



Iran
Stakeholder Report for the United Nations Universal Periodic Review

Submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status
The World Coalition Against the Death Penalty,
and
Iran Human Rights

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Founded in 1983, **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 (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 member of the Steering Committee of the World Coalition Against the Death Penalty and member of Impact Iran.

I. EXECUTIVE SUMMARY

1. “[L]ack of due process is one of the most important obstacles for any improvement in the situation of the human rights in Iran, rendering this matter a top priority in any attempt to reform the country’s approach to human rights.”¹ This report addresses fair trial and other due process concerns pertaining to the death penalty in Iran. Those human rights violations include coerced confessions, lack of access to counsel, vaguely defined capital crimes, absence of an impartial and independent judiciary, and unfair trials, as well as the crackdown on defense attorneys and anti-death-penalty activists.
2. There are many other human rights violations related to the death penalty in Iran, including the execution of persons for crimes committed while under the age of 18, conditions of detention, cruel and inhuman execution methods, and discrimination, among others. Another joint stakeholder report submitted by another coalition of human rights organizations addresses those issues in greater detail.
3. The case studies and statistics in this stakeholder report are derived primarily from the annual reports produced by Iran Human Rights (IHR). IHR’s reports include “official” executions, including executions announced on the official websites of the Iranian judiciary, the Iranian police, the National Iranian Broadcasting Network, official or State-run news agencies, and national or local newspapers, as well as unofficial executions confirmed by IHR through unofficial channels and communications. IHR includes unofficial executions in its reports only if they are confirmed by two independent sources.²

II. BACKGROUND AND FRAMEWORK

A. Iran’s 2014 Universal Periodic Review

4. Iran received 41 recommendations relevant to the death penalty during its second Universal Periodic Review in 2014.
1. *Death penalty*

Status of Implementation: Not Accepted, Not Implemented

5. Iran received several recommendations to ratify the Second Optional Protocol to the ICCPR,³ as well as many recommendations to adopt an official moratorium on the death penalty, abolish the death penalty, or limit the application of the death penalty.⁴ Iran noted all but one of these recommendations.
6. Iran partially accepted Italy’s recommendation to “[b]an executions of juvenile offenders, while at the same time providing for alternative punishments in line with the new Iranian Penal Code,” adding that “full implementation of some of these recommendations is contrary to our constitution, basic laws and Islamic values.”⁵

2. *Death penalty for drug-related offenses*

Status of Implementation: Not Accepted, Partially Implemented

7. Spain recommended that Iran “[a]mend the Penal Code to exclude drug-trafficking related crimes from those punished by the death penalty.”⁶ Iran noted this recommendation. Nonetheless, in 2017 Iran amended the Anti-Narcotics law to restrict the use of the death penalty for some drug-related offenses.

3. *Fair trial*

Status of Implementation: Accepted, Not Implemented

8. Iran accepted a recommendation from the Russian Federation that it “[c]ontinue to improve the national legislation and practice in the field of the independence of the judiciary” and a recommendation from Mexico that it “[t]ake measures to ensure due process and fair trial, particularly in any process that would lead to the application of the death penalty.”⁷ Iran partially accepted several other recommendations relating to fair trial rights and due process, adding that “full implementation of some of these recommendations is contrary to our constitution, basic laws and Islamic values.”⁸

B. Domestic Legal Framework

9. The Iranian constitution recognizes the right to life. Article 22 of Chapter III of the Constitution of the Islamic Republic of Iran states, “Dignity, life, property, rights, domicile and occupations of people may not be violated, unless sanctioned by law.”

Crimes punishable by death

10. The Islamic Penal Code (IPC), as amended in 2013, identifies a wide variety of crimes punishable by death. The two major categories of offenses relevant to the death penalty are *hudud* and *qisas*. *Hudud* offenses are crimes specifically mentioned in the Quran. *Qisas* refers to retribution in kind, thereby making murder eligible for the death penalty.
11. In practice, murder, drug-related offenses, rape, *Moharebeh*, and corruption on earth are the crimes that most often result in executions.⁹ After peaking in 2015 at 642, the number of executions for drug-related offenses dropped dramatically to 24 in 2018, subsequent to amendments to the Anti-Narcotics law.¹⁰

• ***Hudud* offenses**

12. *Moharebeh* (waging war against God): In Article 279, the IPC defines a *mohareb* as a person who fights God, including taking up arms in certain cases. Under Article 281, relevant crimes include banditry, robbery, and smuggling while armed. Article 282 calls for the death penalty for *moharebeh* crimes but authorizes judges to impose alternate punishments.¹¹
13. Corruption on earth and rebellion: “Corruption on earth” (*Ifsad fel Arz*) is defined in Article 286 of the IPC as “commit[ing] a crime on an extensive level against the physical integrity of others or domestic or external security, spread[ing] lies, disrupt[ing] the national economic system, undertak[ing] arson and destruction, disseminat[ing] poisonous, microbiological and dangerous substances, establish[ing] corruption and

prostitution centres or assist[ing] in establishing them.” The IPC does not define “crime” or “extensive.”

