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REPORT WRITTEN BY



— **Abdorrahman Boroumand Center** is a non-governmental non-profit organisation dedicated to the promotion of human rights and democracy in Iran. The Center is an independent organisation with no political affiliation. Taking as a starting point the fundamental equality of all human beings, the Center seeks to ensure that human rights in Iran are promoted and protected without discrimination, whether it be on the basis of one's gender, race, religion, ethnicity, or national origin. Guided by the belief that unremedied human rights violations are a major obstacle to the establishment of a stable democracy, the Center is committed to the right of all victims of human rights abuses to justice and public recognition. <https://www.iranrights.org/>



— **Iran Human Rights (IHR)** is a non-profit NGO with its base in Oslo, Norway. IHR has active and supporting members in Iran, North America and several European countries. IHR is committed to promote the human rights in Iran, through reporting, monitoring and advocacy. Reporting about the death penalty in Iran has been the main focus of IHR in the past 10 years. Because of its sources inside Iran, IHR is able to produce accurate reports about the death penalty in Iran. IHR's aim has been to create an abolitionist movement in Iran by increasing awareness about the death penalty. IHR is a member of the Steering Committee of the World Coalition against the Death Penalty and of Impact Iran. <https://www.iranhr.net/en/>



— **The Association for Human Rights in Kurdistan of Iran - Geneva (KMMK-G)** was established in 2006 to promote democracy, respect for human rights, and social development in and beyond Iranian Kurdistan. KMMK-G strives to serve as a bridge between the Kurdish and Iranian civil society on the one hand and the United Nations agencies and International institutions on the other. Since its inception, KMMK-G has actively participated in every session of the UN Human Rights Council and other relevant UN human rights mechanisms. Over the years, the Association has frequently submitted reports on the human rights situation in Iran's Kurdistan to various UN treaty bodies and in various UN Committees' meetings. <http://kmmk-ge.org/sd/>



— **ECPM (Together Against the Death Penalty)** is a French non-governmental organisation that fights against the death penalty worldwide and in all circumstances by uniting and rallying abolitionist forces across the world. The organisation advocates with international bodies and encourages universal abolition through education, information, local partnerships and public awareness campaigns. ECPM earned its legitimacy as a unifying group of the abolitionist movement because of its strong sense of ethics and values. ECPM is the organiser of the World Congresses Against the Death Penalty and a founding member of the World Coalition Against the Death Penalty. In 2016, ECPM was granted consultative status with ECOSOC. <http://www.ecpm.org/>



— **Impact Iran** represents a coalition of non-governmental organisations that draw attention to the situation of human rights in Iran, and encourage the Iranian government to address concerns expressed by the international community and international human rights bodies. Impact Iran promotes Iranian civil society efforts to engage with the wider UN human rights system, alongside various intergovernmental processes aimed at strengthening rights protections in Iran. Impact Iran's focus emanates from the belief that the sustainability of efforts to promote respect for human rights in Iran hinges on the capacity of Iranian civil society to effectively engage with and participate in the range of UN processes that promotes accountability and encourages implementation of Iran's international human rights obligations. <http://impactiran.org/>



— **The World Coalition against the Death Penalty (WCADP)** is composed of more than 150 NGOs, bar associations, local authorities and unions. It aims to strengthen the international dimension of the fight against the death penalty. The World Coalition provides a global dimension to the action taken by its members in the field, who are sometimes isolated. Its work complements their initiatives while respecting their independence. <http://www.worldcoalition.org/index>

I INTRODUCTION

This joint stakeholder report aims to provide up-to-date and useful information to understand the reality of the death penalty in the Islamic Republic of Iran, in view of the next review of Iran by the Working Group on the Universal Periodic Review (UPR) in November 2019.

The substantive information was gathered from news, reports and testimonies from various local sources.

Iran is one of the leading death-sentencing and executing states in the world. Despite some recent steps towards limiting the scope of the death penalty for drug-related crimes, Iran's use of capital punishment remains non-transparent, arbitrary, and worryingly broad in scope.

