

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/71/418 para 82

Full recommendation

The Special Rapporteur therefore continues to appeal to the authorities to declare a moratorium on the use of executions for all crimes not considered “most serious” under international law, and calls on the authorities to consider working with international and national stakeholders to amend its anti-narcotics laws in line with international human rights conventions to which the Islamic Republic of Iran is a party. He urges the authorities to reconsider laws that render acts not considered to be crimes under international law capital offences. He appeals to the Government to abandon piecemeal reforms and to immediately and unconditionally prohibit the execution of juvenile offenders, defined as individuals under 18 years of age at the time they committed a capital offence.

Assessment using Impact Iran human rights indicators¹

A. The Special Rapporteur continues to appeal to the authorities to declare a moratorium on the use of executions for all crimes not considered “most serious” under international law.

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 certain cases of

¹ CCPR.6.1.S.1; CCPR.6.1.S.2; CCPR.6.6.S.1; CCPR.6.4.S.1; CCPR.6.5.S.1; CCPR.6.1.P.1; CCPR.6.1.P.2; CCPR.6.2.P.2; CCPR.6.5.P.1; CCPR.6.1.O.1; CCPR.6.2.O.3; CCPR.6.5.O.1

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>

consensual same-sex intercourse between men⁴, some cases of adultery,⁵ drug related crimes, or for vaguely defined offences such as *moharebeh* (“enmity against god”)⁶ and *efsad-e fel-arz* (“corruption on earth”).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 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.

Iranian authorities do not publish statistics on the number of executions or details of crimes that were sentenced with the death penalty. Iranian officials rarely and inconsistently report incomplete data on executions conducted in the country.⁹ However, NGOs reported, between January 2015 and December 2019, at least 2,572 executions, 972 solely for the year 2015.¹⁰ 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).¹¹ Iran Human Rights and ECPM reported that the Islamic Republic carried out at least 273 executions in 2018, 280 in 2019, and 267 in 2020.¹² The Islamic Republic of Iran has not declared a moratorium on the use of executions for all crimes not considered “most serious” under international law.

B. The Special Rapporteur calls on the authorities to consider working with international and national stakeholders to amend its anti-narcotics laws in line with international human rights conventions to which the Islamic Republic of Iran is a party.

The Government of the Islamic Republic of Iran generally considers drug-trafficking a serious offence requiring the death penalty under certain circumstances and claims its anti-narcotic regulations and heavy sentences act as effective deterrents.¹³ However, the Government reviewed and amended its anti-narcotic law in 2017, notably reducing the number of crimes that can be sentenced with the death penalty. Between 2010 and 2017, 3,224 individuals were

⁴ 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/>

⁵ 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/>

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/>

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

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

¹¹ 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>

¹² https://iranhr.net/media/files/Rapport_iran_2021-gb-290321-BD.pdf

¹³ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, September 2016, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F71%2F418&Language=E&DeviceType=Desktop>

reportedly executed for drug-related crimes.¹⁴ According to Iranian officials, from 2014 to 2017, between 70% and 80% of executions per year were related to drug offences.¹⁵ The high rate of executions can be explained by the previous anti-narcotic law (prior to 2017 amendment), which prescribed the death penalty for a wide range of crimes. For example, under Article 4 of the previous version of the law, a person carrying 5 kg or more of narcotics could be sentenced to death.

In November 2017, an amendment made to the law on drug trafficking entered into force, 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. As a result of the amendment, death penalties issued for drug-related crimes have significantly decreased since 2017.¹⁶ However, mandatory death sentences for numerous drug-related offences remain and the law transformed a number of crimes into capital crimes for first-time offenders in specific circumstances.¹⁷ At least 30 people were executed on drug-related charges in 2019 and 25 in 2020.¹⁸ 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.¹⁹

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 that the application of the death penalty complies with international human rights standards.

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.²⁰

Although the Islamic Republic of Iran amended its anti-narcotic laws and reduced the number of drug related crimes that can be sentenced with the death penalty, the laws remain inconsistent with the State's international human rights obligations.

¹⁴ ECPM, Iran Human Rights, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

¹⁵ < <https://www.mashreghnews.ir/news/305059/> >

¹⁶ ECPM, Iran Human Rights, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

¹⁷ Drug trafficking law, articles 8 and 45.

¹⁸ https://iranhr.net/media/files/Rapport_iran_2021-gb-290321-BD.pdf

¹⁹ <https://iranhr.net/en/articles/4721>

²⁰ 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.

C. The Special Rapporteur urges the authorities to reconsider laws that render acts not considered to be crimes under international law capital offences.