14. As introduced in 2013 amendments, “rebellion” under Article 287 includes being a member of any group that stages armed uprising against the Islamic Republic of Iran, and Article 287 calls for the death penalty for this crime.
 15. Apostasy and other religious offences: Article 262 calls for the death penalty for cursing the Prophet of Islam or certain other prophets. Unlike the previous IPC, the 2013 IPC does not expressly mention apostasy. But under Sharia law the punishment for apostasy is death, and as discussed in greater detail below, Article 167 of the Constitution allows judges to impose the death penalty for conduct that the IPC does not expressly criminalized.
 16. Sexual offences: The IPC calls for the death penalty for males who engage in a variety of sexual offenses, including incest and various kinds of fornication.¹² It also calls for the death penalty by stoning for adultery between married parties.¹³ In the case of same-sex sexual relations among men, the IPC calls for the death penalty for a “passive party” and for a Muslim “active party” if the latter is married or has forced the sexual act.¹⁴ The IPC also calls for the death penalty for any non-Muslim “active party.”¹⁵
 17. Repeat offences: Article 136 of the IPC calls for the death penalty the fourth time a person is convicted and punished for a *hudud* offense. The relevant crimes include theft (Article 278), and also appear to include fornication, adultery, sodomy, same-sex conduct among women, pimping, cursing the prophets, theft, drinking alcohol, making false accusations of sodomy or fornication, *moharebeh*, corruption on earth, and rebellion.¹⁶
- ***Qisas* offenses**
18. The IPC authorizes the death penalty for murder, as a *qisas* (retribution in kind) offense, but exempts certain persons from *qisas* and therefore from the death penalty. The following exemptions encourage so-called honor killings as well as vigilanteism:
 - the father and paternal grandfather of the victim (IPC Art. 301);
 - a man who kills his wife and/or her sexual partner in the act of adultery (IPC Art. 302);
 - Muslims and followers of other recognized religious who kill followers of unrecognized religions (Art. 310);
 - any person who kills a person who has committed a *hudud* offense punishable by death (Art. 302);
 - any person who kills a rapist (Art. 302).¹⁷
 19. The family of a murder victim may demand retribution or, in lieu of retribution, may demand blood money or simply grant forgiveness.¹⁸
 20. Other than the exceptions outlined above, punishment for murder is mandatory and courts are not permitted to consider mitigating factors such as the offender’s age or the character or circumstances of the crime.¹⁹

- ***Additional offenses punishable by death***

21. As discussed below, the IPC also authorizes judges to impose criminal penalties, including the death penalty, for conduct that is not expressly defined as criminal in the IPC.
22. Amendments to Iran's Anti-Narcotics law took effect on 14 November 2017 and restrict application of the death penalty for drug-related offenses. The amendments adjust upward the minimum quantities of drugs that warrant a death sentence, but also add vaguely defined aggravating factors that trigger a death sentence, regardless of drug quantity.²⁰ For offenses meeting the minimum quantity threshold or involving an aggravating factor, however, the death penalty remains mandatory.²¹ A 2015 order authorized for the first time the right to appeal to the Supreme Court in cases resulting in a death sentence for drug-related offenses.²²
23. The amendments to the Anti-Narcotics law also apply retroactively, specifying that the sentences of persons already sentenced to death under the previous law could be commuted to up to 30 years in prison and a fine, if the conditions currently warranting a death sentence were not present.²³

Iran's criminal justice system

24. **Access to counsel:** Article 35 of the Iranian Constitution recognizes a person's right to access an attorney. The Criminal Procedure Code, as amended in 2015, outlines a suspect's right to counsel before trial. Article 48 of the CPC states, "When a suspect is arrested, he or she can request the presence of an attorney. The attorney, observing the secret nature of the investigation and the negotiations between the parties, should meet with the suspect. At the end of the meeting, which should not last more than one hour, the attorney may submit his or her written notes to be included in the case file."²⁴
25. Suspects accused of certain crimes, however, must select their attorney from an approved list. An amended note to Article 48 of the CPC states, "In cases of crimes against internal or external security, and in cases involving organized crime, . . . during the investigation phase the parties to the dispute are to choose their attorneys from a list approved by the Head of the judiciary."²⁵ As of June 2018, that list includes 20 attorneys approved for defending suspects in security and political cases.²⁶
26. Article 28 of the Constitution prohibits all forms of torture and coerced confessions.²⁷ The IPC prohibits confessions extracted under duress or torture and such confessions are inadmissible in court.²⁸ Article 171 of the IPC, however, states, "if an accused person confesses to the commission of an offence, his or her confession shall be admissible and there is no need for further evidence."²⁹ Article 360 of the CPC states that convictions can be issued on the basis of voluntarily given confessions alone.³⁰
27. **Structure of the judicial system:** As relevant to the death penalty, Iran has two parallel court systems that can sentence persons to death. As described below, judges in both systems lack independence and impartiality. Ordinary criminal courts handle death-eligible crimes such as murder and rape, while Revolutionary Courts hear cases involving national security, corruption on earth, and drug-trafficking. As discussed below, Revolutionary Courts lack the transparency and procedural safeguards present in ordinary courts.