II LEGAL FRAMEWORK

II.1 INTERNATIONAL LEGAL FRAMEWORK

Iran ratified the International Covenant on Civil and Political Rights (ICCPR) in 1975, the Convention on the Rights of the Child (CRC) in 1994 (with a general reservation)¹ and the Convention on the Rights of Persons with Disabilities (CRPD) in 2009. Iran has not signed nor ratified any other international human rights conventions, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatments or Punishment (CAT), the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), and the Second Optional Protocol to the ICCPR (OP2) aiming at abolition of the death penalty.

Since 2007, Iran has voted against the United Nations General Assembly resolution calling for a universal moratorium on the use of the death penalty. In December 2018, Iran voted against the resolution once again.

During its review by the UPR Working Group in 2014, Iran received the second highest number (behind the United States of America) of recommendations (41) on the death penalty. The vast majority (38) of these recommendations were rejected. Iran only supported one recommendation (which involved improving due process protections) and partially accepted two others (which involved execution of juvenile offenders).

II.2 NATIONAL LEGAL FRAMEWORK

II.2.A ISLAMIC PENAL CODE (IPC)

There are approximately 200 acts for which the death penalty is foreseen in Iranian criminal law, most of them in the IPC.

Many of these capital offences do not meet the threshold of the "most serious crimes", such as drug-related offences and economic corruption related crimes, as well as acts that must not be considered as crimes such as consensual sexual relations outside of marriage and consensual sexual conduct between adults of the same-sex, and those of religious nature (e.g. apostasy, blasphemy). Broadly worded and vaguely defined offences such as *moharebeh*, corruption on earth and rebellion which give judges wide interpretive powers as well as ordinary crimes such as repeated convictions of theft or arson against public property could also attract the death penalty.

¹ However, upon ratification of the CRC, Iran made a broad and imprecise reservation, "If the text of the Convention is or becomes incompatible with domestic laws and Islamic standards at any time or in any case, the Government of the Islamic Republic shall not abide by it," which according to the UN Committee on the Rights of the Child "raises concern as to its compatibility with the object and purpose of the Convention." See: Committee on the Rights of the Child, Concluding Observations on Iran, CRC/C/15/Add.123, para. 7, available at <https://bit.ly/2Jlni3f>.



MURDER AND QISAS (RETRIBUTION)

Qisas refers to retribution in kind, according to which an equal retaliation for the crime is allowed as a punishment. The *qisas* death sentence has been retained for murder in the 2013 IPC.

MOHAREBEH

The IPC defines *mohareb* (a person who fights God) as someone who “takes up arms with the intention of [taking] people’s lives, property, or honour in order to cause fear among them in a manner that causes insecurity” (Article 279 of the IPC). The Crime of *moharebeh* is punishable by death in the IPC but the judge has the option of imposing an alternative punishment. Under the previous IPC (in force until 2013), the charge of *moharebeh* was frequently used against political dissidents and people connected to opposition groups abroad, even if they were non-violent. The new IPC has provided for their punishment under the notion of “corruption on earth and rebellion.”

“CORRUPTION ON EARTH” & REBELLION

The 2013 IPC has introduced a new concept of “rebellion” (that did not exist in the previous Code) expanding the scope of the death penalty for all those who are convicted of “corruption on earth”, to those who commit “*a crime on an extensive level against the physical integrity of others or domestic or external security, spreads lies, disrupts the national economic system, undertakes arson and destruction, disseminates poisonous, microbiological and dangerous substances, establishes corruption and prostitution centres or assists in establishing them*”. The Article is not legally precise and does not give concrete definitions of the term “crime” or “extensive,” therefore giving judges wide power to arbitrarily interpret the law.

