



**Response to the request from the Office of the High Commissioner for Human Rights for information concerning developments since 1 April 2016 with regard to the question of the death penalty**

**for the Secretary General's report to the Human Rights Council at its thirty-ninth session**

**submitted by**

**The Advocates for Human Rights, a non-governmental organization in special consultative status**

**Iran Human Rights, a non-governmental organization  
and**

**Ensemble Contre la Peine de Mort, a non-governmental organization in special consultative status**

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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. Established in 1983, 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 publications. 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.

**Iran Human Rights** (IHR) is a non-governmental organization committed to the abolition of the death penalty in Iran as a step toward the universal abolition of the death penalty. Established in 2005, IHR fights for the abolition of the death penalty through monitoring, reporting, empowerment of Iranian civil society, and international advocacy. IHR promotes due process and the rule of law, by raising legal debate in Iran and encouraging legal reforms. IHR also defends human rights defenders, by creating safer working conditions, giving voice to imprisoned human rights defenders, and supporting human rights defenders in danger. IHR currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

**Ensemble Contre la Peine de Mort** (ECPM) is a non-governmental organization that acts to abolish the death penalty around the world. Established in 2000, ECPM seeks the universal abolition through the creation and dissemination of publications and teaching tools, as part of public campaigns and lobbies governments at both national and international levels. ECPM

currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty and is the founder and organizer of the World Congresses Against the Death Penalty.

## **I. Iran remained the country with the most executions per capita in 2017<sup>1</sup>**

1. Iran carried out at least 972 executions in 2015, 530 in 2016,<sup>2</sup> and 517 in 2017.<sup>3</sup>
2. Iran has carried out at least 28 executions so far in 2018,<sup>4</sup> compared with 168 during the same period in 2017.<sup>5</sup>
3. These figures, however, likely underestimate the actual number of executions, due to lack of official transparency and challenges to conducting independent research on human rights issues in Iran.

## **II. Major changes to Iran's drug laws may be reducing executions for drug-related offenses**

4. On October 18, 2017, Parliament passed a major change to the country's drug laws.<sup>6</sup> The amendments increased the minimum quantities for capital offenses from 5 to 50

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<sup>1</sup> Iran Human Rights and ECPM, "Annual Report on the Death Penalty in Iran 2017," [https://iranhr.net/media/files/Rapport\\_iran\\_2018-gb-090318-MD2.pdf](https://iranhr.net/media/files/Rapport_iran_2018-gb-090318-MD2.pdf). ("IHR and ECPM 2017 Report"), at page 4 and page 32.

<sup>2</sup> Iran Human Rights and ECPM, "Annual Report on the Death Penalty in Iran 2016," [https://iranhr.net/media/files/Rapport\\_iran\\_2016-GB-280317-BD.pdf](https://iranhr.net/media/files/Rapport_iran_2016-GB-280317-BD.pdf) ("IHR and ECPM 2016 Report"), at page 6.

<sup>3</sup> IHR and ECPM 2017 Report, *supra* note 1, at page 9.

<sup>4</sup> Iran Human Rights, "Execution of Four Prisoners Charged with Moharebeh," <https://www.iranhr.net/en/articles/3164/>; "Execution of an Afghan Citizen in Eastern Iran," <https://www.iranhr.net/en/articles/3169/>; "Iran: Juvenile Offender, Amir Hossein Pourjafar Executed Today," <https://www.iranhr.net/en/articles/3172/>; "Iran: One Prisoner Hanged in Rajai Shahr Prison," <https://www.iranhr.net/en/articles/3174/>; "Two Prisoners Executed in Northern Iran," <https://www.iranhr.net/en/articles/3181/>; "Iran: Prisoner Executed in Public (18+)," <https://www.iranhr.net/en/articles/3186/>; "Execution in Central Iran," <https://www.iranhr.net/en/articles/3187/>; "Prisoner Executed in Northern Iran," <https://www.iranhr.net/en/articles/3193/>; "Two Prisoners Executed in Central Iran," <https://www.iranhr.net/en/articles/3204/>; "Prisoner Executed at Iran's Shiraz Prison," <https://www.iranhr.net/en/articles/3206/>; "Execution of a Juvenile Offender in Iran," <https://www.iranhr.net/en/articles/3216/>; "Iran Executions: Third Juvenile Execution in a Month," <https://www.iranhr.net/en/articles/3218/>; "Iran Executions: At Least One Prisoner Hanged in Rajai-Shahr Prison," <https://www.iranhr.net/en/articles/3223/>; "Iran Executions: A Prisoner Executed in Zanjan," <https://www.iranhr.net/en/articles/3230/>; "Iran Executions: Karim Zargar, the Head of a Spiritual Institution, was Hanged," <https://www.iranhr.net/en/articles/3228/>; "Iran Executions: Five Prisoners Hanged in Four Cities," <https://www.iranhr.net/en/articles/3249/>; "Iran Executions: A Man Hanged in Khoy Central Prison," <https://www.iranhr.net/en/articles/3257/>; "Iran Executions: Two Prisoners Hanged in Public," <https://www.iranhr.net/en/articles/3259/>.

