

## Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/28/70 para 88

### Full recommendation:

*High priority should be placed on amending laws and policies that undermine or violate internationally recognized rights and standards, and that therefore diminish the Government's capacity to address concerns highlighted during the review and presented in the present and other reports produced by the human rights mechanisms. The Government should rescind laws that render as offences activities conducted to exercise legitimate rights under international law, including any laws that restrict the press, criminalize expression, limit access to information and give rise to the ongoing arrests of civil society actors and members of vulnerable groups, including religious and ethnic minorities, as well as laws that apply the death penalty to offences, such as drug-trafficking, that are not considered to be "most serious crimes" under international law. Moreover, the mandatory use of the death penalty is not compatible with the fair trial safeguards required under international law for the application of the death penalty and should be reconsidered.*

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

#### A. Freedom of expression and information

The right to freedom of expression, recognized under Article 24 of the Constitution is restricted if "deemed harmful to the principles of Islam or the rights of the public." Article 40 further allows for restrictions of rights, including peaceful assembly, if their exercise is deemed "injurious to others" or "detrimental to public interests." Similar provisions restrict the right to freedom of expression online through the criminalization of vaguely worded offences such as the "dissemination of lies" and what is deemed to offend "public morality and chastity."<sup>2</sup> The 1986 Press Law and its subsequent amendments also significantly obstructs the right to freedom of expression, in particular for the media.<sup>3</sup> The law mentions that publications should "duly [observe] Islamic criteria and the best interests of the community." It also provides twelve conditions under which the press might be censored, including "publishing heretical articles," "spreading fornication and forbidden practices," and "propagating and spreading overconsumption."<sup>4</sup>

<sup>1</sup> CCPR.19.2.S.1; CCPR.19.3.S.1; CCPR.21.1.S.1; CCPR.22.1.S.2; CCPR.21.1.P.1; CCPR.21.1.P.2; CCPR.19.2.O.2; CCPR.19.2.O.5; CCPR.21.1.O.2; CCPR.21.1.O.3; CCPR.22.1.O.1; CCPR.6.2.P.1; CCPR.6.1.S.1; CCPR.6.2.S.1; CCPR.6.1.O.1; CCPR.6.2.O.1

<sup>2</sup> "Islamic Republic of Iran: Computer Crimes Law," ARTICLE19, 2012. <https://bit.ly/1RecP6R>

<sup>3</sup> The Press Law and its subsequent amendments up until 2002 is available at : <http://irandataportal.syr.edu/press-law>

<sup>4</sup> Iranian Press Law, Article 6.

These restrictions are reiterated in the revised version of the Islamic Penal Code,<sup>5</sup> adopted in 2013. For instance, those participating in peaceful unauthorized assemblies can be sentenced to prison terms on the charges of “gathering and colluding to commit crimes against national security” (Article 610 of the Islamic Penal Code),<sup>6</sup> “forming a group composed of more than two people with the purpose of disrupting national security” (Article 498)<sup>7</sup> and/or “membership of a group with the purpose of disrupting national security” (Article 499). Other criminal charges include “spreading propaganda against the system,”<sup>8</sup> conspiracy against the State,<sup>9</sup> encouragement to “violate public morals”<sup>10</sup> as well as satire.<sup>11</sup> Similar vaguely worded provisions criminalize acts such as swearing at<sup>12</sup> or insulting<sup>13</sup> “the Great Prophet of Islam” as well as “sowing corruption on earth”<sup>14</sup> with the death penalty.

All the restrictions aforementioned fail to meet requirements of international standards, including the principles of legality and that limitations must be necessary, proportionate and in pursuit of one of a limited number of narrowly-drawn legitimate aims.<sup>15</sup> Consequently, the current Iranian legal framework grants authorities’ significant discretion to impose overbroad and vague restrictions on individuals’ rights in contravention of the Iran’s international human rights obligations. As freedom of expression, assembly and association are central to the work of HRDs and civil society in general, they are particularly exposed to State restriction and repression.