28. Over the period of 2015 to 2018, Revolutionary Courts implemented 1,345 executions while ordinary criminal courts implemented 951. The Revolutionary Courts may be playing a declining role in executions, however. In 2018, they implemented just 62 executions, compared with 211 in criminal courts. Amendments to the Anti-Narcotics law account for this shift.³¹

III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Right or area 2.1. Acceptance of international norms

29. Iran has not signed or ratified the Convention Against Torture.

Right or area 3.2. Cooperation with special procedures

30. The Iranian Government has not granted access to Iran to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran,³² but has expressed intent to engage with the Special Rapporteur in a constructive dialogue.³³

Right or area 12.3. Extrajudicial, summary or arbitrary executions

31. Exemptions to *qisas* (retribution in kind) encourage so-called honor killings and vigilante killings.³⁴ As paragraph 18 notes, exemptions from *qisas* include murder when committed by the victim's father or paternal grandfather and murder when committed by a husband when the victim is his wife if she is engaging in adultery. These provisions may be contributing to the increased number of so-called honor killings in Iran.³⁵ Moreover, a person is exempt from *qisas* if the offender kills a person who has committed a *hudud* offense punishable by death—an exemption that encourages individuals to take the law into their own hands.³⁶

Right or area 12.4. Death penalty

32. Iran does not limit the death penalty to the “most serious crimes,” as required by international human rights law.³⁷ Of particular concern with respect to due process are vaguely defined crimes such as *Moharebeh* (waging war against God) and “corruption on earth.”³⁸ Those crimes accounted for 13.9% of all executions in 2018, twice as many as in 2017,³⁹ including “people affiliated with Kurdish political parties, religious minorities and victims of Iran's new policy to fight economic corruption.”⁴⁰
33. Several people were executed in July 2018 under charges of corruption on earth and rebellion for participating in 2017 ISIS attacks in Tehran, but some of the persons executed were reportedly sentenced to death simply for having information about the operation or providing the attackers with logistical support.⁴¹
34. The human rights violations described in the following two sections are particularly relevant in cases in which a defendant may be sentenced to death. All of the case studies provided below are cases in which the defendant was sentenced to death.

Right or area 12.5. Prohibition of torture and cruel, inhuman or degrading treatment

35. The Special Rapporteur in 2019 expressed “concer[n] that there is a strong institutional expectation to extract confessions, which does not facilitate an environment conducive to fair trials.”⁴²

36. “The use of torture to extract confessions is widespread in Iran.”⁴³ IHR reports that “all the death row prisoners IHR has been in contact with [in 2018] have testified that they were subjected to torture in order to confess to the crime with which they were charged.”⁴⁴ According to reports collected by IHR, persons “arrested for drug offences are systematically subjected to torture during the weeks after their arrest.”⁴⁵ Similarly, *qisas* cases are often characterized by the use of torture to extract confessions.⁴⁶ For example, several reports suggest that Mohammad Salas was tortured before and during his arrest as well as after his first trial.⁴⁷ After he was executed, officials transferred his remains hundreds of kilometers for burial, and they denied his family’s request for a coroner examination to determine whether he had been tortured.⁴⁸ In August 2016, Iranian authorities executed 25 Kurdish prisoners, many of whom had been subjected to torture to extract forced confessions.⁴⁹
37. Children are also sentenced to death based on confessions extracted through torture and ill-treatment. For example, in 2018 Zeinab Sekaanvand was reportedly coerced into confessing that she had killed her husband when she was 17 years old, and she was executed later that year despite recanting her confession. Ali Reza Tajiki confessed to murder at the age of 15 after reportedly being tortured, and he was executed in 2017. He also recanted his confession.⁵⁰
38. In security-related cases, brought primarily against political dissidents, Iranian authorities sometimes broadcast confessions on television before the court renders a verdict.⁵¹
39. Individuals accused of capital crimes are sometimes subjected to prolonged solitary confinement. For example, after his arrest in June 2017, Iranian Kurdish political prisoners Ramin Hossein Panahi was held in solitary confinement for 200 days before being brought to trial.⁵² “Almost all prisoners who are arrested for drug offenses have been kept in solitary confinement and subjected to physical torture in the investigation phase following their detention, while being denied access to a lawyer.”⁵³ Ahmadreza Djalali, whose case is discussed in greater detail in paragraph 48, was denied access to an attorney for seven months, three of which Djalali spent in solitary confinement.⁵⁴ His death sentence was upheld in December 2017.⁵⁵
40. Confessions extracted under torture are sometimes the sole basis for the court’s verdict. The IPC expressly allows that a confession alone can be used to form the basis for a conviction, regardless of other available evidence.⁵⁶ According to IHR, “[i]n many cases, confessions provided during detention have been the only evidence available for the judge to base his verdict upon.” In other cases, coerced confessions are used to bolster cases with flimsy evidence.⁵⁷

