



## **Islamic Republic of Iran's Compliance with International Covenant on Civil and Political Rights Treaty**

### **Suggested List of Issues**

#### **Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

#### **The World Coalition Against the Death Penalty**

#### **Iran Human Rights**

#### **ECPM**

and

#### **Impact Iran**

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**The World Coalition Against the Death Penalty**, an alliance of more than 150 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

**Iran Human Rights (IHRNGO)** is a non-profit NGO with its base in Oslo, Norway. IHRNGO has active and supporting members in Iran, North America and several European countries. IHRNGO is committed to promote human rights in Iran, through reporting, monitoring and advocacy. Reporting about the death penalty in Iran has been the main focus of IHRNGO in the past 10 years. Because of its sources inside Iran, IHRNGO is able to produce accurate reports about the death penalty in Iran. Besides the death penalty, promoting due process and rule of law, and defending the human rights defenders constitute the core activities of IHRNGO. IHRNGO is a member of the Steering Committee of the World Coalition Against the Death Penalty and a member of Impact Iran.

**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.

**Impact Iran** represents a coalition of non-governmental organizations 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.

## EXECUTIVE SUMMARY

1. Iran has failed to uphold its obligations under the International Covenant on Civil and Political Rights (ICCPR) and has not made the necessary changes to its legal system that would allow for the abolition of capital punishment or for its compliance with the Covenant. The new Islamic Penal Code (IPC) adopted in 2013 retained the death penalty for almost all of the offenses that were punishable by death under the old IPC, including the obligation for judges to pronounce punishments on the basis of authoritative Islamic sources and authentic *fatwa* that can carry a mandatory death penalty.<sup>1</sup> In Iran the application of the death penalty is not limited to the most serious crimes.
2. In contravention of Article 6(5) of the ICCPR, Iran routinely executes juvenile offenders. Since 1990, Iran has executed more juvenile offenders than any other country in the world, and the number is more than double the total number of juvenile offenders executed by countries which constitute the next nine countries that continue to execute minors.<sup>2</sup> Under the IPC, judges have discretion to grant alternative punishment to minors and individuals who committed crimes while under 18 years of age, but Iran's judges have continued to sentence juveniles and juvenile offenders to death.<sup>3</sup> Iran also executes people who are under the age of 18.
3. Additionally, Article 7 of the ICCPR bans torture and cruel, degrading and inhumane punishments, yet Iran continues to hold public executions.<sup>4</sup> The primary means of execution in public executions is by hanging, where the victim dies of suffocation and strangulation and it takes several minutes for death to occur.<sup>5</sup> State authorities continue to torture suspects and convicts, often to extract forced confessions that are used for political purposes. Additionally, the January 2020 Report of the Special Rapporteur on the situation of human rights in Iran notes the poor condition of prisons and detention centers, along with the continued use of prolonged solitary confinement, unreasonable limits on visitation rights, and lack of medical treatment. The Iranian Penal Code describes several execution methods, including hanging, firing squad, crucifixion, and stoning. Iranian authorities have used hanging as the main method of execution, and it was the only method used until 11 May 2020, when authorities executed Kurdish political prisoner Hedayat Abdollahpour by firing squad.<sup>6</sup> A June 2019 directive by the Head of the Judiciary, however, gives a detailed description of how authorities should implement executions by hanging, stoning, and crucifixion.

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<sup>1</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 27.

<sup>2</sup> Amnesty International, "Executions of Juveniles Since 1990 as of November 2019," accessed April 25, 2020, <https://www.amnesty.org/download/Documents/ACT5002332019ENGLISH.pdf>

<sup>3</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 71.

<sup>4</sup> Iran Human Rights, "Iran Resumes Public Executions After Two Years; Iran Human Rights Calls for International Condemnations" accessed August 5, 2022, <https://iranhr.net/en/articles/5366/>.

<sup>5</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 41.

<sup>6</sup> Iran Human Rights, "Political Prisoner Hedayat Abdollahpour Executed "by Firing Squad" accessed August 5, 2022, <https://iranhr.net/en/articles/4294/>.

4. Iran's failure to ensure the rights of equal protection and due process under the law provides the most significant roadblock to Iran meeting its obligations under Article 14 of the ICCPR.<sup>7</sup>
5. In its third cycle Universal Periodic Review in 2020, Iran only partially accepted 2 recommendations of 40 that were made relating to the death penalty.
6. In June 2020, The Advocates and its partners previously submitted a Suggested List of Issues Prior to Reporting regarding the Islamic Republic of Iran's Compliance with the International Covenant on Civil and Political Rights for the 129<sup>th</sup> Session of the Human Rights Committee. This report briefly summarizes and provides updates to the information in that 2020 report and also offers some responses to the State Party Report.

