechanisms in place that ensure the prohibition of capital punishment. Officials tasked with carrying out inspections of detention centers, such as prison wardens and prosecutors, are considered part of the same judicial structure. This could result in biased investigations into cases of mistreatment and arbitrary deprivation of life in detention facilities. A reform restricting the use of capital punishment was made in 2017; the bill amends article 45 of the law of October 1988 on combating drugs. This represents an improvement since it has reduced the number of executions for infractions not amounting to most serious crimes. The amendment, however, only reduces, not eliminates, the number of drug convictions for which one can be sentenced to death. Between 2000 and mid-2017, the Abdorrahman Boroumand Center for Human Rights in Iran documented around 8,200 executions carried out by Iran's judiciary.<sup>4</sup> Between January 1, 2018 and December 20, 2018, 256 reports have been registered by the Department of Statistics and Publication of Human Rights Activists in Iran. In the reporting period, 195 death sentences were issued and 236 were carried out (including 13 public executions).

Based on the announced identifications of some of the individuals executed, 232 were male and 4 were female, and 6 were juvenile offenders under the age of 18 at the time of committing the crime. In the last few years, no reported stoning sentences have been issued have.<sup>5</sup> There is no evidence that officials take measures to prevent children from witnessing public executions. Indeed, photos show that children are frequently present at public executions.<sup>6</sup> The time and place of public executions are often publicized prior to the execution, and executions take place in public spaces and residential areas in front of hundreds of individuals.<sup>7</sup>

## **B. Expediently lift or commute the death sentences imposed against Amir Khaleghi and Safar Angooti**

Amir Khaleghi was 16 when he was convicted of stabbing another child during a fight. Khaleghi turned himself in to the police and spent 2 years in prisons in Karaj. He was allegedly released on November 1<sup>st</sup>, 2009 after the family of the victim pardoned him.<sup>8</sup> There is a lack of recent information on his case and further, a lack of clarity, as this recommendation was made in June 2010, even though the most recent available report indicates that he was released in 2009.

<sup>4</sup> Abdorrahman Boroumand Center for Human Rights in Iran [https://iranhr.net/media/files/Rapport\\_iran\\_2019-GB-BD.pdf](https://iranhr.net/media/files/Rapport_iran_2019-GB-BD.pdf)

<sup>5</sup> Numbers based on articles submitted to HRANA statistics center.

<sup>6</sup> Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019 (2020), 38.

<sup>7</sup> Ibid

<sup>8</sup> Iran Human Rights: <https://iranhr.net/en/articles/414/> and [http://www.stopchildexecutions.com/index.php?option=com\\_content&view=article&id=164:three-juvenile-boys-face-execution-for-homosexuality&catid=36:scenews&Itemid=68](http://www.stopchildexecutions.com/index.php?option=com_content&view=article&id=164:three-juvenile-boys-face-execution-for-homosexuality&catid=36:scenews&Itemid=68)

Safar Angooti is a juvenile offender who was arrested in 2008 after allegedly murdering someone out of jealousy. He was sentenced to death in 2008 but his execution was postponed multiple times. There is no recent information regarding Safar Angooti's case. The last report is dated October 21st, 2009. The report mentioned that his execution was postponed for a month.<sup>9</sup>

**C. Take steps to bring legislation in compliance with Article 37(a) of the Convention on the Rights of the Child. Expeditiously lift or commute the death sentences imposed against all other persons awaiting executions for offences committed before they reached age 18**