Article 287 of the IPC defines “rebels” as the members of any group that stages armed uprisings against the Islamic Republic of Iran and stipulates that they shall be sentenced to death.²

ECONOMIC CRIMES

Since 2014, Iranian authorities have executed at least five people for economic crimes.³ In August 2018, against the backdrop of popular protests prompted by dire economic circumstances, the Head of the Judiciary issued a letter (later turned into a directive), assented to by Supreme Leader Ali Khamenei,⁴ which effectively authorises the prosecution of those accused of economic corruption without due process guarantees foreseen in Iran’s laws. In addition to contravening the legislative process, the directive has resulted in multiple breaches of the accused person’s fair trial rights. For example, under the Directive, all verdicts issued by the special branches set up for trying economic corruption offenses other than death sentences are deemed final and must be implemented. Death sentences are appealable to the Supreme Court within ten days. This is contrary to the Code of Criminal Procedure, which specifies that all verdicts can be contested or appealed at Appeals Courts or the Supreme Court within 20 days. Moreover, the Directive extends the application of the Note to Article 48 of the Code of Criminal Procedure to those accused of economic corruption-related offenses not only during the investigation phase but also during the trial. Under the Note, individuals facing some offenses, including those related to national security, are denied the right to have a lawyer of their own choosing during the investigation phase and can only select their lawyers from a list of attorneys approved in advance by the Head of the Judiciary.

JUVENILES

Although Iran has ratified the CRC that prohibits the use of the death penalty for individuals under 18 at the time of the crime, Article 91 of the IPC is very clear that offences punishable by *hudud* or *qisas* are exceptions to this rule. Almost all juvenile

² Under the provision, thus, membership of such a group, regardless of whether the individual member has taken up arms, is punishable by death.

³ They comprise Mahafarid Amir Khosravi (executed May 24 2014, see Abdorrahman Boroumand Center’s Omid Memorial <https://www.iranrights.org/memorial/story/-7710/mahafarid-amirkhosravi>), Baba Khan Valipour (executed February 25 2015), Vahid Mazloumin and Mohammad Ismai’el Qassem (both executed November 14 2018), and Hamid Reza Baqeri Darmani (executed December 24 2018).

⁴ <https://bit.ly/2QfBxps>

offenders executed in the past seven years were sentenced to death based on *qisas* and *hudud* offences.

The 2013 IPC introduced a number of amendments in the field of juvenile justice such as eliminating the death penalty for ta'zir offences. Yet, it failed to bring Iran into compliance with its international obligations as it continued to allow for the imposition of the death penalty for individuals under the age of 18 at the time of the crime. Article 91 of the Code grants judges the discretion to replace the death penalty with alternative punishments in cases of defendants if it was determined that they had not understood the nature and consequences of the crime or where there were doubts about their mental development at the time of the crime. It does not obligate judges to refer the determination of such mental maturity to an expert. Furthermore, the reform provides for - but does not make mandatory - the option of a retrial. In such cases, it remains unclear how the mental maturity of defendants can be reliably assessed many years after the incidents for which they were charged. While an improvement on the previous Code, the law still allows judges to impose the death penalty on girls as young as nine and boys as young as 15 if they conclude that they had sufficient mental maturity at the time of the crime. This provision, which effectively refers the fate of child defendants to medical experts, violates the categorical prohibition on issuing and carrying out capital punishment for those accused of committing crimes below the age of 18.

Finally, the IPC, explicitly states that Article 167 of the Constitution, that allows the judge to rely on religious sources to rule on issues that the law does not address, can be invoked by magistrates to pronounce *hudud* punishments that can carry the mandatory death penalty.

II.2.B THE ANTI-NARCOTICS LAW

Iran adopted a harshly punitive approach to drug policy with a 1980 law drafted by the unelected Revolutionary Council which assessed the death penalty for offenses including possession of as little as 5 grams of heroin or repeated convictions for opium poppy cultivation.⁵ This approach continued through the 1988 Law for Combatting Narcotics, amendments to which in 1997 and 2011 brought the total number of capital drug crimes in Iranian law to 17. Capital offenses in this latter law until its 2017 revision (see below) included importing more than 5 kilograms of marijuana, manufacturing more than 30 grams of heroin, and fourth convictions for opium cultivation. See below in paragraph IV on recent development

II.2.C METHODS OF EXECUTION

The Iranian Penal Code has described several execution methods, including hanging, firing squad, crucifixion and stoning. Hanging has been the main method of execution and the only method used since 2010.