### **Iran fails to uphold its obligations under the International Covenant on Civil and Political Rights**

#### **I. The State fails to protect members of the lesbian, gay, bisexual, and transgender community from harassment, persecution, violence, and discrimination. (Concluding Observations paragraph 10)**

7. Iran's Islamic Penal Code criminalizes same-sex consensual relations and many of these crimes are punishable by death, which a senior government official has defended as being a matter of upholding moral principles.<sup>8</sup>

#### **8. Suggested questions relating to the protection of rights of LGBTI individuals:**

- What steps have Iranian authorities taken to ensure that people do not face criminal prosecution on account of their sexual orientation or gender identity? During the reporting period, has any person been charged, tried, or sentenced for violating the provisions of the Islamic Penal Code that criminalize sexual intercourse between persons of the same sex? Please provide details about these cases, including their outcomes.
- What steps have Iranian authorities taken to remove *mahdoorddam* laws (offenses in which the perpetrator is "deserving of death") or removed consensual same-sex sexual relations from list of *mahdoorddam* offenses?
- What regulations and policies are in place to protect the rights of LGBTI individuals?
- How do authorities monitor and document acts of harassment, persecution, violence, and discrimination perpetrated against LGBTI individuals? Please provide any data collected regarding such acts over the reporting period.

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<sup>7</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021 (2022)*, 34.

<sup>8</sup> The Advocates for Human Rights, The World Coalition Against the Death Penalty, Iran Human Rights, Impact Iran, and ECPM, *Islamic Republic of Iran's Compliance with International Covenant on Civil and Political Rights Treaty: Suggested List of Issues Prior to Reporting* (Minneapolis, USA, June 2020), ¶¶ 1-3.

## II. The State does not limit the death penalty to the most serious crimes. (Concluding Observations paragraphs 12, 23)

9. The Government of Iran sentences people to death for a wide range of crimes, many of which do not meet the threshold of “most serious crimes.” The number of crimes punishable by death is among the highest in the world.<sup>9</sup> One of the crimes that most commonly results in the death penalty is drug-related crimes.<sup>10</sup>
10. The Government of Iran argues that, because of the increasing number of drug dealers and individuals using illicit drugs, Iran’s retention of the death penalty for drug-related crimes is consistent with the country’s obligations under the ICCPR.<sup>11</sup> This position is contrary to the Committee’s interpretation of Article 6, as recently elaborated in General Comment 36.
11. The Amendment to the Anti-Narcotic Law, implemented at the end of 2017, which had led to a significant decrease in the number of drug-related executions was reversed in practice in 2021. An average of 24 people were executed annually for drug-related offenses between 2018 and 2020. Despite the decrease in the overall number of executions for non-violent drug-related offenses, the percentage of executions for all drug-related charges increased from 9.4 percent in 2020 to 38 percent in 2021.<sup>12</sup> In 2021, there was a fivefold increase compared to the previous years with executions of at least 126 people, including five women.<sup>13</sup> In the first seven months of 2022, Iran Human Rights has recorded at least 122 executions for drug-related offenses. None of the drug-related executions recorded by IHRNGO in 2021 and 2022 have been officially announced.
12. In 2020, a man was executed for alcohol consumption for the fourth time.<sup>14</sup> There are also currently two men on death row for *sabol nabi* (insulting the prophet) and a man and woman are facing the death penalty for *zena* (adultery).<sup>15</sup>

### 13. Suggested questions relating to the scope of the death penalty:

- What measures have Iranian authorities taken to limit crimes that are eligible for the death penalty to the most serious crimes as defined by the Human Rights Committee in General Comment 36 (2018)?
- What proportion of death sentences handed down during the reporting period have been for crimes that did not involve an intentional killing committed by the person sentenced to death?

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<sup>9</sup> Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2021, 27.

<sup>10</sup> The Advocates for Human Rights, The World Coalition Against the Death Penalty, Iran Human Rights, Impact Iran, and ECPM, *Islamic Republic of Iran’s Compliance with International Covenant on Civil and Political Rights Treaty: Suggested List of Issues Prior to Reporting* (Minneapolis, USA, June 2020), ¶¶ 5-8.

<sup>11</sup> Human Rights Committee, *Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, due in 2014* (Aug. 23, 2021) U.N.Doc. CCPR/C/IRN/4, ¶ 24.

<sup>12</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 43.

<sup>13</sup> Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2021, 51.

<sup>14</sup> Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2020, 54.

<sup>15</sup> Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2021, 95.

### III. The State applies the death penalty in a discriminatory manner. (Concluding Observations paragraph 2)

14. The Government of Iran disproportionately executes ethnic minorities for drug-related offenses.<sup>16</sup> Fifty-five of the at least 126 people executed for drug-related offenses in 2021 were ethnic minorities, many of whom were Baluch; 43.65 percent of individuals executed for drug-related offenses are Baluch despite only comprising 2 to 6 percent of Iran's population.<sup>17</sup> In 2018, the Special Rapporteur on Iran proposed that Iranian authorities "conduct an impartial and objective investigation confirming the number of persons from minority communities who have been executed. Without prejudice to the outcome of such an investigation, if the numbers of executions from minority communities are disproportionate, then the Special Rapporteur recommends that the Government conduct further investigations and inquiries as to the reasons for such disproportionate numbers and take appropriate remedial action."<sup>18</sup>

#### 15. Suggested question relating to executions of ethnic minorities:

- Please share disaggregated data on death sentences and executions by ethnicity, and explain the steps the State Party has taken to investigate and address the reported disproportionate high rate of executions of persons belonging to ethnic minorities.
- Please describe efforts to ensure that the death penalty does not disproportionately affect members of the Baluch ethnic minority group.
- How have authorities responded to the Special Rapporteur's 2018 recommendations with respect to executions of people from minority communities?