Right or area 15.1. Administration of justice & fair trial

41. IHR observes that “lack of due process is probably the biggest obstacle to significant improvements in the human rights situation and the situation of the death penalty in particular.”⁵⁸

Access to counsel

42. Access to counsel is restricted, particularly in capital cases, despite the legal provisions described in paragraphs 24-25. In a comprehensive report of all executions carried out in

2018, for example, IHR reported that “none of those sentenced to death, regardless of the charges . . . , had access to a lawyer in the initial phase after their arrest.”⁵⁹

43. In some cases, access to counsel is entirely lacking. For example, Ramin Majidifar Hosseini was arrested on 16 August 2018 and executed on 9 October 2018—his family reported that he had no access to a lawyer and no one was aware of the judicial process that led to his execution.⁶⁰ In some cases access to counsel is so limited as to be almost entirely ineffective; a number of persons sentenced to death for drug-related offenses reported that they had not even met their public defender before trial.⁶¹
44. As discussed above, individuals charged in national security and political cases must select their attorney from a list of 20 attorneys approved by the Head of the Judiciary.⁶² These restrictions also apply in economic corruption cases.⁶³ The environmentalists described below in paragraph 48 were denied access to an attorney of their choosing.⁶⁴
45. The right to counsel and coerced confessions are often intertwined. For example, individuals charged with drug-related offenses often “have no access to a lawyer while in detention and by the time the lawyer enters the case they have already ‘confessed’ to the crime.”⁶⁵ Mohammad Salas was arrested after the protests of Gonabadi dervishes in February 2018, and executed in June of the same year. The criminal court issued its verdict less than two months after Salas’ arrest, and he had no contact with his lawyer during his first trial.⁶⁶ In Revolutionary Courts, “judges routinely deny attorneys access to individuals who are subjected to extensive interrogations under severe conditions.”⁶⁷
46. Even when a defendant has access to counsel, trials are often conducted so quickly that the attorney does not have sufficient time to conduct an independent investigation into the evidence.⁶⁸

Vaguely defined crimes

47. Persons may be sentenced to death for conduct that is not expressly defined as a crime in the IPC. Article 220 of the IPC states that, “in the absence of [codified] law, . . . a judge may invoke Article 167 of the Constitution to pronounce *hudud* punishments “on the pretext of the silence or deficiency of law in the matter, or its brevity or contradictory nature.”⁶⁹ Individuals have been prosecuted and sentenced to death for apostasy under this provision.⁷⁰
48. Revolutionary courts often rely on the vaguely defined crime of “corruption on earth” when the available evidence and definitions of other crimes would otherwise make a death sentence difficult to justify.⁷¹ For example, Ahmadreza Djalali was arrested during a visit to Iran in April 2016 on charges of “collaboration with a hostile state” due to his work at the Karolinska Institute in Stockholm. He was tried and sentenced to death in October 2017.⁷² In October 2018, four members of the Persian Wildlife Heritage Foundation were charged with “corruption on earth” for “seeking proximity to military sites using the cover of environmental projects and obtaining military information from them.”⁷³ Prior to the indictment, Iranian officials confirmed that investigators had not been able to find any evidence of spying⁷⁴—the charges of “corruption on earth” were apparently used instead. Karim Zargar was arrested in October 2015 on charges of corruption on earth for allegedly establishing a “fake spiritual institution,” reportedly because his spiritual beliefs violated the official religious interpretation of Islam.⁷⁵ In

2016, Iranian authorities executed Mohammad Abdollahi for *moharebeh* based solely on the accusation that he was a supporter of a Kurdish opposition group.⁷⁶ As noted in paragraph 32 above, the number of persons executed for corruption on earth and *moharebeh* is increasing.

49. As of August 2018, Economic Corruption Courts, a subdivision of the Revolutionary Courts, are authorized to sentence people to death for economic “corruption on earth.”⁷⁷ In establishing the courts, Supreme Leader Ali Khamenei directed the Head of Judiciary that punishments for economic corruption should be “carried out swiftly and justly.”⁷⁸ In November 2018, two people were executed on accusations of manipulating the currency market.⁷⁹ Another defendant charged with economic corruption was sentenced to death in October 2018 and executed two months later.⁸⁰