The majority of executions are carried out inside prisons. In some prisons, there are specific rooms for executions, while in other prisons executions are carried out in the prison yard. The presence of the judge of the Section for Implementation of Verdict is mandatory. In murder cases where the defendant is sentenced to *qisas*, the plaintiff must also be present at the scene of the execution.

The IPC has retained the punishment of stoning for those charged with adultery while married⁶. Nevertheless, courts may issue an alternative form of death sentence upon the approval of the Chief Justice "if it is not possible to perform stoning." No implemented stoning punishments have been reported since 2010, mainly due to increasing international pressure over the last decade.

⁵ Bill for Toughening Drug Crime Punishments and for Therapeutic and Security Measures (i.e. Treatment and Employment for Addicts) , <https://www.iranrights.org/fa/library/document/3540>)

⁶ Article 225 of the IPC

III THE APPLICATION OF THE DEATH PENALTY IN IRAN

III.1 DATA

Reports indicate a total of 3,045 to 3,391 death sentences implemented by the Iranian judiciary from the beginning of 2014 through March 2019, qualifying Iran as one of the world's highest-application death penalty states, as well as the state with the highest number of executions *per capita*.

Reports indicate that of this four-year-plus total, between 1,560 and 1,733 people were put to death for drug-related offenses alone (e.g. excluding cases where a defendant was convicted also of murder). Another 1,084 were executed for charges which included murder. 140 persons were put to death for sexual offenses (e.g. rape) in this period, who were not also charged with other capital crimes (e.g. murder).

III.1.A SECRET EXECUTIONS

There is a lack of transparency about the number of sentences and executions, which implies that the effective execution numbers may be much higher than the ones presented in this report. The Iranian authorities do not announce all the executions implemented. Over the last five years, an average of only 40% of all executions has been announced by the official Iranian media.

Some executions are carried out secretly, without the family or the lawyer being informed, and some are simply not announced by the official media.

Civil society inside and outside the country must actively seek information on secret executions. Confirming these reports is a challenging task, as the media is either directly controlled or under strong scrutiny by the authorities. Reporting human rights violations to human rights organisations is regarded as a crime and the people involved may face criminal charges. The sources of unofficial reports are often eyewitnesses, family members, lawyers, sources within prisons and unofficial communication with people within the Iranian judiciary.

III.2 PROCEDURAL RIGHTS OF PEOPLE FACING THE DEATH PENALTY⁷

III.2.A BEFORE THE PROCESS

ACCESS TO LEGAL COUNSEL

Article 35 of the Iranian Constitution grants access to a lawyer. Article 48 of the 2015 Code of Criminal Procedure provides for the right of the accused person to "demand the presence of a lawyer from the start of detention." The Note to the Article however denies individuals facing certain charges, including those relating to national security, the right to access an independent lawyer of their own choosing during the investigation phase, which may last for months. Such individuals are only allowed to select their legal counsel during the investigation phase from a list of lawyers approved by the Head of the Judiciary. Moreover, as a result of retrogressive amendments carried out just days prior to the entry into force of the law in June 2015, a provision in the original draft which had rendered investigations void if the accused person's right to access legal counsel was denied or if the person was not informed of this right, was removed. As a result, due to absence of adequate legal safeguards, courts continue to rule as admissible confessions made without the presence of a lawyer during the investigation phase.

Despite this provision, those sentenced to death, regardless of the charges, did not generally have access to a lawyer in the initial phase after their arrest.