### IV. The State's death penalty practices lack transparency.

16. The majority of executions are not officially reported by Iranian authorities, and many are carried out with no prior notification to the individual's family or attorney.<sup>19</sup>

17. As referenced in paragraph **Error! Reference source not found.**, official government sources often fail to report executions. Between 2014 and 2019, an average of only 40% of all executions had been announced by the official Iranian media or sources.<sup>20</sup> That number decreased to 33% in 2020, 16.5% in 2021 and is at under 10% in the first seven months of 2022.

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<sup>16</sup> The Advocates for Human Rights, The World Coalition Against the Death Penalty, Iran Human Rights, Impact Iran, and ECPM, *Islamic Republic of Iran's Compliance with International Covenant on Civil and Political Rights Treaty: Suggested List of Issues Prior to Reporting* (Minneapolis, USA, June 2020), ¶¶ 10-11.

<sup>17</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 13, 47.

<sup>18</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, UN Doc. A/73/398 (27 Sept. 2018), ¶ 29.

<sup>19</sup> The Advocates for Human Rights, The World Coalition Against the Death Penalty, Iran Human Rights, Impact Iran, and ECPM, *Islamic Republic of Iran's Compliance with International Covenant on Civil and Political Rights Treaty: Suggested List of Issues Prior to Reporting* (Minneapolis, USA, June 2020), ¶¶ 13-14.

<sup>20</sup> Abdorrahman Boroumand Centre, Association for Human Rights in Kurdistan of Iran-Geneva, Iran Human Rights, ECPM, Impact Iran, World Coalition Against the Death Penalty, *Death Penalty in Iran: Joint Stakeholder Report for the 34<sup>th</sup> Session of the Working Group on the Universal Periodic Review* (March 2019), ¶ 23.

18. Article 35 of the Regulation on the implementation of sentences states that defendants may request a last visit prior to execution but many are regularly denied the right to say goodbye to their loved ones. According to Article 43(h), the defendant's lawyer must be informed of the scheduled execution 48 hours prior which again, is not always the case in practice.<sup>21</sup> Due to a lack of transparency, exact numbers in each case are unknown but has been recorded as common practice by Iran Human Rights.

**19. Suggested questions relating to transparency:**

- Please clarify the State policy regarding notification of families of persons to be executed and notification of lawyers representing those persons.
- What is the State policy regarding publication of information and data on executions?
- Please provide comprehensive data on death sentences and executions since the last review, disaggregated by gender, ethnicity, types of crimes, and age of the defendant at the time of the offense.

**V. The State fails to protect the rights of children by continuing to execute minors and by sentencing people to death for crimes committed while under 18 years of age. (Concluding Observations paragraph 13)**

20. While the Islamic Penal Code provides that individuals who are not mature are not criminally responsible,<sup>22</sup> the Government of Iran continues to sentence to death and execute juvenile offenders.<sup>23</sup> Of the 156 recorded juvenile executions recorded worldwide between 1990 to 2021, 105 were carried out in the Islamic Republic of Iran.

21. Since the coauthors' previous report to the Committee in 2020, Iran Human Rights has recorded the execution of four juvenile offenders in Iran. Hassan Rezaei was 16 years old when he was arrested for murder and spent 12 years on death row before being executed in Rasht Central Prison on December 31, 2020. Juvenile Offender Abdullah Mohammadi was executed on 2 December 2020 because his family could not afford the *diya* amount set by the victim's family.<sup>24</sup> Sajad Sanjari was 15 years old when he was arrested for stabbing an older boy in self-defence against rape. He was secretly executed in Kermanshah Central Prison on 2 August 2021. Arrested at 15, Arman Abdolali was taken to the gallows six previous times prior to his execution in Rajai Shahr Prison on 24 November 2021.<sup>25</sup>

22. Officials in the juvenile justice system retain considerable discretion in determining criminal responsibility; the Government of Iran states: "determining the age of criminal

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<sup>21</sup> Regulation on the implementation of hudud, death penalty, amputation, qisas of life and limb and injury, diyat and whipping, accessed August 7, 2022, <https://rc.majlis.ir/fa/law/show/1152670>.

<sup>22</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 32.

<sup>23</sup> The Advocates for Human Rights, The World Coalition Against the Death Penalty, Iran Human Rights, Impact Iran, and ECPM, *Islamic Republic of Iran's Compliance with International Covenant on Civil and Political Rights Treaty: Suggested List of Issues Prior to Reporting* (Minneapolis, USA, June 2020), ¶¶ 16-19.

<sup>24</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2020* (2021), 81.

