

Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/14/24/Add.1 para 382

Full recommendation:

I therefore again urge your Excellency's Government to expeditiously lift or commute the death sentences imposed against Mr. Abu Moslem Sohrabi, as well as all other persons awaiting execution for offences committed before they reached age 18. All other efforts undertaken by your Government to prevent these executions are insufficient to meet its obligations under international treaties it is a Party to.

Assessment drafted using Impact Iran indicators¹

A. Expeditiously lift or commute the death sentences imposed against Mr. Abu Moslem Sohrabi

In December 2001, Abu Moslem Sohrabi, then a 17-year-old, stabbed a 25-year-old man to death.² Abu claims the act was an act of self defence and that the other party raped him on numerous occasions and was harassing him at the time of the incident.

Abu moslem Sohrabi was tried by Branch 3 of the Revolutionary Court in Firouzabad and sentenced to death as a *qesas*³ penalty. However, in a letter to the Supreme Court, the judge who issued the original death sentence retracted his ruling in the light of evidence that the defendant was a rape victim and acted in self-defense. In July 2008 Branch 33 of the Supreme Court in Tehran ordered a review of the case but the death sentence was upheld. The current status of Mr. Abu Moslem Sohrabi is unknown. The last known update on his case was registered in 2008 by Amnesty International. The update states that Abumoslem Sohrabi's execution order was approved by the Supreme Court; the case was transferred to the Office of the Implementation of Sentences.⁴ Despite the lack of information regarding Mr. Sohrabi's case, it is not likely that his sentence was lifted or commuted as no such announcement was made by the Iranian Judiciary.

B. Expeditiously lift or commute the death sentences imposed against all other persons awaiting execution for offences committed before they reached age 18

International law defines the age of criminal responsibility at 18 years and above; those below 18 years are considered to be juveniles.⁵ ICCPR's article 6(5) states that the death sentence should not be applied to crimes committed by persons under the age of eighteen.⁶ However, Iranian

¹CCPR.6.2.S.1; CCPR.6.2.P.1; CCPR.6.2.O.2;

² Abdorrahman Boroumand Center for Human Rights in Iran <https://www.iranrights.org/library/document/825/iran-fear-of-imminent-execution-abumoslem-sohrabi>

³ *Qesas* or *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

⁴ Amnesty International - <https://www.amnesty.org/en/documents/MDE13/025/2009/en/>

⁵ <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁶ ICCPR: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

domestic law, in particular The Islamic Penal Code, allows for death sentences to be imposed upon juvenile offenders. Article 146 of the Islamic Penal Code of 2013 establishes that people which are not considered mature are not responsible for any crimes. However, Article 147 says that the age of maturity is 9 years for girls and 15 for boys. Article 148 specifies that if an individual commits a crime while being under the age of criminal responsibility, they will still be subjected to the punishments contained in the law⁷. This includes all crimes that are subject to the death penalty in Iran, including murder, *qisas*⁸ (*retaliation*), organized crime, sodomy, adultery and *moharebeh* (waging war with God)⁹. This article seemingly allows for minors to be subjected to such punishments.

In the revised Islamic Penal Code of 2013 (IPC), the Islamic Republic took some steps to limiting the issuance of the death penalty to juvenile offenders. Article 91 of the IPC grants the courts the ability to ascertain whether a juvenile defendant was “completely mature” and unaware of the “nature of the crime”, at the time it was committed. If the defendant is not deemed mature by the courts at the time of committing the crime, alternative punishments such as imprisonment could be applied. The note of this article specifies that, at the discretion of the judge, the courts can (but are not obligated to) seek a medical expert’s opinion from a “legal medical organization” in order to decide on the individual’s maturity 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 article¹⁰. In some cases, despite the an expert failing to confirm a juvenile offender’s ‘maturity’ at the time of committing the crime, the presiding judge decided to issue a death penalty anyway.¹¹

While Iranian law permits the issuance of the death penalty for those under the age of 18, Iran argues it doesn’t carry out juvenile executions.¹² This is because the government of Iran generally doesn’t carry out the execution while they are juveniles, but rather issues them a suspended death sentence that is to be carried out after they turn 18. This is contrary General Comment 36 of the ICCPR¹³ and General Comment 10 of the CRC.¹⁴ In 2017, a number of UN

⁷ Article 148 of the Islamic Penal Code.

⁸ *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.

⁹ 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.”

¹⁰ <https://www.amnestyusa.org/press-releases/irans-hypocrisy-exposed-as-scores-of-juvenile-offenders-condemned-to-gallows/>

¹¹ Iran Human Rights: <https://www.iranhr.net/en/articles/3591/>

¹² Iran’s national report for the second cycle of the UPR, 2014: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/098/67/PDF/G1409867.pdf?OpenElement>

¹³ General Comment 36 of the ICCPR, p38:

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

¹⁴ General Comment 10 of the CRC, p. 37:

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

special procedure mandate holders considered the 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”.¹⁵ 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”.¹⁶

Since 1990, Iran has executed more juvenile offenders than any other country in the world, and the number of juveniles executed by Iran’s judicial forces is more than double the combined total number of juvenile offenders executed by the remaining nine countries in the list.¹⁷ Despite amendments to Iranian law 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*).¹⁸ According to Iran Human Rights’ reports, at least 63 juvenile offenders were executed between 2010 and 2020 in Iran. Iranian authorities executed 6 juvenile offenders in 2018, 4 in 2019 and 4 in 2020.¹⁹ There are reports of juvenile offenders having their sentences commuted²⁰, yet these reports are few and far between compared to the number of juvenile offenders being executed yearly.

Recommendation Status:

This recommendation has **NOT** been implemented.²¹

¹⁵ See OHCHR News, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21547&LangID=E

¹⁶ 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>

¹⁷ Amnesty International, “Executions of Juveniles Since 1990 as of November 2019” accessed April 25, 2020, <https://www.amnesty.org/download/Documents/ACT5002332019ENGLISH.pdf>

¹⁸ Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019, 34. <https://www.iranhr.net/en/reports/22/>

¹⁹ <https://iranhr.net/en/articles/4727>

²⁰ ISNA News -The death sentence of 6 juvenile offenders was commuted on February 8, 2017 (in Persian): <https://www.isna.ir/news/>

²¹ For more, please see: Abdorrahman Boroumand Center for Human Rights in Iran - <https://www.iranrights.org/projects/omidmap>