Unfair trials

50. The Iranian judiciary is not impartial or independent. Under Article 157 of the Iranian Constitution, the Supreme Leader appoints the Head of the Judiciary, who is the highest authority within the judicial system, and the Head of the Judiciary must be a *Mojtahed*, i.e., a man with the highest level of expertise in Shi’ite Islamic jurisprudence.⁸¹ The Head of the Judiciary serves at the pleasure of the Supreme Leader, and through him the Supreme Leader directly controls the judicial branch.⁸² The Head of the Judiciary may exercise discretion to remove a judge from a case if he does not approve of the judgement.⁸³ He may also invalidate a court verdict approved by the Supreme Court if he deems that the verdict contradicts Shari’a law.⁸⁴
51. The Head of the Judiciary appoints additional judges. According to IHR, these appointments are often based on “beliefs, political position and allegiance to the establishment.”⁸⁵ The Head of the Judiciary has the authority to promote, transfer, or dismiss judges, giving subordinate judges little room to exercise their discretion and act independently.⁸⁶ According to the former Special Rapporteur, “[j]udges are also subjected to intensive investigation and questioning by various bodies, including security services, regarding their beliefs and political leanings.”⁸⁷
52. Revolutionary Courts lack many of the procedural safeguards present in ordinary criminal courts. Supreme Leader Khomeini established these courts as a temporary measure in 1979 to deal with officials of the former regime and drug offenses, but they continue to operate to this day and have carried out the majority of death sentences in the last five years.⁸⁸ The Special Rapporteur has observed that “judges presiding over revolutionary courts are often unduly influenced by, or work closely with, security and intelligence units to prosecute political dissidents.”⁸⁹ Several prominent lawyers and jurists in Iran have questioned the constitutionality of these courts and have called for their dissolution.⁹⁰
53. The Special Rapporteur in 2017 observed that “[v]iolations of the rights to fair trial and due process are systematic” in the Revolutionary Courts.⁹¹ Revolutionary courts are characterized by lack of transparency and closed proceedings.⁹² The Special Rapporteur noted that “[l]egal representation is denied during the investigation phase, . . . many trials last only a few minutes, and no evidence other than confessions extracted through torture is considered for the imposition of a death sentence.”⁹³ In some cases defendants have not been allowed to present a defense.⁹⁴ In August 2016, for example, 25 Kurdish prisoners

were executed after trials lasting less than 15 minutes, during which they were not allowed to present a defense.⁹⁵ The same month, Ali Reza Madadpur was executed subsequent to a 20-minute trial for him and three co-defendants.⁹⁶ In 2015, six Sunni Kurdish prisoners were executed after having been sentenced to death subsequent to 10-minute trials during which they were denied access to counsel.⁹⁷ The directive establishing Economic Corruption Courts requires the defendant to file an appeal within 5 days and prohibits judges from considering mitigating circumstances to reduce or suspend a punishment.⁹⁸

54. The Special Rapporteur also noted that “lawyers are often refused access to information,”⁹⁹ and Revolutionary Courts deny access “on the basis of confidentiality, or the fact that the lawyers have insufficient ‘qualifications’ to review certain files.”¹⁰⁰ In some cases defense counsel is not allowed to be present at trial.¹⁰¹
55. The IPC allows courts to consider “evidence” based on the judge’s personal opinion. Based on *elm-e qazi*, or “knowledge of the judge,” if the case lacks sufficient evidence the judge may render a verdict of guilty based on his exclusive opinion.¹⁰² That opinion must be derived from “evidence, including circumstantial evidence, and not merely personal belief that the defendant is guilty of the crime,” but in some cases *elm-e qazi* appears to be applied in an arbitrary manner.¹⁰³ Ehsan Ba’I Lashaki was executed in May 2016 after being sentenced to death for rape based on the “judge’s knowledge,” despite being denied access to an attorney at all stages of the proceedings.¹⁰⁴ His trial reflected additional evidentiary irregularities, including the victim’s retraction of incriminating claims.¹⁰⁵
56. Unfair trials are also commonplace in the ordinary criminal courts. “[T]here are many reports on the violation of due process in *qisas* cases. Use of torture to extract confessions and hasty trials without sufficient time to conduct independent investigation of the evidence are examples of such practice.”¹⁰⁶ Paragraphs 35-40 above discuss the use of torture to extract confessions.
57. The Secretary General has expressed concern about the use of *qassameh*, which is contrary to the presumption of innocence.¹⁰⁷ Iranian law allows courts to rely on *qassameh*, (sworn oath) to find a person guilty and issue a death sentence.¹⁰⁸ If a judge determines that there is not sufficient evidence but believes that the defendant is most likely guilty, the judge may obtain *qassameh* from a certain number of persons who swear that the defendant committed the crime. The persons performing the *qassameh* are often not witnesses to the crime itself, but are relatives of the victim.¹⁰⁹ Article 340 of the IPC “specifies that the judge is not required to investigate the source of these men’s knowledge about the guilt of an accused.”¹¹⁰ In 2017, at least two people were executed for murder based solely on *qassameh* by the victim’s family members. One of the defendants insisted on his innocence and told the court that he could prove that he had been in another city at the time of the murder. He was sentenced to death and executed in 2017 based on *qassameh* of 50 male members of the victim’s family.¹¹¹

