



# UPR of IRAN

34<sup>th</sup> session – Nov. 2019

## Fact Sheet on the **death penalty in Iran**

### KEY DEVELOPMENTS SINCE LAST REVIEW:

During its review by the UPR Working Group in 2014, Iran received the second highest number of recommendations on the death penalty (41). The vast majority (38) of these recommendations were noted. Iran only supported one recommendation (on due process) and “partially” accepted two others (on execution of juvenile offenders). None of them can be considered implemented to date.

As of September 2019, Iran remains one of the leading death-sentencing and executing states in the world. **3,232 to 3,527 death sentences** have been implemented from the beginning of 2014 through August 2019.

Despite some recent steps towards limiting the scope of the death penalty for drug-related crimes, Iran’s use of capital punishment remains massive, discriminatory, arbitrary and non-transparent. It is routinely imposed following grave violations of fair trial safeguards.

#### General Recommendations

- *Establish a 5-year moratorium in order to work progressively towards abolition*
- *Ratify the OP2-ICCPR, the CAT and its Protocol and withdraw the general reservation to the CRC*
- *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*

### 1. “MOST SERIOUS CRIMES”

There are approximately 200 acts for which the death penalty is foreseen in Iranian criminal law.

Many of these capital offences do not meet the threshold of the “**most serious crimes**”, defined by the Human Rights Committee as limited to “*crimes of extreme gravity, involving intentional killing*”. Death sentences continue to be handed for drug-related offences and economic corruption related crimes; for acts that must not be considered as crimes (e.g. consensual sexual relations outside of marriage, consensual sexual conduct between adults of the same-sex); for acts related to religion or belief

(e.g. apostasy, blasphemy); for broadly worded and vaguely defined offences (e.g. *moharebeh* - “*enmity with God*”, corruption on earth, rebellion); and for ordinary crimes (e.g. repeated convictions of theft, arson against public property). The majority of executions in the period have been based on drug-related charges (50%) and murder charges (35%).

#### Recommendations

- *Rescind the imposition of the death penalty for offenses that do not qualify as the “most serious crimes”, in line with the ICCPR*
- *Abolish the mandatory death penalty for all offences*

### 2. EXECUTIONS OF JUVENILES

Iran remains one of the few countries sentencing children to death and it executes more juveniles than any other country in the world.

At least **46 juveniles** who were under 18 at the time of the alleged offence, have been executed since the beginning of 2014, including at least seven in 2018 and two in 2019.

#### Recommendations

- *Declare an immediate moratorium on the execution of persons who were under 18 at the time of the offence*
- *Urgently amend article 91 of the Penal Code to prohibit the use of the death penalty against individuals under the age of 18 at the time of the crime*
- *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*

### 3. UNFAIR TRIALS

A majority of death sentences are handed by **Revolutionary Courts**, a jurisdiction described by the UN Secretary General as marked by “violations of the right to defence... with a consistent failure to ensure due process”.

For all jurisdictions, article 48 of the 2015 Code of Criminal Procedure (CCP) provides for the right of the accused to “demand the **presence of a lawyer** from the start of detention”. However, per the Note to Article 48 of the CCP,

individuals facing charges of national security and organized crimes are legally denied the right to access an independent lawyer of their own choosing during the investigation phase, and are only allowed to select their lawyers from a short list approved by the Head of the Judiciary.

Those sentenced to death did not generally have access to a lawyer in the initial phase after their arrest. Torture is widely used against suspects after their arrest and in the pre-trial phase, including in order to **extract a confession**. In the absence of adequate legal safeguards, courts continue to rule as admissible confessions made without the presence of a lawyer during the investigation phase, and in many cases, confessions extracted from torture have been the primary evidence on which judges have based their verdicts.

Iranian laws deny a large number of individuals on death row the **right to seek pardon** or commutation provided by the article 6(4) of the ICCPR.

#### Recommendations

- *Immediately repeal Note to Article 48 of the CCP to ensure the right of everyone facing criminal charges prompt access to a lawyer of their choice*
- *Adopt laws to ensure that statements obtained in violation of the right to access a lawyer are not admissible in court*
- *Establish procedures for the automatic investigation of all allegations of torture and other ill-treatment*
- *Ensure that anyone sentenced to death has a right to seek pardon or commutation from state authorities, in line with the ICCPR*

#### 4. VULNERABLE GROUPS

Ethnic minorities, especially **Kurds** and **Baluchis**, are over-represented in death penalty statistics. Many of the offenses carrying the death penalty, in particular drug-related offenses and national security offenses, are among the charges most commonly used to target and convict minorities. Impoverished and marginalized minorities have been over-represented among those executed for drug offenses. Additionally, Kurdish political prisoners charged with national security offences represent almost half of the total number of political prisoners. Overall, half of those executed for affiliation with a political party or a banned group between 2010 and 2018, were Kurds, while a quarter were Baluchis and over one-tenth Arabs.

**Poverty** – rampant in the ethnic regions and among migrants – also dramatically increases the vulnerability to being sentenced to death, given the failure to provide free legal assistance in practice. This vulnerability is compounded by the failure to provide free interpretation services and the arbitrariness of the Iranian judicial system.

#### Recommendation

- *Provide free legal assistance and free interpretation services when necessary, in line with the ICCPR*
- *In cooperation with the OHCHR and relevant Special Procedures, conduct further investigations and inquiries as to the reasons for the disproportionate use of the death penalty against minorities and take appropriate remedial action*

#### 5. PUBLIC EXECUTIONS

At least 187 individuals have been **executed in public places** from 2014 to 2018, in contravention of international law. When carried out in public spaces, executions are usually carried out using cranes, the convict dying after several minutes. Children are reported to witness executions.

#### Recommendation

- *Put an end to public executions*

#### 6. LACK OF TRANSPARENCY

Some executions are carried out secretly, without the family or the lawyer being informed, and some are simply **neither announced** nor reported officially.

Many **defendants' lawyers are not informed** about the scheduled execution before implementation as provided by the Iranian law, and many prisoners are denied a last visit with their family the day before the execution.

#### Recommendations

- *Adopt laws and practices to ensure complete transparency regarding the use of the death penalty, including by annually publishing desegregated data on the use of the death penalty*
- *Communicate the list of persons on the death row, including juvenile offenders sentenced to death*

#### 7. ACTIVISTS AGAINST THE DEATH PENALTY

Anti-death penalty advocates are being **harassed, arrested** and **sentenced to prison terms** for their peaceful anti-death penalty advocacy, such as Narges Mohammadi (sentenced to 16 years in prison in 2016 for running an anti-death penalty campaign), Atena Daemi (sentenced to 14 years in prison in 2015, including for distributing anti-death penalty leaflets) and Nasrin Sotoudeh.

#### Recommendations

- *Cease the harassment of all human rights defenders and anti-death penalty activists and released those who have been imprisoned,*
- *Allow and facilitate a public and open debate about the question of the death penalty in Iran, including by creating an enabling environment for civil society actors to access information, engage in dialogue and express their views freely.*