<sup>25</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 73.

responsibility is determined by considering the facts of mental and psychological development of children and adolescents.”<sup>26</sup>

23. Articles 146 and 147 of the Islamic Penal Code provide that persons who are not mature are not criminally responsible. The Islamic Penal Code sets the age of maturity for girls at 9 lunar years (or 8.7 years), and at 15 lunar years (or 14.6 years) for boys, meaning any child over these ages may be sentenced to death.<sup>27</sup>
24. Article 91 of the Islamic Penal Code, introduced through the revision of the Islamic Penal Code in 2013, grants judges discretion to impose the death penalty or an alternative punishment on a minor defendant, based on the judge’s determination of the minor’s maturity at the age of the offense and the nature of the offence.<sup>28</sup> Importantly, while the Islamic Penal Code provides for alternative punishments for juveniles, offenses punishable by *qisas* (retribution in kind) and *hudud* (punishments under Islamic law (*Shari’a*) that are mandated and fixed by God) are exceptions to this “alternative punishments” rule, and almost all juvenile offenders executed over the past 9 years were sentenced to death based on *hudud* and *qisas* charges.<sup>29</sup>

**25. Suggested questions relating to juvenile executions:**

- What measures has the State taken to ensure that the alternative punishment provisions in Article 91 of the Islamic Penal Code apply to *hudud* and *qisas* offences?
- What measures has the State taken to amend the Islamic Penal Code to halt imposition of the death penalty for persons who are convicted of committing a crime while under 18 years of age?
- Please provide data about the number of people under sentence of death for crimes committed while under the age of 18, the number of such people who have been executed during the reporting period, and the ages of each of those people at the time of the execution.

**VI. The State conducts executions in public, in violation of Article 7 of the ICCPR. (Concluding Observations paragraph 12)**

26. Iran continues the practice of public executions, including in the presence of minors. Authorities often publicize public executions in advance and these executions are often held in public or residential spaces.<sup>30</sup>
27. One public execution was reported in 2020 and no public executions in 2021, the lowest number of public executions recorded since 2006 when Iran Human Rights started its

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<sup>26</sup> Human Rights Committee, *Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, due in 2014* (Aug. 23, 2021) U.N.Doc. CCPR/C/IRN/4, ¶ 27.

<sup>27</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 32.

<sup>28</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 32.

<sup>29</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 71; see Section VI of this document for further discussion on the *qisas* death sentence.

<sup>30</sup> The Advocates for Human Rights, The World Coalition Against the Death Penalty, Iran Human Rights, Impact Iran, and ECPM, *Islamic Republic of Iran’s Compliance with International Covenant on Civil and Political Rights Treaty: Suggested List of Issues Prior to Reporting* (Minneapolis, USA, June 2020), ¶¶ 21-23.



systematic monitoring of executions in Iran. The coauthors have no indication that the decline in the number of public executions was the result of policy change, but rather a consequence of the COVID-19 pandemic restrictions.

28. Following calls from Islamic Republic officials,<sup>31</sup> five men were sentenced to public *qisas* execution for the murder of police officers in the first months of 2022. Iman Sabzikar in Shiraz,<sup>32</sup> Mohamad Ghaedi and Sadegh Mahmoudi in Isfahan,<sup>33</sup> an unnamed man in Lorestan,<sup>34</sup> Dariush Rahimi in Khorasan Razavi.<sup>35</sup> Iman Sabzikar was publicly executed at the location of the alleged murder on July 23, just five months after arrest.<sup>36</sup>
29. The Government of Iran justified the occasional use of public execution in its State Report by noting that in instances of crime that have “severely hurt the public sentiment or led to widespread insecurity, the execution of the death penalty in public can have a serious deterrent effect on the recurrence of such crimes.”<sup>37</sup> As the Committee has noted, such executions violate Article 7.

**30. Suggested questions relating to public executions:**

- Please provide data concerning the number of public executions over the reporting period, along with measures taken by authorities to ensure that children do not witness executions.
- What policies are in place to regulate whether and under what circumstances the media may document public executions?
- What measures is the State taking to end the practice of public executions?

**VII. The State subjects people suspected of crimes and convicted of crimes to torture and other cruel, inhuman, or degrading treatment. (Concluding Observations paragraphs 14, 19)**

31. Iranian authorities often use torture and cruel, inhuman, or degrading treatment prior to trial to coerce confessions and they also engage in such practices after conviction within detention facilities. In death penalty cases, confessions are the State’s most common means for proving guilt.<sup>38</sup>

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<sup>31</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021*, 64-65.

<sup>32</sup> Iran Human Rights, “Iran Supreme Court Upholds Public Execution for Iman Sabzikar” accessed August 8, 2022, <https://iranhr.net/en/articles/5339/>.

<sup>33</sup> Iran Human Rights, “Iran Human Rights Warns Against Resumption of Public Executions in Iran” accessed August 8, 2022, <https://iranhr.net/en/articles/5151/>.

<sup>34</sup> Iran Human Rights, “Third Public Execution Sentence Issued in Fortnight” accessed August 8, 2022, <https://iranhr.net/en/articles/5213/>.

<sup>35</sup> Iran Human Rights, “Fourth Man Sentenced to Public Execution for Murder of Policeman in 2 Months” accessed August 8, 2022, <https://iranhr.net/en/articles/5159/>.

<sup>36</sup> Iran Human Rights, “Iran Resumes Public Executions After Two Years; Iran Human Rights Calls for International Condemnations” accessed August 8, 2022, <https://iranhr.net/en/articles/5366/>.

<sup>37</sup> Human Rights Committee, *Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, due in 2014* (Aug. 23, 2021) U.N.Doc. CCPR/C/IRN/4, ¶ 36.