Unfair trials for foreign nationals

58. Foreign nationals appear to be particularly likely to be subjected to unfair trials. At least 16 foreign nationals were executed in Iran in 2018.¹¹² The Special Rapporteur and the Working Group on Arbitrary Detention concur that many cases involving foreign

nationals “follow a familiar pattern, which includes, inter alia, arrest and detention outside of legal procedures, lengthy pretrial detention, denial of access to legal counsel, prosecution under vaguely worded criminal offences with inadequate evidence to support the allegations, torture and ill-treatment, and denial of medical care.”¹¹³

Post-trial procedural unfairness

59. In some cases, individuals are executed before their appeals are exhausted. For example, Ramin Hossein Panahi was executed on 8 September 2018 while his appeal process was still pending.¹¹⁴
60. In some cases, the attorney of a person sentenced to death is not notified before the execution takes place, particularly in political and security-related cases. Iranian law requires that the defendant’s lawyer receive 48 hours’ notice prior to execution.¹¹⁵ Ramin Hossein Panahi’s attorney did not receive notice of his September 2018 execution, which took place while his appeal process was still pending.¹¹⁶ Similarly, Karim Zargar’s attorney was also not informed of the date of his execution, which took place in early 2018.¹¹⁷ The attorney of juvenile offender Samad Zahabi did not receive the required 48-hour notice before Zahabi’s execution in 2015.¹¹⁸
61. Implementation of the Anti-Narcotics law provisions about commutation of sentences is not transparent. As discussed in paragraph 22 above, the Anti-Narcotics law allows for resentencing of some persons previously sentenced to death, including commutation of some death sentences. But Iranian authorities have not been transparent about the number of commutation requests received, considered, or granted.¹¹⁹ Some judges with significant dockets involving drug-related offenses appear to be overwhelmed by large commutation caseloads.¹²⁰ Moreover, at resentencing some judges appear not to take into account the underlying quantities of drugs; one judge resentedenced two defendants to 30 years in prison—one for 200 grams of heroin and another for 40 kilograms of heroin.¹²¹
62. IHR has received reports of corruption in the context of commutation cases. For example, some individuals have reported that the judge hearing the commutation request asked the family of the accused for bribes in order to review the case.¹²²

Right or area 36. Human rights defenders

63. Iranian authorities are engaging in a systematic crackdown on lawyers, particularly defense lawyers in capital cases.¹²³ As the UN Secretary-General has noted, “the continued arrests and treatment of lawyers [may] risk undermining the right to an effective defence and the administration of justice.”¹²⁴ “Lawyers who choose to defend prisoners facing security or political charges face significant risks and challenges, which in turn may influence how they defend their clients.”¹²⁵ The Abdorrahman Boroumand Center for Human Rights in Iran has created a timeline documenting 40 years of persecution of attorneys in Iran.¹²⁶
64. A few days after officials executed Mohammad Salas, authorities arrested his attorney, Zeynab Taheri.¹²⁷ Taheri had been representing Ahmadreza Djalali, an Iranian-Swedish physician sentenced to death on charges of “espionage and collaboration with enemies.”¹²⁸ According to Taheri’s husband, Intelligence Ministry authorities had previously threatened her and asked her to abandon Djalali’s case.¹²⁹ After holding Taheri incommunicado for more than one month, authorities released her on bail in July

2018 pending trial for “publishing lies with intent to disturb the public opinion” and “spreading propaganda against the system.”¹³⁰

65. Similarly, other human rights defenders opposing the death penalty have been imprisoned for their activism:

- In March 2019, lawyer and human rights defender Nasrin Sotoudeh was sentenced to 33 years’ imprisonment and 148 lashes, including 7.5 years for “being a member of the anti-death penalty group LEGAM (Step by Step to Stop Death Penalty)^[131]” and delivering a speech in favor of abolition in front of the UN building in Tehran.¹³²
- In 2016, Narges Mohammadi was sentenced to 10 years imprisonment for “founding an illegal group,” based on her involvement with LEGAM. She was also sentenced to 6 years in prison for “gathering and colluding to commit crimes against national security” and “spreading propaganda against the system.”¹³³
- In 2015, a Revolutionary Court sentenced Atena Daemi to 14 years in prison for “gathering and colluding to commit crimes against national security,” “spreading propaganda against the system,” and “insulting the Supreme Leader” for various activities, including writing social media posts criticizing Iranian authorities’ execution record, painting anti-death-penalty slogans on walls, distributing leaflets opposing the death penalty, and participating in a peaceful protest against a 2014 execution.¹³⁴ A court of Appeal subsequently reduced her sentence to 7 years.¹³⁵
- In 2015, a Revolutionary Court sentenced Golrokh Ebrahimi Iraei to 6 years in prison for “insulting the sanctity and distributing propaganda against the system” for various activities, including condemning the death penalty and signing petitions against the death penalty.¹³⁶

