

## Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/14/24/Add.1 para 386c

### Full recommendation:

*International law, in particular Article 6(4) of the International Covenant on Civil and Political Rights, guarantees the right to seek pardon or commutation of the sentence from the State authorities. Where the diyah pardon is available, it must be supplemented by a separate, public system for seeking an official pardon or commutation.*

### Assessment using Impact Iran human rights indicators<sup>1</sup>

Under the Iranian Criminal Code of Procedure, crimes punishable by death are subject to appeal in the Supreme Court. The Supreme Court may uphold or overturn a sentence, but it cannot increase or decrease the sentence, which limits the right of individuals to seek commutation. In cases where the Supreme Court overturns a sentence, the case will be remanded to a court of first instance, which may insist on issuing the original verdict.

In cases of *qisas* (retribution-in-kind) for murder, Articles 386 to 416 of the Islamic Penal Code (2013) provide a range of punishments. The responsibility for choosing the punishment is placed on the victim's family or next of kin by the state. They can choose retaliation by the death penalty, accept monetary compensation called *diya* (blood money) or to forgive the defendant. Where the next of kin choose retribution, the victim's next of kin or their representative must be present at the execution.<sup>2</sup> According to Iran Human Rights, the next of kin are also encouraged to carry out the executions themselves<sup>3</sup> and have received several reports of family members conducting executions, with the last case taking place in March 2021 where a daughter carried out her mother's execution.<sup>4</sup>

The victim's next of kin can pardon or commute the death sentence of the accused by accepting *diyah* (compensation known as "blood money"). There are several institutions that can intervene to mediate cases of individuals sentenced with *qisas*, notably in order to commute *qisas* into *diyah* 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.<sup>5</sup> There is

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<sup>1</sup> CCPR.6.4.S.1

CCPR.6.4.P.1

CCPR.6.4.O.1

<sup>2</sup> Article 43(ch) of Regulation 9000/27863/100, 17 June 2019 "Regulations on the Enforcement of hodud, death penalty, amputation, qisas of life, body parts and injury, diyat, flogging, exile, loss of country, compulsory residence and prohibition of residence in certain places or areas" <https://rc.majlis.ir/fa/law/show/115267>

<sup>3</sup> <https://iranhr.net/en/articles/4726>

<sup>4</sup> <https://iranhr.net/en/articles/4668/>

<sup>5</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019,

no readily available information that would indicate the number of cases received, reviewed and addressed by these institutions. However, executions under the law of *qisas* reportedly accounted for nearly 80% of executions in 2019 (or 225 executions),<sup>6</sup> suggesting that these avenues of mediation have little practical effect.

Additionally, when a pardon in exchange for *diya* has not been granted, the accused's right to seek pardon or commutation from the State is violated.

Iranian authorities set a minimum rate of *diyyah* but did not include a maximum rate. With the opportunity for expensive *diyyah*, there is an increased risk that the accused may be unable to pay their debt to the victim's next of kin, even with cash assistance provided by the State.<sup>7</sup> As a consequence, the payment of *diyyah* discriminates against those who are not in a position to buy their freedom. Additionally, the Penal Code (2013) also stipulates that *diyyah* for murdering a woman is half that of a man.

The Government of the Islamic of Iran noted that the State was not intervening in the commutation or pardon of sentences in cases of *qisas*, which “is only possible on the basis of the request of the owners of the blood”.<sup>8</sup> Ultimately, if the victim's next of kin does not grant pardon in exchange for *diyyah*, the sentence must be executed, with no option for the accused to seek pardon or commutation from the State. In these cases where the *diyyah* pardon is available, there is no separate and public system for seeking pardon or commutation.

#### Recommendation Status:

This recommendation has **NOT** been implemented.

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<https://undocs.org/en/A/HRC/40/67>

<sup>6</sup> ECPM/Iran Human Rights: <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

<sup>7</sup> ECPM/Iran Human Rights <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

<sup>8</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019, <https://undocs.org/en/A/HRC/40/67>