Such risk has been confirmed in practice. Iranian authorities frequently rely on the aforementioned legal framework in order to intimidate, arrest and prosecute individuals who peacefully exercise their rights to freedom of expression, association and assembly,<sup>16 17</sup>

<sup>5</sup> The Islamic Penal Code available at: [http://rc.majlis.ir/fa/law/print\\_version/845048](http://rc.majlis.ir/fa/law/print_version/845048)

<sup>6</sup> The new Islamic Penal Code was introduced in 2013 for an experimental period of five years and was revised in 2016. See the most updated version of the Islamic Penal Code here on the website of the Iranian parliament: [http://rc.majlis.ir/fa/law/print\\_version/845048](http://rc.majlis.ir/fa/law/print_version/845048)

<sup>7</sup> Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>8</sup> Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>9</sup> Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>10</sup> Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>11</sup> Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>12</sup> Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>13</sup> Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>14</sup> Article 286 Islamic Penal Code 2013.

<sup>15</sup> Article 19, International Covenant on Civil and Political Rights

<sup>16</sup> See more : Amnesty International, Caught in a web of repression: Iran’s Human Rights Defenders under attack, <https://www.amnesty.org/download/Documents/MDE1364462017ENGLISH.PDF>

<sup>17</sup> While no official figure exists on the number of journalists detained with charges since 2011, documentation on specific cases of journalists imprisoned by HRANA News Agency, Committee to Protect Journalists, Amnesty International, Centre for Human Rights on Iran, and Reporters Without Borders and ARTICLE19 suggest the number is over a hundred.

reportedly targeting disproportionately members of minorities.<sup>18 19</sup> Further, the Government of Iran has been responding to protests with excessive and unlawful force.<sup>20</sup>

## B. 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*)<sup>21</sup>; sex offenses including adultery with married persons, rape, incest and sodomy (*hudud*)<sup>22</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*).

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 that ensure the prohibition of capital punishment. Officials tasked with carrying out inspections of detention centers, 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

<sup>18</sup> See more: Association for the human rights of the Azerbaijani people in Iran, <http://www.ahraz.org/association-for-the-human-rights-of-the-azerbaijani-people-in-iran-ahrazs-repot-regarding-the-current-situation-of-the-azerbaijani-arrestees-that-are-arrested-during-the-recent-protests-nove/>

<sup>19</sup> See more: Kurdistan Human Rights Geneva, <https://kmmk-ge.org/sd/annual-report-2020/>

<sup>20</sup> The Governmental crackdown on the November 2019 protests is emblematic of Iran’s repression of the rights to freedom of expression, assembly and association. See more: Amnesty International, Trampling Humanity: Mass arrests, disappearances and torture since Iran’s 2019 November protests, <https://www.amnesty.org/en/documents/mde13/2891/2020/en/>

<sup>21</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>22</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.

improvement since it has reduced the number of executions for infractions not amounting to most serious crimes. The amendment, however, only reduces, not eliminates entirely, the number of drug convictions one can be sentenced to death for.

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.<sup>23</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 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.<sup>24</sup> The same year, a political prisoner named Hedayat Abdullahpour was secretly executed by firing squad, a method not used since the 1980s.<sup>25</sup> 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.<sup>26</sup> No issuance of stoning sentences has been reported in the last few years.<sup>27</sup> Photos show that children are frequently present at public executions.<sup>28</sup>

#### Recommendation Status:

This recommendation has **NOT** been implemented.<sup>29</sup>

<sup>23</sup> Abdorrahman Boroumand Center for Human Rights in Iran

<sup>24</sup> <https://iranhr.net/en/articles/4727>

<sup>25</sup> <https://iranhr.net/en/articles/4294>

<sup>26</sup> <https://rc.majlis.ir/fa/law/show/1152670>

<sup>27</sup> Numbers based on articles submitted to HRANA statistics center.

<sup>28</sup> Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019 (2020), 38.

<sup>29</sup> For more please see: Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019 (2020) and <https://www.amnesty.org/en/documents/mde13/2891/2020/en/>