IV. RECOMMENDATIONS

66. This stakeholder report suggests the following recommendations for the Government of the Islamic Republic of Iran:

- Ratify the Convention Against Torture.
- Impose a moratorium on the death penalty with a view to its eventual abolition.
- In the absence of a moratorium, restrict the use of the death penalty to the “most serious” crimes, such as murder, and eliminate the death penalty for other offenses not entailing an intentional killing, such as adultery, homosexuality, and drug-related offenses.
- In the absence of elimination of the death penalty for drug-related offenses, eliminate the mandatory death penalty for such offenses and afford judges discretion to impose alternate penalties.
- Ensure that all defendants in capital cases, including defendants accused of crimes against national security, are assured access to counsel of their choosing all subsequent stages of the investigation and judicial process.
- Amend the Islamic Penal Code and the Criminal Procedure Code to ensure that confessions alone are not sufficient evidence for a finding of guilt.

- Amend the Islamic Penal Code to prohibit judges from using *qassameh* to determine guilt in capital cases.
- Amend the Islamic Penal Code to eliminate vague offenses characterized as *Moharebeh*, “corruption on earth,” and rebellion and to ensure that all such crimes that are subject to the death penalty are the “most serious” crimes under international human rights standards.
- Ensure that prompt, thorough, and effective investigations are undertaken by independent and impartial bodies into all reports of torture or other ill-treatment and that those responsible are held accountable.
- Dissolve the Revolutionary Courts, consistent with the recommendations of the Working Group on Arbitrary Detention and the Special Rapporteur on the human rights situation in Iran.
- Ensure that any use of solitary confinement in pre-trial detention is consistent with the Nelson Mandela Rules and does not interfere with access to counsel.
- Repeal the amendment to Article 48 of the Criminal Procedure Code that limits a defendant’s choice of counsel.
- Dedicate sufficient resources to ensure that judicial authorities carry out the commutation provisions of the 2017 amendments to the Anti-Narcotics law, ensure legal assistance that all persons eligible for commutation, and publish annual data about the number of commutation requests received, considered, and approved.
- Cease prosecution and harassment of human rights defenders expressing opposition to the death penalty and of attorneys representing individuals charged with capital offenses, and release all persons detained for legitimately and peacefully exercising their rights to freedom of expression.
- Continue constructive engagement with the Special Rapporteur on the situation of human rights in Iran by extending an invitation for a country visit.

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² Iran Human Rights, Annual Report on the Death Penalty in Iran 2018 (2019), at 9, available at https://iranhr.net/media/files/Rapport_iran_2019-GB-BD.pdf [hereinafter IHR 2018 Annual Report].

³ U.N. Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran*, UN Doc. A/HRC/28/12 (22 Dec. 2014), □ 138.2 (Benin, Portugal); □ 138.6 (Sierra Leone).

⁴ *Id.* □ 138.144.145 (Switzerland), .146 (Canada), .147 (Luxembourg), .148 (Cyprus), .149 (Belgium), .150 (Australia), .151 (Belgium), .152 (Czech Republic), .153 (Hungary), .154 (Iceland), .155 (Ireland), .156 (Italy), .157 (Lithuania), .158 (Luxembourg), .159 (Norway), .160 (Paraguay), .161 (Spain), .162 (United Kingdom), .163 (Macedonia), .164 (Uruguay), .165 (Argentina), .166 (Austria), .167 (Costa Rica), .168 (Estonia), .169 (France), .170 (Germany), .171 (Italy), .172 (Latvia), .173 (Montenegro), .174 (Poland), .175 (Portugal), .176 (Germany), .178 (Slovakia), .179 (Slovenia), .180 (Israel).

⁵ *Id.* □ 138.156; U.N. Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran, Addendum*, UN Doc. A/HRC/28/12/Add.1 (2 Mar. 2015), □ 7(b).

⁶ U.N. Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran*, UN Doc. A/HRC/28/12 (22 Dec. 2014), ¶ 138.144.

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⁸ U.N. Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran, Addendum*, UN Doc. A/HRC/28/12/Add.1 (2 Mar. 2015), ¶ 7(b).

⁹ IHR 2018 Annual Report, *supra* note 2, at 22.

¹⁰ *Id.* at 27.

¹¹ *Id.* at 14.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Id.* at 15.

¹⁷ *Id.* at 14-15.

¹⁸ *Id.* at 33.

¹⁹ Human Rights Council, *Situation of human rights in the Islamic Republic of Iran, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, UN Doc. A/HRC/40/67, 30 Jan. 2019, ¶ 8.

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²¹ Human Rights Council, *Situation of human rights in the Islamic Republic of Iran, Report of the Secretary-General*, 8 Feb. 2019, UN Doc. No. A/HRC/40/24, ¶ 4.

²² Behrouz Javid-Tehrani, *Fair Trials for the Accused in Drug-Related Offences*, IRAN HUMAN RIGHTS REVIEW (Feb. 2017), available at http://www.ihr.org/ihr_article/dueprocess-en_fair-trials-for-the-accused-in-drug-related-offences/.