TORTURE IN DETENTION AND FORCED CONFESSIONS

Article 38 of the Iranian Constitution bans all forms of torture and forced confessions. Iranian laws fail to define and adequately criminalise torture. Reports gathered by human rights NGOs indicate that torture is widely used against suspects after their arrest and in

⁷ Death penalty in Iran: Legislations and procedures: <https://iranhr.net/en/articles/3654/>

the pre-trial phase in order to extract a confession. Death row prisoners have routinely reported that they were subjected to torture in order to confess the crime with which they were charged (political or security related charges, rape, murder, etc...) In many cases, confessions provided during detention have been the primary evidence on which judges have based their verdicts.⁸

III.2.B DURING THE PROCESS CRIMINAL AND REVOLUTIONARY COURTS

Murder and rape charges are tried by the criminal courts while all security-related charges, corruption, and drug-trafficking are processed by the Revolutionary Courts. The Revolutionary Courts established in 1979 were temporary courts designed to deal with the officials of the former regime and drug offenses. They continue to operate and are responsible for many death sentences issued and carried out over the last 40 years in Iran. They are not transparent and Revolutionary Court judges are known for greater abuse of their legal powers than other judges and for routinely denying attorneys access to individuals who are subjected to extensive interrogations under severe conditions.

EVIDENTIARY METHODS

Confession is the most common way of proving guilt in death penalty cases. Confessions are often extracted under torture. In security-related cases mainly used against political dissidents, televised confessions are broadcasted even before a final verdict is issued. Other ways of proving guilt include testimony by eyewitnesses (two men only; a woman's testimony is worth half of a man's). Witness statements are also used to prove guilt in the absence of a confession. In addition, according to the IPC, when confessions or testimony by eyewitnesses are missing in a case, a judge can make a decision based on his exclusive opinion, without any reference to laws and codes. This phenomenon is known as 'knowledge of the judge', or *elm-e qazi*. The law requires that rulings based on a judge's 'knowledge' derive from evidence, including circumstantial evidence, and not merely personal belief that the defendant is guilty of the crime. There have been cases where 'knowledge of the judge' has been applied rather arbitrarily.

An area of concern with regards to due process is the continued use of *qassameh* as an evidentiary method in capital cases involving murder. *Qassameh*, provided for under Articles 312–346 of the 2013 IPC, was introduced to Iran's justice system after the 1979 Revolution. Under the 2013 IPC, when the evidence in a murder case is inconclusive, a judge can declare the case to be "*lowth*". This is a special condition which arises when there is insufficient evidence to prove that a crime has been committed, but other facts exist which raise doubt in the judge's mind (Article 314). Should conditions for "*lowth*" be met, the deceased's next of kin can introduce fifty family male members to the court to swear that a defendant has committed a crime—even if they are not familiar with the defendant and were not present at the scene of the crime. Article 340 of the Code specifies that the judge is not required to investigate the source of knowledge of those who swear about the guilt of an accused.⁹ *Qassameh*, which effectively allows for baseless accusations to be turned into evidence against a defendant, constitutes a violation of the right to presumption of innocence and the right of the accused to question and examine prosecution witnesses.¹⁰

III.2.C AFTER THE PROCESS FORGIVENESS/PARDONING

International law provides for the right of individuals sentenced to death to seek clemency and commutation (Article 6(4) ICCPR). Iranian laws deny a large number of individuals on death row these rights. According to Iran's Regulations of the Committee on Pardon, Reduction, and Commutation of Punishments, the sentences of individuals convicted of crimes such as armed robbery and "waging war on God" cannot be subjected to pardon,

8 See e.g. Abdorrahman Boroumand Center's Omid Memorial cases on Mohammad Salas Babajani (<https://www.iranrights.org/memorial/story/-8267/mohammadreza-salas-babajani>), and Zaniar and Loqman Moradi (<https://www.iranrights.org/memorial/story/-8170/zanyar-moradi>), <https://www.iranrights.org/memorial/story/-8169/loqman-moradi>)

9 Abdorrahman Boroumand Center, "Qassameh, a deadly symptom of Iran's dysfunctional justice system" February 26, 2018, available at: <https://www.iranrights.org/newsletter/issue/88>