<sup>38</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 38; The Advocates for Human Rights, The World Coalition Against the Death Penalty, Iran Human Rights, Impact Iran, and ECPM,

32. The Islamic Republic has used “televised confessions” as a propaganda tool aimed at creating fear and justifying the heavy sentences handed down to its political opponents and activists, since its inception in 1979. Such confessions are extracted after physical or/and psychological torture, lengthy solitary confinement, threats or promises of reduction in the gravity of sentence.<sup>39</sup> The confessions are often aired following arrest, before legal proceedings have even commenced, after public protests to a sentence, or prior to the execution, as a means of reducing public backlash.<sup>40</sup> Dissident journalist Ruhollah Zam’s forced confessions were televised days after his kidnapping from Iraq, he was executed on 12 December 2020.<sup>41</sup> Also kidnapped from neighboring countries and currently on trial for security charges, dissidents Jamshid Sharmahd and Habib Chaab’s forced confessions were also aired several times before their legal proceedings had reached the trial stage.<sup>42</sup> Following an international public backlash against protester Navid Afkari’s death sentence, his forced confessions obtained under torture were aired on national television. He was executed in Shiraz Central Prison on 12 September 2020.<sup>43</sup> Kurdish political prisoner Heydar Ghorbani’s forced televised confessions were aired the night prior to his execution on 19 December 2021 in Sanandaj Prison.<sup>44</sup>
33. On May 15, 2021, the Government of Iran executed Behzad Adl on charges of adultery by force and reluctance, despite Adl’s denial of all charges in court and allegations that law enforcement had coerced a confession from him through torture. Adl unsuccessfully appealed his sentence to the Supreme Court. Further, two of the complainants were willing to forgive Adl prior to execution, which under *qisas* could have commuted his sentence. From initial arrest to execution, Adl’s case lasted 11 months.<sup>45</sup>
34. People detained at Evin Prison continue to be the subject of cruel and inhumane treatment, including severe beatings, solitary confinement, and lack of medical attention.<sup>46</sup> The January 2020 Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran provides a harrowing assessment of the human rights concerns arising from conditions in the State’s prisons and detention centers. In the report, the Special Rapporteur details continuing concerns regarding the State’s publicizing of forced confessions, prolonged use of solitary confinement (particularly at Evin Prison), denial of access to medical care, or medical treatment being made conditional upon confession and restrictions on family visitation as a means of punishment.<sup>47</sup>

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*Islamic Republic of Iran’s Compliance with International Covenant on Civil and Political Rights Treaty: Suggested List of Issues Prior to Reporting* (Minneapolis, USA, June 2020), ¶¶ 25-29.

<sup>39</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2020* (2021), 36.

<sup>40</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 39.

<sup>41</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2020* (2021), 37, 47-48.

<sup>42</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 40, 92-93.

<sup>43</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 37-38 and 43-44.

<sup>44</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 45-46.

<sup>45</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 47.

<sup>46</sup> Amnesty International, *Justice is an Alien Word: Ill-Treatment of Political Prisoners in Evin Prison*, May 15, 2014, available at <https://www.boroumandfoundation.org/library/document/2614> (accessed April 24, 2020).

<sup>47</sup> Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, U.N. Doc. A/HRC/43/61 (Jan. 28, 2020). [<https://undocs.org/en/A/HRC/43/61>]

**35. Suggested questions relating to use of torture, forced confessions, and inhumane detention conditions:**

- What is the State doing to: (a) investigate and remediate each case of alleged torture and cruel, inhuman, or degrading treatment in detention facilities; and (b) hold accountable the perpetrators of such acts?
- What measures is the State taking to ensure that any person accused of a crime has access to counsel during all phases of investigation and interrogation and to ensure that no official uses torture or cruel, inhuman, or degrading treatment to extract confessions or other incriminating testimony?
- How does the State ensure that no such coerced or forced “confession” is accepted as evidence in court, except against a person accused of torture or other ill-treatment as evidence that the “confession” or other statement was made?
- What measures are in place to facilitate a system of regular and genuinely independent monitoring of places of detention, with the aim of ensuring that conditions of detention conform to articles 7 and 10 of the ICCPR, and to the Nelson Mandela Rules?
- Please describe the extent to which the State provides systematic training to law enforcement, prosecutors, investigators, prison officials, and judicial officers regarding human rights as a standard component of curricula, covering the topics of the prohibition of torture, effective interrogation techniques, conditions of detention and the treatment of detainees.

**VIII. The State fails to provide people accused of crimes with equal protection and due process under the law. (Concluding Observations paragraphs 17-18, 21-22)**

36. The State fails to respect due process rights—such as access to a legal counsel, specific arrest warrants, the right to be free from incommunicado detention, and the right to be free from judicial abuse of power—despite protections in both the Constitution and the Criminal Procedure Code, including in capital cases. Both the Constitution and the Criminal Procedure Code address a suspect’s right to a lawyer generally.<sup>48</sup> A note in the Criminal Procedure Code, however, severely limits the right to counsel in serious criminal cases and cases involving charges commonly used against political prisoners, requiring the person accused of a crime to select counsel from a list of attorneys approved by the Head of the Judiciary.<sup>49</sup> As more fully explained below, the Head of the Judiciary is not an impartial or independent arbiter. Under this rule, the person accused of a crime cannot access an attorney of their choosing during the critical investigation phase, when the person is at risk of torture and coerced confessions.<sup>50</sup> Iran Human Rights reports that none of the

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<sup>48</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 34.

