

## Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/29/37/Add.5 para 39

### Full recommendation:

*The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to this communication. In its response, the Government indicated that Mr. Ali Chibshat and Mr. Seyyed Khaled Mousavi were arrested on charge of conducting terrorist acts. According to the information provided by the Government, their file was considered in a Court in the city of Ahvaz and the verdict was appealed. The appeal Court reconsidered the case and reaffirmed the verdict. In interpreting article 6(2) of the International Covenant on Civil and Political Rights, the United Nations Human Rights Committee has consistently rejected the imposition of a death sentence for offences that do not result in the loss of life, finding that only cases involving murder meet the threshold of the most serious crimes provision. The Special Rapporteur urges the Iranian authorities to bring its domestic legislation into conformity with the most serious crimes provision under international law, and refrain from any further death sentence or execution in violation of these standards.*

### Assessment using Impact Iran human rights indicators<sup>1</sup>

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. In the same vein, a limited degree of involvement or of complicity in the commission of even the most serious crimes, [...], cannot justify the imposition of the death penalty.”<sup>2</sup>

The Islamic Republic of Iran continues to apply the death penalty to a wide range of offences that do not meet the threshold of “most serious crimes”, in other words, crimes that do not involve intentional killing, in contravention with article 6 of the International Covenant on Civil and Political Rights.<sup>3</sup> For example, the death penalty may be applied to some cases of adultery,<sup>4</sup> certain cases of consensual same-sex intercourse between men<sup>5</sup>, or for vaguely defined offences

<sup>1</sup> CCPR.6.2.S.1

CCPR.6.2.P.1

CCPR.6.2.O.3

<sup>2</sup> UN Human Rights Committee (HRC), General comment no. 36, Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35, available at: <https://www.refworld.org/docid/5e5e75e04.html>

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

<sup>4</sup> Islamic Penal Code (2013), Articles 136 and 225, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>5</sup> Islamic Penal Code (2013), Article 235, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

such as *moharebeh* (“enmity against god”)<sup>6</sup> and *efsad-e fel-arz* (“corruption on earth”).<sup>7</sup> The Human Rights Committee explicitly stipulated that the imposition of the death penalty cannot “be based on vaguely defined criminal provisions, whose application to the convicted individual would depend on subjective or discretionary considerations the application of which is not reasonably foreseeable.”<sup>8</sup> The lack of precision and clarity about the crime of *moharebeh*, for instance, grants judges with broad discretion.

In November 2017, the law on drug trafficking was amended, replacing the mandatory death penalty with a prison term of up to 30 years for non-violent drug-related offences and increasing the quantity of drugs required for a death sentence to be imposed. However, mandatory death sentences for numerous drug-related offences were retained and a number of crimes were transformed into capital crimes for first-time offenders in specific circumstances.<sup>9</sup> In 2019, reportedly 30 individuals were executed on drug-related charges.<sup>10</sup> The Human Rights Committee has consistently underscored that drug-related offences do not meet the threshold of “most serious crimes” and that the death penalty should not be applied to them.<sup>11</sup>

Despite the existence of several means and mechanisms that accept complaints regarding the violation of rights in Iran, such as the Judge’s Disciplinary Court, the Article 90 Parliamentary Commission and, in general, any appeals courts including the Supreme Court, there is no official and readily available information to suggest that these complaints are properly investigated and adjudicated. Iran does not have any administrative processes or independent human rights monitoring mechanisms in place that ensure that the application of the death penalty is in line with international human rights standards.

Between January 2015 and December 2018, the Islamic Republic of Iran reportedly executed at least 2,303 people.<sup>12</sup> Reports received by OHCHR indicated a decrease in the number of executions between 2017 and 2018 (437 in 2017 compared to 207 in 2018 for the same period).<sup>13</sup> On the other hand, Iran Human Rights and ECPM reported at least 273 executions in 2018, 273 in 2019 and continued during the COVID-19 pandemic in 2020 with 280 executions

<sup>6</sup> Islamic Penal Code (2013), Article 279, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>7</sup> Islamic Penal Code (2013), Article 286, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>8</sup> UN Human Rights Committee (HRC), General comment no. 36, Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35, available at: <https://www.refworld.org/docid/5e5e75e04.html>

<sup>9</sup> Drug trafficking law, arts. 8 and 45

<sup>10</sup> ECPM, Iran Human Rights, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

<sup>11</sup> CCPR/C/PAK/CO/1, para. 17; CCPR/C/THA/CO/2, para. 17; CCPR/C/KWT/CO/3, para. 22; A/71/372, para. 48; and Human Rights Committee, general comment No. 36.

<sup>12</sup> Amnesty International, <https://www.amnesty.org/download/Documents/MDE1305732019ENGLISH.PDF>

<sup>13</sup> Report of the UN Secretary General on the situation of human rights in the Islamic Republic of Iran, February 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F40%2F24&Language=E&DeviceType=Desktop>

recorded.<sup>14 15</sup> In 2019, Iran was the second country with the highest number of reported executions, behind China.<sup>16 17 18</sup>

OHCHR continues to receive reports indicating that death sentences are imposed following proceedings that do not respect due process and fair trial standards.<sup>19 20</sup> Similarly, the NGOs Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran and Human Rights Activists in Iran, documented numerous violations of fair trial in the Islamic Republic of Iran, as provided under Article 14 of the ICCPR. These include violations of the right to legal counsel, choice of lawyer, appeal, freedom from arbitrary arrests, independent judiciary, and there were reported uses of forced confessions as evidence.<sup>21</sup>

The Article 90 Commission of the Parliament is responsible for investigating complaints citizens make against the operations of the Parliament, the executive and the judiciary.<sup>22</sup> There is no publicly available information on data relating to the number of complaints received and investigated vis-à-vis cases of violations of the right to fair trial.

In the light of the above, the death penalty is not imposed solely for crimes involving intentional killing and the right to a fair trial is not guaranteed for the accused sentenced with the death penalty in the Islamic Republic of Iran.

#### Recommendation Status:

This recommendation has **NOT** been implemented.

<sup>14</sup> [https://iranhr.net/media/files/Rapport\\_iran\\_2021-gb-290321-BD.pdf](https://iranhr.net/media/files/Rapport_iran_2021-gb-290321-BD.pdf)

<sup>15</sup> ECPM, Iran Human Rights, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

<sup>16</sup> <https://www.amnesty.org/en/latest/news/2020/04/death-penalty-in-2019-facts-and-figures/>

<sup>17</sup> See more: Abdorrahman Boroumand Center <https://www.iranrights.org/projects/omidmap>

<sup>18</sup> See more: Human Rights Activists in Iran <https://www.en-hrana.org/wp-content/uploads/2019/10/Annual-Report-of-Executions-2019.pdf>

<sup>19</sup> See the report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran available from [www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Pages/ListReports.aspx](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Pages/ListReports.aspx); and A/73/299

<sup>20</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 28 January 2020, A/HRC/43/61, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F43%2F61&Language=E&DeviceType=Desktop>

<sup>21</sup> Abdorrahman Boroumand Center (ABC), Iran Human Rights Documentation Center (IHRDC), Impact Iran, Human Rights Activists in Iran, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fFICS%2fIRN%2f42313&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fFICS%2fIRN%2f42313&Lang=en)

<sup>22</sup> Iran Human Rights Documentation Center, <https://iranhrdc.org/internal-regulation-on-the-commission-of-article-90-of-the-constitution/>