10 Iran Human Rights, « Qassameh, an oath to kill » : <https://iranhr.net/en/articles/3260/>

reduction, or commutation. Moreover, individuals convicted of murder and sentenced to *qisas* are not allowed to seek clemency and commutation from state authorities. Instead, the IPC grants the relatives of a murder victim the power to seek *qisas*, to pardon the offender, or to accept financial compensation known as “blood money” (*diyya*) in lieu of the death sentence. These provisions are not only in breach of international law, but also have a discriminatory impact on offenders from impoverished backgrounds as they put them at greater risk of execution. In many cases, the financial compensation requested by the murder victim family are far higher than the amount of *diyya* as provided under the law. The *qisas* framework also places an undue emotional burden on the convicted person and family members, as fraught processes of *diyya* negotiations can drag on protractedly. It also compels families of slain parties to choose between execution and absolute freedom for defendants, since they do not have the right opt for a jail sentence. As for execution numbers, not all forgiveness cases are announced by the Iranian media.¹¹

EXECUTION PROCESS

After being sentenced to death, prisoners are detained in prison. It might take years from receiving the final verdict to implementation of the death sentence. All death sentences must be approved by the Supreme Court, the Head of which is appointed by the Head of the Judiciary. In addition, the Head of the Judiciary must give his permission (*Estizan*) before implementation of all *qisas* executions.

According to Iranian law, the defendant’s lawyer must be informed about the scheduled execution 48 hours before implementation and the prisoner is normally granted a last visit with their family the day before the execution. This is not always respected, especially in political and security-related cases. Prisoners are transferred to solitary confinement before the execution where their hands are cuffed. Juvenile offenders stay in prison or correctional facilities until they reach the age of 18 and are then executed.

III.3 EXECUTIONS

III.3.A PUBLIC EXECUTIONS

Despite continuous international criticism, Iran is among the few countries in which public executions have been organised by the authorities. At least 187 individuals have been executed in public places between 2014 and 2018^{12,13}

In 2015, in response to a joint statement by two of the UN Special Rapporteurs condemning the practice of public executions, the “High Council for Human Rights” of the Iranian Judiciary issued an official statement saying, “*public executions take place only in some limited and special circumstances, including incidents which distort public sentiment, to act as a deterrent to decrease the number of drug-related crimes. It should also be noted that the mentioned sentences are provided to avoid the presence of minors at the scene of executions*”. Photos demonstrate that children are often present at these executions which are often announced in advance and take place early in the morning in front of dozens of citizens. No reports indicate any specific measure taken by the authorities to limit the presence of children.

When carried out in public spaces, executions are usually carried out using cranes. The prisoners are either pulled up or the object they are standing on is removed from underneath them. In this case, the prisoners die of suffocation and strangulation. It often takes several minutes until death occurs.

III.3.B CATEGORIES JUVENILES

Iran remains one of the few countries sentencing juveniles to death and it executes more juvenile offenders than any other country in the world. In violation of the CRC and

¹¹ Iran Human Rights, « Death penalty for murder charges : Qisas and forgiveness » : <https://iranhr.net/en/articles/3659/>

¹² ECPM and IHR, 2018 Annual Report on the Death Penalty in Iran, 2018 [available at: https://iranhr.net/media/files/Rapport_iran_2019-GB-BD.pdf], p. 37.

¹³ Iran executions report : Public executions in 2018 : <https://iranhr.net/en/articles/3670/>

the ICCPR, both ratified by Iran, the Iranian authorities executed at least 46 juvenile offenders since the beginning of 2014, including at least six juvenile offenders in 2018 (one more than in 2017).¹⁴ The actual number of juveniles on death row is significantly higher than reported, as there is no information about juvenile offenders in many Iranian prisons¹⁵.

MINORITIES

In 2018, 25% of the executions in Iran were of Kurds. One third of Kurdish executions were related to the fabricated charges of “national security threats” and *moharebeh*. A quarter of Kurdish prisoners are executed outside Kurdistan and the government refuses to return back their bodies to their families and loved ones.