<sup>49</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 34-35.

<sup>50</sup> The Foreign Policy Centre, *Iran Human Rights Review: Due Process*, eds. Tahirih Danesh and Mahmood Amiry-Moghaddam (fpc.org.uk: The Foreign Policy Centre, 2017), 22. Available online at <https://fpc.org.uk/wp-content/uploads/2017/02/IHRR-Due-Process.pdf>.

persons convicted and sentenced to death in any of the cases it has researched had access to a lawyer in the initial phase following their arrest.<sup>51</sup>

37. The Revolutionary Courts are responsible for most of the death sentences issued and carried out in the last 10 years and their judges are known for abusing their powers, including routinely denying individuals access to attorneys.<sup>52</sup> There are no independent mechanisms for ensuring independence and accountability within the judiciary, and in particular, within the Revolutionary Courts.<sup>53</sup>
38. The Head of the Judiciary is selected by and must report to the Supreme Leader.<sup>54</sup> Additionally, all judges selected by the Head of the Judiciary as well as the Supreme Court Chief Justice are selected based on their ideological affiliation and political background.<sup>55</sup> Iran's judiciary thereby operates as an extension of the Supreme Leader's political authority.<sup>56</sup>
39. This lack of independence is particularly concerning because judges are permitted to make a determination of guilt in the absence of confessions or eyewitness testimony based exclusively on the judge's opinion, known as *elm-e qazi* or "knowledge of the judge."<sup>57</sup> While *elm-e qazi* is supposed to derive from evidence, IHRNGO notes instances in which judges have applied *elm-e qazi* arbitrarily.<sup>58</sup> Judges can also declare *los* where there is insufficient evidence solely on their belief of the defendant's guilt, giving the victim's next of kin the right to *qassameh*. *Qassameh* is based on swearing an oath on the Quran by a certain number of the victim's family. In murder cases, 50 male members of the victim's family are required to make a *qassameh*. It is important to note that the people who swear in *qassameh* ceremonies are not required and are not usually direct witnesses to the crime.<sup>59</sup> Iran Human Rights recorded two *qassameh* executions in 2021<sup>60</sup> and one in 2022.<sup>61</sup>
40. Iran Human Rights has also recorded cases of death penalty defendants being executed while their legal proceedings were still ongoing. Iran Human Rights reported that the Government of Iran executed Heydar Ghorbani in December 2021, without notice to his family and lawyer, while the Supreme Court was still adjudicating his case under Article 477 of the Criminal Procedure Code (judicial review). Ghorbani's lawyer noted that Ghorbani had not confessed in his original trial, though officials forced Ghorbani to confess on national television the night before his execution.<sup>62</sup> The case of Khezr Ghavidel was under appeal when he was executed for drug-related charges in Urmia Central Prison on

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<sup>51</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 35.

<sup>52</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021*, 36-37.

<sup>53</sup> European Parliament Resolution 2019/2993(RSP), ¶ G, Doc. P9\_TA(2019)0112 (Dec. 19, 2019). Also available online at [https://www.europarl.europa.eu/doceo/document/TA-9-2019-0112\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/TA-9-2019-0112_EN.pdf).

<sup>54</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 20.

<sup>55</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 34.

<sup>56</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 34.

<sup>57</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 38.

<sup>58</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2019* (2020), 23.

<sup>59</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 38.

<sup>60</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 38 and 54-55.

<sup>61</sup> Iran Human Rights "Unnamed Man Executed in Rajai Shahr Prison Based on Qassameh" accessed August 8, 2022, <https://iranhr.net/en/articles/5084/>.

<sup>62</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 45-46.

10 September 2020. Ten months after his execution, the Supreme Court overturned his death sentence.<sup>63</sup>

41. Further, as Iranians are not equal before the law, the application of legal procedures in Iran is arbitrary and not uniformly applied. For example, men have more rights than women, Muslims have more rights than non-Muslims, and *Shia* Muslims have more rights than *Sunni* Muslims.<sup>64</sup>

**42. Suggested questions relating to lack of due process:**

- What measures has the State taken to ensure that all arrest warrants contain the names of the accused and are based on a judge's independent review of material evidence? Relatedly, what provisions are in place to release detainees who have been held based on general and blanket arrest warrants, in the absence of evidence?
- What safeguards are in place to prevent authorities from subjecting suspects to incommunicado detention? What measures has the State taken to establish oversight and accountability to ensure compliance with fair trial standards?
- What measures has the State taken to ensure that pretrial detention is not prolonged in law and in practice, particularly through independent judicial supervision of detention and timely access to counsel?
- What steps is the State taking to ensure that all arrested persons are permitted access to legal counsel of their choice at all stages of the investigation and legal proceedings, and how does the State investigate and respond to allegations that people are being denied access to counsel?
- What procedures and policies are in place to ensure that all legal proceedings are conducted in full accordance with article 14 of the ICCPR, including guaranteeing (a) the right to legal assistance of one's own choosing, including for pretrial detainees; (b) the right to be informed promptly of the nature and cause of the criminal charges; (c) the intervention and presence of lawyers in all cases, including during the investigation stage; (d) the presumption of innocence; (e) the right to a public hearing; and (f) the right to appeal a ruling?
- How does the State ensure and protect the full independence and impartiality of the judiciary and guarantee that the judiciary is free to operate without pressure and interference from the executive and clergy?
- How does the State ensure that judges, in interpreting legislation and in relying on religious and other principles, do not reach verdicts that are in contravention of the rights and principles as laid down in the ICCPR?

