

Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/23/47/Add.5 para 57

Full recommendation:

The Special Rapporteur notes that 17 communications were sent to the Government of the Islamic Republic of Iran during the period under review. He thanks the Government for the responses received to five communications. At the same time, he regrets that the Government did not provide replies to 12 communications, and encourages it to respond substantively to all of them. The Special Rapporteur is particularly concerned about the high number of cases regarding the imposition of the death penalty in the Islamic Republic of Iran in contravention of international human rights law, namely of the most serious crimes provision and the standards on fair trial and due process safeguards. Should these allegations be corroborated, he strongly encourages the Government to stay all executions and commute without delay the death sentences. He also calls upon the Government to bring its domestic legislation and practice in conformity with the international law requirements regarding the imposition of the death penalty in the countries which have not yet abolished it.

Assessment using Impact Iran human rights indicators¹

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.”²

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.³ For example, the death penalty may be applied to some cases of adultery,⁴ certain cases of consensual same-sex intercourse between men⁵, or for vaguely defined offences such as *moharebeh* (“enmity against god”)⁶ and *efsad-e fel-arz* (“corruption on earth”) that do not necessarily involve intentional killing.⁷ 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

¹ CCPR.6.2.S.1; CCPR.14.3.S.1

CCPR.6.2.P.1; CCPR.14.3.P.1; CCPR.14.3.P.2; CCPR.14.3.P.3

CCPR.6.2.O.2

² 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>

³ 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>

⁴ 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/>

⁵ 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/>

⁶ 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/>

⁷ 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/>

subjective or discretionary considerations the application of which is not reasonably foreseeable.”⁸ 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.⁹ In 2019, reportedly 30 individuals were executed on drug-related charges.¹⁰ 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.¹¹

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 little evidence 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 to ensure the prohibition of capital punishment.

Between January 2015 and December 2018, the Islamic Republic of Iran reportedly executed at least 2,303 people.¹² 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).¹³ On the other hand, ECPM and Iran Human Rights reported at least 273 executions in 2018, 273 in 2019 and 280 in 2020, mostly during the COVID-19 pandemic.^{14,15} In 2019, Iran was the second country with the highest number of reported executions, behind China.^{16 17 18}

OHCHR continues to receive reports indicating that death sentences are imposed following proceedings that do not respect due process and fair trial standards.^{19 20} 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. These include

⁸ 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>

⁹ Drug trafficking law, Articles 8 and 45

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

¹¹ 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.

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

¹³ 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>

¹⁴ https://iranhr.net/media/files/Rapport_iran_2021-gb-290321-BD.pdf

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

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

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

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

¹⁹ 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; and A/73/299

²⁰ 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>

violations of the rights to legal counsel, choice of lawyer, appeal, freedom from arbitrary arrests, independent judiciary, and there were reported uses of forced confessions as evidence.²¹

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.²² 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 cases where accused have been convicted with the death penalty.

In the light of reported information, the Government of the Islamic Republic of Iran has not brought its domestic legislation in compliance with international law requirements regarding the imposition of the death penalty in countries where it is not yet abolished.

Recommendation Status:

This recommendation has **NOT** been implemented.

²¹ Joint NGO report to the Human Rights Committee, Abdorrahman Boroumand Center (ABC)

Iran Human Rights Documentation Center (IHRDC) Impact Iran

Human Rights Activists in Iran 2020,

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICS_IRN_42313_E.pdf

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