Ethnic minorities, especially Kurds and Baluchis, are over-represented in death penalty statistics. Approximately a quarter of those executed in 2018 were Kurds, as were all six juvenile offenders put to death that year. One third of Kurdish executions are related to the fabricated charges of “national security threats” and *moharebeh*. A quarter of Kurdish prisoners are executed outside Kurdistan. The government refuses to return back their bodies to their families and loved ones.¹⁶

There are several reasons for the overrepresentation of ethnic groups among those executed: greater opposition to the authorities among the people leading to an increased need by the authorities to use violence and create fear; the presence of militant groups in these areas making it easier for the authorities to issue death sentences under the pretext of fighting terrorism; and less visibility by the media and human rights groups on the situation in certain ethnic regions. Poverty, a poor socio-economic situation and the lawlessness and arbitrariness of the Iranian judiciary are even more serious in the ethnic regions.¹⁷

FOREIGN NATIONALS

Iranian authorities regularly carry out executions of foreign citizens, most notably nationals of Afghanistan and Pakistan. The executions most often remain secret, as the issue can be internationally sensitive. It is not known to what extent foreign citizens on death row in Iran receive consular support from their respective authorities: Afghan nationals report little such attention, for example.

IV RECENT DEVELOPMENTS RELATED TO THE DEATH PENALTY

IV.1 THE ANTI-NARCOTIC LAW

An amendment (Article 45) to the Law for Combating Drugs restricted the use of the death penalty chiefly by increasing the volume threshold attracting a capital sentence for drug crimes.¹⁸ Though a positive step, the Amendment was weakened in scope through intervention from outside drug control and other security agencies as it passed through several drafts. It fell considerably short of lawmaker’s original intent to abolish the death penalty for all drug-related crimes save armed trafficking as expressed in a January 2016 bill.¹⁹

The new legislation was made law in November 2017. The judiciary indeed observed a moratorium on executions for drug-related offenses from the beginning of 2018 through the final days of April. Since that time, at least 24 individuals have been executed on drug-

14 Execution of juveniles, women and foreign citizens in 2018 : <https://iranhr.net/en/articles/3673/>

15 Meanwhile, according to the latest report from the UN Secretary General, at least 85 individuals were on death row for crimes committed before the age of 18, as of December 2018. Report of the Secretary General on the situation of human rights in the Islamic Republic of Iran, (par. 6), 8 Feb. 2019, A/HRC/40/24

16 <http://kmmk-ge.org/sd/wp-content/uploads/2019/02/2018-Interim-Annual-Report-KMMK-G-1.pdf>

17 Iran Human Rights, Executions in the ethnic regions of Iran in 2018: <https://iranhr.net/fa/articles/3677/>

18 Full text of the measure: <https://www.iranrights.org/library/document/3262>

Under the terms of the Amendment, addiction remains criminalized and the death penalty remains mandatory when the new threshold is met, and even when it is not met, if the accused is a ringleader or financier, in cases where a principal or accomplice has drawn a weapon or carried a weapon with intent to oppose law enforcement, or where individuals who are under the age of 18 or mentally ill are exploited in the commission of the crime. These provisions are worryingly broad: the law does not define criteria such as “ringleader” nor does it provide for how “intent to oppose law enforcement” is to be established, potentially leaving capital sentencing open to wide interpretation on the part of judges.

19 Full text of the measure: <https://www.iranrights.org/library/document/3224>



related offenses.²⁰ Their charges include “carrying 4 kilograms of methamphetamine and 1.8 kilograms opium product,” “carrying 5 kilograms of industrial drugs,” and “buying and selling 100 kilograms of morphine.” The revision also withdraw death sentences for juvenile offenders convicted for drug possession and trafficking²¹.