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<sup>63</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021 (2022)*, 52.

<sup>64</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021 (2022)*, 34.

**IX. The State targets human rights defenders advocating against the death penalty. (Concluding Observations paragraph 24)**

43. Anti-death penalty advocates have faced harassment, arrest, and prison sentences for their peaceful anti-death penalty advocacy.<sup>65</sup>

44. In June 2021, a draft bill was passed in the Islamic Consultative Assembly (Parliament), which approved, will make reporting on human rights violations including the death penalty, a capital offense.<sup>66</sup>

**45. Suggested questions related to human rights defenders:**

- Please clarify whether under Iranian law peaceful advocacy against the death penalty can be considered collusion against national security or propaganda against the State.
- Please describe the steps Iran is taking to allow and facilitate a public and open debate on 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.
- What is the status of the draft bill that would make reporting on human rights violations a capital offense?

**X. The State indirectly encourages arbitrary killings by retaining the *qisas* death sentence for murder in the Islamic Penal Code.**

46. *Qisas* refers to retribution in kind for murder and is one of the most common charges the State used against individuals executed in 2019.<sup>67</sup> *Qisas*—which the State considers a private right beyond its control—has become codified in the Islamic Penal Code because of its basis in Islamic law (*Shari'a*).<sup>68</sup>

47. By forcing the victim's family to decide the defendant's fate, the State is evading responsibility and is now using it to justify the execution of protesters and other political defendants whose executions would otherwise be unjustifiable. Notably, protesters Mostafa Salehi and Navid Afkari were both sentenced to *qisas* for the murder of state officials without any evidence.<sup>69</sup>

48. Crucially, those charged with the umbrella term of “intentional murder” are sentenced to *qisas* (retribution-in-kind) regardless of intent (*mens rea*) or circumstances due to a lack of

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<sup>65</sup> The Advocates for Human Rights, The World Coalition Against the Death Penalty, Iran Human Rights, Impact Iran, and ECPM, *Islamic Republic of Iran's Compliance with International Covenant on Civil and Political Rights Treaty: Suggested List of Issues Prior to Reporting* (Minneapolis, USA, June 2020), ¶¶ 42-43.

<sup>66</sup> Iran Human Rights “Draft Bill Targeting Citizen Journalists Passed in Iran Parliament” accessed August 5, 2022, <https://iranhr.net/en/articles/4766/>.

<sup>67</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2019* (2020), 18 and 27.

<sup>68</sup> The Advocates for Human Rights, The World Coalition Against the Death Penalty, Iran Human Rights, Impact Iran, and ECPM, *Islamic Republic of Iran's Compliance with International Covenant on Civil and Political Rights Treaty: Suggested List of Issues Prior to Reporting* (Minneapolis, USA, June 2020), ¶¶ 45-51.

<sup>69</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2020* (2021), 41-44.

grading in law. While it is difficult to quantify the numbers due to a lack of transparency, an amendment to include grading would drastically reduce the number of executions.

49. Between 2010 and 2019, there were at least 1,467 *qisas* executions, with a dramatic increase in such executions beginning in 2013.<sup>70</sup> In 2018 and 2019, *qisas* executions were the most common category of executions, with an increase of 37 such executions between 2019 and 2018 (225 *qisas* executions were carried out in 2019, up from 188 in 2018).<sup>71</sup> Of these 2019 *qisas* executions, 68 were conducted in a single prison, 15 of the people executed were women, 4 of the people executed were juveniles at the time of the offence, and 6 of the executions were public hangings.<sup>72</sup> To achieve a significant reduction in the use of the death penalty, Iran must change the *qisas* law and related practice.<sup>73</sup>
50. In 2020 and 2021, there was a slight reduction in the number of *qisas* executions, with 211 and 183 executions, respectively. Of the 2021 *qisas* executions, only 40 were reported by official sources, 39 were carried out in a single prison, 12 of the individuals executed were women and only two were announced by official sources, and two of the individuals executed were under the age of 18 at the time of the offense.<sup>74</sup>
51. On September 8, 2021, prison officials executed Ali Mardan Boland Gerami under *qisas* for allegedly causing the death of his wife. His wife had died in her sleep and a forensic pathologist reported her cause of death as internal bleeding, stating that there was only a 50 percent chance that it was caused by a beating despite no evidence of trauma on her body. At trial, the judge held that there was insufficient evidence of guilt, but that he believed Gerami to be guilty of his wife's death (*los*). A *qassameh* ceremony was then held in which 50 male members of Gerami's wife's family swore that Gerami was guilty, although none of them alleged to have witnessed Gerami beating his wife. Gerami was then sentenced to *qisas* and courts upheld his conviction and sentence on review.<sup>75</sup>
52. Should the victim's family choose to implement retribution, they are not only encouraged to attend the executions, but to personally carry them out by pulling the proverbial stool from under their feet. In 2021, Maryam Karimi and Zahra Esmaili, two women who were both victims of domestic violence and sentenced to *qisas* for the murder of their husbands, were personally executed by their own children as next of kin to their fathers.<sup>76</sup>
53. *Qisas* also permits the murder victim's family to demand *diya* (blood money) rather than a retributive death sentence. The State determines the indicative amount of *diya* each year, but crucially does not set a cap or upper limit, nor does the State currently subsidize the *diya* for people who have been convicted but who do not have an ability to pay.<sup>77</sup> The absence of an upper limit allows the victim's family to demand an amount that is many times greater than the minimum amount set by the State. As a result, an accused person may face discrimination based on their socio-economic status. Moreover, the absence of an upper limit operates as a bar to State subsidization of the *diya* for accused persons who