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²⁴ *Id.* at 18.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Human Rights Council, *Situation of human rights in the Islamic Republic of Iran, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, UN Doc. A/HRC/40/67, 30 Jan. 2019, ¶ 13.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ IHR 2018 Annual Report, *supra* note 2, at 35.

³² See, e.g., Human Rights Council, *Situation of human rights in the Islamic Republic of Iran*, 15 March 2019, UN Doc. A/HRC/40/L. 15.

³³ Human Rights Council, *Situation of human rights in the Islamic Republic of Iran, Report of the Secretary-General*, 8 Feb. 2019, UN Doc. No. A/HRC/40/24, ¶ 66.

³⁴ Kamyar Behrang, *Extrajudicial Killings Supported by Law and Islamic Jurisprudence*, IRAN HUMAN RIGHTS REVIEW (Feb. 2017), available at http://www.ihr.org/ihr_article/dueprocess-en_extrajudicial-killings-supported-by-law-and-islamic-jurisprudence/.

³⁵ IHR 2018 Annual Report, *supra* note 2, at 15.

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- ³⁶ Behrang, *supra* note 34.
- ³⁷ Human Rights Council, *Human rights situations that require the Council's attention, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, UN Doc. A/HRC/37/68, 5 Mar 2018, ¶ 17.
- ³⁸ *Iran 2017/2018, Death Penalty*. Amnesty International (Mar. 2019), available at <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/>.
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- ⁴¹ *Id.* at 25.
- ⁴² Human Rights Council, *Situation of human rights in the Islamic Republic of Iran, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, UN Doc. A/HRC/40/67, 30 Jan. 2019, ¶ 13.
- ⁴³ IHR 2018 Annual Report, *supra* note 2, at 9; see also Human Rights Council, *Human rights situations that require the Council's attention, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran**, UN Doc. A/HRC/37/68, 5 Mar 2018, ¶ 23.
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- ⁴⁶ *Ibid.*
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- ⁴⁸ IHR 2018 Annual Report, *supra* note 2, at 33; Abdorrahman Boroumand Center for Human Rights in Iran, Memorial: Omid, a memorial in defense of human rights in Iran: Mohammadreza Salas Babajani, <https://www.iranrights.org/memorial/story/-8267/mohammadreza-salas-babajani> (last visited 27 March 2019).
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- ⁵⁰ Human Rights Council, *Situation of human rights in the Islamic Republic of Iran, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, UN Doc. A/HRC/40/67, 30 Jan. 2019, ¶ 55; Abdorrahman Boroumand Center for Human Rights in Iran, Memorial: Omid, a memorial in defense of human rights in Iran: Ali Reza Tajiki <https://www.iranrights.org/memorial/story/-8069/ali-reza-tajiki> (last visited 27 March 2019).
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- ⁵⁴ Iran Human Rights, Annual Report on the Death Penalty in Iran 2017 (2018), at 15, available at https://iranhr.net/media/files/Rapport_iran_2018-gb-090318-MD2.pdf.
- ⁵⁵ *Ibid.*
- ⁵⁶ Human Rights Council, *Situation of human rights in the Islamic Republic of Iran, Report of the Secretary-General*, 8 Feb. 2019, UN Doc. No. A/HRC/40/24, ¶ 12.
- ⁵⁷ IHR 2018 Annual Report, *supra* note 2, at 18.
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- ⁶¹ Behrouz Javid-Tehrani, *Fair Trials for the Accused in Drug-Related Offences*, IRAN HUMAN RIGHTS REVIEW (Feb. 2017), available at http://www.ihr.org/ihr_article/dueprocess-en_fair-trials-for-the-accused-in-drug-related-offences/.
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- ⁶⁴ *Id.* ¶ 38.
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- ⁷² *Ibid.*
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- ⁷⁴ Human Rights Council, *Situation of human rights in the Islamic Republic of Iran, Report of the Secretary-General*, 8 Feb. 2019, UN Doc. No. A/HRC/40/24, ¶ 38.
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- ⁷⁸ *Ibid.*
- ⁷⁹ *Id.* at 26.
- ⁸⁰ *Ibid.*
- ⁸¹ IHR 2016 Annual Report, *supra* note 49, at 33.
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- ⁸³ Boroumand, *supra* note 82.
- ⁸⁴ *Ibid.*
- ⁸⁵ IHR 2016 Annual Report, *supra* note 49, at 33.
- ⁸⁶ *Ibid.*; Ahmed Shaheed, *Due Process Violations Form the Core of Iran's Human Rights Crisis*, IRAN HUMAN RIGHTS REVIEW (Feb. 2017), available at http://www.ihr.org/ihr_article/dueprocess-en_due-process-violations-form-the-core-of-irans-human-rights-crisis/; *Iran 2017/2018, Unfair Trials*. Amnesty International (Mar. 2019), available at <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/>.
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- ⁸⁸ IHR 2018 Annual Report, *supra* note 2, at 18, 35.
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