It remains difficult to assess the exact impact of the reform, as there is no information about how many death sentences were commuted as a result of the new legislation. The Iranian authorities have not been transparent about the number of death sentences commuted and did not announce any of the drug-related executions in 2018. Figures given by officials for death row prisoners who may be affected by the Amendment range from 3,000 to 15,000.²²

IV.2 THE ABOLITIONIST MOVEMENT IN IRAN

According to the IPC murder is punished by *qisas (retribution)* when the family of the victim can demand a retribution death sentence. But they can also demand *diyya (blood money)* or can simply grant forgiveness. This opens an opportunity for citizens to counter the death penalty by promoting forgiveness without being subject to persecution by the authorities. In the past four years, the Forgiveness movement has grown significantly. Civil society groups have been active in promoting forgiveness instead of the death penalty. IHR has identified 272 forgiveness cases in 2018, 221 cases in 2017, 232 cases in 2016 and 262 cases in 2015.²³ Additionally, the Forgiveness movement has contributed significantly to promoting abolition and debate around the death penalty as a punishment.

The Iranian authorities’ crackdown on abolitionist civil society continued in 2018 through in-creased pressure on imprisoned activists and notably Atena Daemi and Narges Mohammadi.²⁴ These prisoners and others such as Nasrin Sotoudeh have been sentenced to prison for anti-death penalty activities, amongst other charges.

20 Drug-related executions in 2018 : <https://iranhr.net/en/articles/3666/>

21 Islamic Penal Code: <http://rc.majlis.ir/fa/law/show/845048>

22 Lawmakers themselves have expressed frustration over this failure of collecting and publishing accurate numbers on the part of judiciary officials (see for instance “Majles Rep. Jahanabadi: Judiciary Should Announce Statistics on Drug-Related Executions,” July 23, 2017, ISNA [https://www.iranrights.org/library/document/3207.](https://www.iranrights.org/library/document/3207))

23 Death penalty for murder charges: Qisas and forgiveness in 2018 in Iran: <https://iranhr.net/en/articles/3659/>

24 Iran Human Rights, Report on the situation of human rights defenders in Iran- 2018 : <https://iranhr.net/en/reports/20/>

V RECOMMENDATIONS

- ***Ratify the OP2, the CAT and its Protocol and the CPPED,***
- ***Withdraw the general reservation to the CRC,***
- ***Support the UNGA Resolution calling for a universal moratorium on use of the death penalty,***
- ***Grant immediate and unfettered access to the country by the Special Rapporteur on human rights in Iran, and to all Special Rapporteurs who have requested a visit to the country,***
- ***Adopt laws and practices to require complete transparency regarding the use of the death penalty including by annually publishing (or communicating to the UN) detailed information on the use of the death penalty (including, but not limited to the number of people sentenced to death and executed; information about the nature of offenses and the reasons why they were convicted; the courts that convicted them, the identity, gender, age and ethnicity of those convicted and executed; the number of overturned death sentences on appeal; the number of pardoned convicts),***
- ***Restrict the scope of the death penalty to the “most serious crimes”,***
- ***Abolish the mandatory death penalty for all offences,***
- ***Establish a 5-year moratorium in order to work progressively towards abolition,***
- ***Stop public executions,***
- ***Urgently amend article 91 of the IPC to prohibit the use of the death penalty for individuals under the age of 18,***
- ***Declare an immediate moratorium on the execution of child offenders,***
- ***Immediately halt the executions of all individuals who were under the age of 18 at the time of the crime for which they have been sentenced and ensure that all juvenile offenders on death row are automatically granted fair retrials in line with principles of juvenile justice and without recourse to the death penalty,***
- ***Immediately repeal Note to Article 48 of the Code of Criminal Procedure to ensure the right of everyone facing criminal charges prompt access to an independent lawyer of their choice,***
- ***Adopt laws to ensure that statements obtained in violation of the right to access a lawyer are not admissible at trial,***
- ***Adopt legislation to define torture as a crime in line with CAT and establish procedures for the automatic investigation of all allegations of torture and other ill-treatment,***
- ***Ensure that anyone sentenced to death, have a right to seek pardon or commutation from state authorities, in line with Iran’s obligations under the ICCPR***
- ***Cease the harassment and release all human rights defenders and anti-death penalty activists including Narges Mohammadi, Atena Daemi and Nasrin Stoudeh,***
- ***Allow and facilitate a public and open debate about the question of the death penalty in Iran.***