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<sup>70</sup> *Id.*, 34.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

<sup>73</sup> *Id.*, 54.

<sup>74</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 53.

<sup>75</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 54.

<sup>76</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 76-77.

<sup>77</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 99-100.

cannot afford to pay.<sup>78</sup> Recent examples of those who were executed because they could not afford the *diyya* include Ali Akbar Mohammadi,<sup>79</sup> Mehrab Salehi<sup>80</sup> and Mohammad Bameri.<sup>81</sup>

54. *Qisas* laws further permit the murder victim's family to grant forgiveness to the offender. While being "against" *qisas* is considered a serious crime under Iranian law, Islam considers forgiveness a good deed.<sup>82</sup> The option to grant forgiveness without being subject to criminal prosecution for opposing *qisas* provides an opportunity for Iranians to counter the death penalty by promoting forgiveness. An increasing number of civil society groups and their sympathizers have promoted the "forgiveness movement," which has gained momentum over the past few years and has resulted in the removal of death sentences for 705 people in 2021 (compared to 183 *qisas* executions),<sup>83</sup> 662 people in 2020 (compared to 211 *qisas* executions)<sup>84</sup> and 374 people in 2019 (compared to 225 *qisas* executions).<sup>85</sup>
55. The Islamic Penal Code exempts the following situations or people from the mandatory death sentence of *qisas*: (a) father and paternal grandfather of the victim (IPC, Article 301); (b) a man who kills his wife and her lover in the act of adultery (IPC, Article 302); (c) Muslims, followers of recognized religions, and "protected persons" who kill followers of unrecognized religions or "non-protected persons" (IPC, Article 301); (d) killing of a person who has committed a *hudud* offense punishable by death (IPC, Article 302); and (e) killing a rapist (IPC, Article 302).<sup>86</sup> This law results in discriminatory treatment, for example, as Article 301 states "*qisas shall be established...if the victim is same and has the same religion as the culprit. Note: If the victim is Muslim, the non-Muslim status of the culprit shall not prevent qisas.*"
56. Arguments for retaining the *qisas* death sentence include the concern that if an accused person pays a *diyya* or forgiveness is granted, a dangerous individual who committed murder will be released into the community after serving only a short prison sentence. It is believed that this concern inhibits some victim's families from choosing *diyya* or granting forgiveness. Iranian authorities could alleviate this concern by requiring a prison term for any person who has been forgiven by the victim's family or who otherwise cannot afford to pay the *diyya*.<sup>87</sup>

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<sup>78</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 99-100.

<sup>79</sup> Iran Human Rights "Possible Juvenile Offender Ali Akbar Mohammadi Executed in Neshabour" accessed August 7, 2022, <https://iranhr.net/en/articles/5010/>.

<sup>80</sup> Iran Human Rights "Probable Juvenile Offender Mehrab Salehi Executed After Failing to Pay €50k Blood Money" accessed August 8, 2022, <https://iranhr.net/en/articles/5211/>

<sup>81</sup> Iran Human Rights "Baluch Mohammad Bameri Executed After Failing to Pay 33k Blood Money" accessed August 8, 2022, <https://iranhr.net/en/articles/5207/>.

<sup>82</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 99-100.

<sup>83</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 58.

<sup>84</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2020* (2021), 65.

<sup>85</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2019* (2020), 38.

<sup>86</sup> Iran: Islamic Penal Code Articles 301 and 302, 20 November 1991, available at: <https://www.refworld.org/docid/518a19404.html> (accessed 21 April 2020).

<sup>87</sup> Iran Human Rights and ECPM, *Annual Report on the Death Penalty in Iran 2021* (2022), 99-100.



**57. Suggested questions relating to *qisas* executions:**

- What measures has the State taken to consider amending the Islamic Penal Code to abolish the *qisas* mandatory death penalty for persons convicted of murder?
- What measures has the State taken to introduce gradations with respect to intentional killings, so as to recognize distinctions in culpability between manslaughter and murder, for example?
- What measures has the State taken to ensure that the *qisas* system does not result in the arbitrary deprivation of life for persons accused of murder?
- What policies and procedures are in place to ensure that the implementation of the *qisas* death sentence is not applied in a discriminatory manner?
- How is the State working to educate the public about the deed of forgiveness?
- What efforts are in place to establish an upper limit on blood money (*diya*) rates and subsidization of such rates?