As described above, the Islamic Republic of Iran continues to sentence acts, that are not considered to be crimes under international law capital offences, with the death penalty. In fact, the Islamic Republic of Iran punishes, with the death penalty, acts that are not considered crimes at all under international law. For example, the death penalty may be applied in certain cases of consensual same-sex intercourse between men.²¹

Although the Islamic Republic of Iran reviewed its anti-narcotic laws, as mentioned above, it continues to execute individuals for drug-related crimes, in contradiction with international human rights standards. On 8 July 2020, Morteza Jamali was executed after he was convicted of alcohol consumption for the fourth time in Mashhad Central Prison.²² In April 2021, two men were sentenced to death for insulting the prophet.²³ Apart from this limited development, the Islamic Republic of Iran has not reconsidered laws that render acts not considered to be crimes under international law capital offence.

D. The Special Rapporteur appeals to the Government to abandon piecemeal reforms and to immediately and unconditionally prohibit the execution of juvenile offenders, defined as individuals under 18 years of age at the time they committed a capital offence.

The Islamic Penal Code (2013)²⁴ establishes the age of criminal responsibility at 9 lunar years for girls and 15 lunar years for boys.²⁵ However, the age of responsibility for *ta'zir* crimes (crimes for which fixed penalties are not provided in Islamic law giving the judge discretion as to the sentence imposed) is 18 years for all children. In these cases, convicted children are sentenced to correctional measures. In contrast, criminal responsibility for crimes punishable by *hudud* (punishments fixed by God) or *qisas* (punishment or retribution in kind), which carry mandatory punishments such as death, is maintained at the age of “maturity” that is 9 and 15 lunar years for girls and boys respectively.

²¹ 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/>

²² <https://iranhr.net/en/articles/4312>

²³ <https://iranhr.net/en/articles/4710/>

²⁴ Article 146 and 147, Islamic Penal Code (2013), English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

²⁵ Article 1210, note 1

The law on the “Protection of Children and Adolescents”,²⁶ adopted in June 2020, provides alternative punishments for persons under the age of 18, except for crimes under *qisas* and *hudud*, where the Islamic Penal Code sentences prevails.²⁷

In *qisas* cases, the pardon or commutation of the sentence is based solely on the request of the victim or the victim’s guardian, which deprives the child defendant of his or her right to seek pardon or commutation from the State.²⁸ There are a number of institutions that can intervene to mediate cases of children sentenced with *qisas*, notably in order to commute *qisas* into *diya* sentences (blood money). These institutions include a reconciliation commission, a working group tasked to support mediation with the victim’s next of kin, conflict resolution council branches and the Women and Children and Protection Office of the Judiciary.²⁹ There is no readily available information that would indicate the number of cases received, reviewed and adjudicated by these institutions.

Additionally, Article 91 of the 2013 Islamic Penal Code allows judges to pronounce alternative sentences in circumstances where the juveniles “do not realize the nature of the crime committed or its prohibition, or if there is uncertainty about their full mental development, according to their age”.³⁰ The Article further adds that “the court may ask the opinion of forensic medicine or resort to any other method that it sees appropriate in order to establish the full mental development”. In 2017, a number of special procedure mandate holders described ongoing executions of child offenders in the Islamic Republic of Iran as “conclusive proof of the failure of the 2013 amendments to stop the execution of individuals sentenced to death as children”.³¹ In 2019, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran found that the aforementioned assessment of the mental development of the accused at the time of the offence was “arbitrary and inconsistent, and at the sole discretion of the judge, who can choose whether to seek medical advice or not”.³²

In his January 2020 report, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran wrote that “he continues to monitor the situation of child offenders on death row and has received information that there are at present at least 100 individuals who have been

²⁶ The law adopted on May 12, 2020 : < <https://shenasname.ir/laws/6788> >

²⁷ Article 25 of the law of “Protection of Children and Adolescents”.

²⁸ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F40%2F67&Language=E&DeviceType=Desktop>

²⁹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F40%2F67&Language=E&DeviceType=Desktop>

³⁰ Article 91, Islamic Penal Code (2013), English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

³¹ See OHCHR News, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21547&LangID=E

³² Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F40%2F67&Language=E&DeviceType=Desktop>

sentenced to death for crimes committed when they were under 18 years of age”.³³ According to Iran Human Rights, Iranian authorities executed at least 6 juvenile offenders in 2018, 4 in 2019 and 4 in 2020.³⁴

The prohibition of the imposition of the death penalty on children is widely considered to be *jus cogens* under international law and represents a violation of Articles 6(5) of the International Covenant on Civil and Political Rights and 37(a) of the Convention on the Rights of the Child. The Human Rights Committee has explicitly stipulated that the death penalty cannot be imposed if it cannot be proven, beyond reasonable doubt, that the accused was older than 18 years old at the time of the offence.³⁵ Executions of child offenders continue to be conducted in the Islamic Republic of Iran. There is no readily available information that might indicate the existence of steps taken by the Government to repeal laws imposing the death penalty against child offenders.

Recommendation Status:

This recommendation has been **PARTIALLY** implemented.

³³ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf

³⁴ <https://iranhr.net/en/articles/4727>

³⁵ 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>