International law and human rights treaties define the age of criminal responsibility at 18 years and above, those below the age of 18 are considered to be juveniles.<sup>10</sup> However, the laws in Iran, and in particular the Islamic Penal Code, allow death sentences for criminals under the age of 18 to be issued. Article 146 of the Islamic Penal Code of 2013 establishes that people which are not considered mature are not responsible for any crimes, while Article 147 says that the age of maturity for girls is 9 years and for boys 15 years. The age of criminal responsibility defined in this law<sup>11</sup> specifies that those who commit crimes will be subject to the penalties specified in the law. This includes all crimes that are subject to the death penalty in Iran, including murder, *qisas*<sup>12</sup> (retaliation)<sup>4</sup>, organized crime, sodomy, adultery and *moharebeh* (waging war with God)<sup>13</sup>. In the revised Islamic Penal Code of 2013 (IPC), the Islamic Republic tried to restrict the possibility of issuing death sentences for those who are under the age of 18. Article 91 of the IPC grants the courts the ability to ascertain whether the underage defendant was “completely mature” and did not know the “nature of the crime”, at the time of commission. If the defendant was deemed not completely mature at the time of committing the crime, this would allow for the use of alternative punishments such as imprisonment. The note of this article specifies that, at the discretion of the judge, the courts “can” seek a medical expert’s opinion from a “Legal Medical Organization” in order to decide on the maturity of the individual at the time of committing the crime.

In practice, these amendments to the Islamic Penal Code have not prevented the issuance of execution sentences for juveniles. In recent years, there have been many reports that courts have been selective in applying this article and its note<sup>14</sup>. In some cases, despite forensic reports confirming that the defendant was not “fully mature” at the time of the crime, the judge ruled that the accused individual(s) were mature and the language of Article 91 did not apply to them, as they had previously been charged for criminal activities (e.g., robbery). At this time, the law

<sup>9</sup> Amnesty International <<https://www.amnesty.org/en/documents/MDE13/111/2009/en/>>

<sup>10</sup> <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>11</sup> Article 147 of the Islamic Penal Code.

<sup>12</sup> *Qisas* refers to retaliation punishments such as, if a person cuts off someone else’s finger, the victim may inflict the same punishment onto the perpetrator.

<sup>13</sup> Article 279 of the Islamic Penal Code states: “*Moharebeh* is defined as drawing a weapon on the life, property or chastity of people or to cause terror as it creates the atmosphere of insecurity.”

<sup>14</sup> <https://www.amnestyusa.org/press-releases/irans-hypocrisy-exposed-as-scores-of-juvenile-offenders-condemned-to-gallows/>

permits the issuance of the death penalty sentences for those under the age of 18, and the reforms introduced by the Islamic Penal Code have not been adequate to effectively remove this type of punishment from legislation. Iran's justification for juvenile executions is that they do not execute any juveniles before the age of 18. That is, under existing law, if a person under the age of 18 commits a crime punishable by death, the death sentence will continue to be imposed on the juvenile offender after a court hearing, but the execution of the death penalty will be suspended until the offender reaches the age of 18.

Despite amendments to Iranian law in this regard, and the imposition of alternative punishments like imprisonment for juvenile offenders, the death penalty is still being issued and carried out in the case of murder (*qisas*).<sup>15</sup> Since 1990, Iran has executed more juvenile offenders than any other country in the world, and the number is more than double the total number of juvenile offenders executed by countries which constitute the next nine countries that continue to execute minors.<sup>16</sup> Iranian authorities executed 5 juvenile offenders (people who were under the age of 18 when committing a crime) in 2017, 6 in 2018 and 4 in 2019.<sup>17</sup> There are reports of juvenile offenders having their sentences commuted<sup>18</sup>, yet these reports are few and far between compared to the number of juvenile offenders being executed yearly.

Recommendation status:

This recommendation has **NOT** been implemented

<sup>15</sup> Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019, 34. <https://www.iranhr.net/en/reports/22/>

<sup>16</sup> Amnesty International, "Executions of Juveniles Since 1990 as of November 2019" accessed April 25, 2020,

<https://www.amnesty.org/download/Documents/ACT5002332019ENGLISH.pdf>

<sup>17</sup> [https://iranhr.net/media/files/Rapport\\_iran-GB.pdf](https://iranhr.net/media/files/Rapport_iran-GB.pdf) and [https://iranhr.net/media/files/Rapport\\_iran\\_2019-GB-BD.pdf](https://iranhr.net/media/files/Rapport_iran_2019-GB-BD.pdf)

<sup>18</sup> ISNA News -The death sentence of 6 juvenile offenders was commuted on February 8, 2017 (in Persian): <https://www.isna.ir/news/>