

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/28/70 para 89

Full recommendation:

Authorities should immediately rescind the death sentences against all political prisoners and prisoners of conscience, including those of Soheil Arabi and others, whose alleged actions do not constitute a serious crime under international law. The Government should also note that international law and consensus define juvenile execution as the execution of individuals who were under the age of 18 at the time of the commission of the relevant crime, not at the time of implementation of the sentence. He reiterates his call on the Government to officially ban this practice and to align its practices with its obligations under international law. He repeats his call to enforce a complete moratorium on the death penalty in the meantime. These actions could drastically reduce executions for non-capital offences and better ensure protections for the right to life.

Assessment using Impact Iran human rights indicators¹

A. Rescind the death penalty against Soheil Arabi

Soheil Arabi is a blogger and journalist who was sentenced to death for blasphemy by Branch 76 off the Criminal Court of Tehran in 2014 under charges of “insulting the Prophet of Islam” due to his Facebook posts.² He was later charged with “insulting the supreme leader” and “propaganda against the regime” and sentenced to three years of imprisonment for his work as a human rights defender behind bars. In 2015, his death sentence was commuted by Branch 34 of the Supreme Court and he was resented to seven and a half years in prison, two years of Shi’a studies and hand copying thirteen Shi’a textbooks. This sentence was reduced to six and a half years in prison in November 2015. As of January 2021, Soheil Arabi remains in prison.³

B. Ban the practice of juvenile executions

International law and human rights treaties define the age of criminal responsibility at 18 years and above, and those below that age are considered to be juveniles.⁴ 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

¹ CCPR.6.1.S.1; CCPR.6.2.S.1; CCPR.6.3.P.1; CCPR.6.1.O.1; CRC.6.1.S.2; CRC.6.2.P.1; CCPR.6.5.O.1

² <https://www.frontlinedefenders.org/en/case/continued-detention-iranian-blogger-soheil-arabi-and-judicial-harassment-his-mother>

³ : <https://iranhr.net/en/articles/4576/>

⁴ <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

maturity for girls is 9 years and for boys it is 15 years. The age of criminal responsibility in the law⁵ specifies that those who commit crimes will be subject to the penalties specified in the law. This includes all crimes that are subject to death penalty in Iran, including murder, *qisas* (retaliation)⁶, organized crime, sodomy, adultery and *moharebeh* (waging war with God)⁷.

In the revised Islamic Penal Code of 2013, the Islamic Republic tried to restrict the possibility of issuing death sentences for those under the age of 18. Article 91 of the IPC gives the courts the ability to ascertain whether the defendant had been “completely mature” and did not know the “nature of the crime” at the time of committing it. This would allow for the use of alternative punishments such as imprisonment instead of the death penalty. 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.⁸ There were cases where, despite forensic reports confirming that the defendant was not “fully mature” at the time of the crime, the judge decided 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). In general, the current law permits the issuance of death penalty sentences for those under the age of 18, and the reforms introduced by the Islamic Penal Code have not been able to 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 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*).⁹

⁵ Article 147 of the Islamic Penal Code.

⁶ *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.

⁷ 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.”

⁸ <https://www.amnestyusa.org/press-releases/irans-hypocrisy-exposed-as-scores-of-juvenile-offenders-condemned-to-gallows/>

⁹ Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019, 34. <https://www.iranhr.net/en/reports/22/>

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.¹⁰ According to data collected by Iran Human Rights (IHR) and international human rights organisations, the Islamic Republic is responsible for more than 70% of all executions of juvenile offenders in the last 30 years. IHR's statistics also show that at least 63 juvenile offenders have been executed in Iran over the past 10 years, with at least four executed in both 2019 and 2020 respectively.¹¹ Under the IPC, judges have discretion to grant alternative punishment to minors and individuals who committed crimes while under 18 years of age, but Iran's judges have continued to sentence juveniles and juvenile offenders to death.¹² Iran also executes people who are under the age of 18.

C. Enforce a moratorium on death penalty

There is currently no standing moratorium on death penalty in Iran. Most of the crimes that are punishable by death in 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 in Iranian law. *Qisas* execution, *hud`ud* execution and *tazir* execution. Currently the following crimes are punishable by death: intentional murder (*qisas*)¹³; sex offenses including adultery with married persons, rape, incest and sodomy (*hudud*)¹⁴; 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*).

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 analyzed and adjudicated. Iran does not have any administrative processes or independent human rights monitoring mechanisms in place

¹⁰ Amnesty International, "Executions of Juveniles Since 1990 as of November 2019" accessed April 25, 2020, <https://www.amnesty.org/download/Documents/ACT5002332019ENGLISH.pdf>

¹¹ <https://iranhr.net/en/articles/4648/>

¹² Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019, 16.

¹³ 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).

¹⁴ 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.

that ensure the prohibition of capital punishment. Officials tasked with carrying out inspections of detention centres, such as prison wardens and prosecutors, are all 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.

Regarding Iran's drug law, 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 and does not entirely eliminate the number of drug convictions one can be sentenced to death for. On May 3, Iran Human Rights reported that during the first four months of 2021, 22 out of 82 executions were carried out as a result of drug-related charges - a 300% increase compared to the first trimesters of the two previous years.¹⁵

Between 2000 and mid-2017, the Abdorrahman Boroumand Center for Human Rights in Iran has documented around 8,200 executions carried out by Iran's judiciary.¹⁶ Between January 1, 2018 and December 20, 2018, 256 reports have been registered by the Department of Statistics and Publication of Human Rights Activists Association in Iran. This included 195 death sentences, and 236 people with death sentences were executed (including 13 public executions). Based on the announced identifications of some of the individuals executed, 232 were male and 4 were female. 6 of those executed were juvenile offenders who were under the age of 18 at the time of committing the crime. According to Iran Human Rights, at least 267 people were executed in 2020, including 4 juvenile offenders.¹⁷ The same year, a political prisoner named Hedayat Abdullahpour was secretly executed by firing squad, a method not used since the 1980s.¹⁸ And while no stoning punishments have been reported since 2009, a recent directive issued by the Head of the Judiciary in June 2019 described in detail how death sentences by hanging, stoning and crucifixion should be implemented.¹⁹ No issuance of stoning sentences has been reported in the last few years.²⁰ Photos show that children are frequently present at public executions.²¹

Recommendation Status:

This recommendation has been **PARTIALLY** implemented.²²

¹⁵ <https://iranhr.net/en/articles/4721/>

¹⁶ Abdorrahman Boroumand Center for Human Rights in Iran

¹⁷ <https://iranhr.net/en/articles/4727/>

¹⁸ <https://iranhr.net/en/articles/4294/>

¹⁹ <https://rc.majlis.ir/fa/law/show/1152670>

²⁰ Numbers based on articles submitted to HRANA statistics center.

²¹ Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019 (2020), 38.

²² For more, please see: Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019 (2020)