<sup>5</sup> See IHR and ECPM 2017 Report, *supra* note 1, at page 9.

<sup>6</sup> The Anti-Narcotics Law of the Islamic Republic of Iran, Article 45, *available in* IHR and ECPM 2017 Report, *supra* note 1, Appendix 1 at pages 40-41.

kilograms for producing or trafficking traditional drugs, such as opium, and from 30 grams to 2 kilograms for synthetic drugs like methamphetamine.<sup>7</sup>

5. The Iranian judiciary has also been instructed to review the cases of offenders already sentenced to death for drug-related offenses.<sup>8</sup>
6. Consideration of this law may have already had a salutatory effect. 2017 saw a 22% reduction in executions for drug-related offenses compared with 2016.<sup>9</sup> Moreover, 2017 marked the first year since 2014 that such executions accounted for less than 50% of annual executions.<sup>10</sup> There have been no reports of executions for drug-related offenses so far in 2018.<sup>11</sup>
7. However, for the first time since 2009, the number of executions for *Qesas* crimes exceeded those for drug charges with a 69% increase in *Qesas* executions.

### III. Juvenile Offenders

#### A. Iran's penal code permits the death penalty for juvenile offenders

8. Under the Iran Islamic Penal Code (IIPC), criminal responsibility depends on the offender having attained the age of maturity, defined as 9 lunar years for girls and 15 lunar years for boys.<sup>12</sup>

#### B. Iran's "differentiated criminal policy" fails to protect juvenile offenders from execution

9. The "differentiated criminal policy" allowing alternative sentences for juvenile offenders applies only to a narrow category of crimes, most of which do not usually carry the death

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<sup>7</sup> *Id.*

<sup>8</sup> "Circular by the Head of the Judiciary on the Implementation of the New Amendment to the Anti-Narcotics Law," dated January 6, 2018 *available in* IHR and ECPM 2017 Report, *supra* note 1, pages 42-44.

<sup>9</sup> *See* IHR and ECPM 2017 Report, *supra* note 1, at page 4.

<sup>10</sup> *Id.*, at page 12.

<sup>11</sup> Iran Human Rights, *supra* note 4.

<sup>12</sup> IIPC, Art. 146. <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html#32>; Ta'zir crimes incur punishments that are left to the discretion of the judges and which are not prescribed by Sharia law. These punishments include lashings, fines, and imprisonment. Qesas (which translates to 'retaliation') crimes are those which are punishable by retribution in kind, i.e. where the punishments are equivalent to the crime committed. These are usually crimes committed against the human body. The most common Qesas crime for which juvenile offenders in Iran are sentenced to death is murder. Hudud crimes are those which have fixed definitions and punishments under Sharia law. Hudud offences which carry the death penalty include adultery, rape and repeated convictions for same-sex sexual conduct (both gays and lesbians). The death penalty can also be imposed for certain broadly worded and vaguely defined Hudud offences, including 'corruption on earth' (efsad-e fel-arz) and 'enmity against God' (moharebeh). Amnesty International's 2016 report on "Growing Up on Death Row: The Death Penalty and Juvenile Offenders in Iran."

penalty. 2013 amendments to the IIPC introduced a “differentiated criminal policy” for juvenile offenders allowing courts to issue alternative sentences to offenders between the ages of 9 and 18 and place them in the care of social services or juvenile correctional facilities. However, it applies primarily to *Ta’zir* crimes that do not normally carry the death penalty. Juvenile offenders convicted of *Qesas* crimes or *Hudud* crimes—the crimes for which juvenile offenders are most often sentenced to death—do not benefit from this “differentiated criminal policy.”<sup>13</sup>

10. Moreover, offenders sentenced to death for murder or a capital *Hudud* crime cannot seek a pardon or commutation of the death sentence.<sup>14</sup>
11. Further, the IIPC revisions are entirely discretionary, and do not prohibit the death sentence for juvenile offenders.<sup>15</sup> The IIPC does not specify the procedure for determining mental maturity, and as a result, courts apply the amendments arbitrarily.<sup>16</sup> Re-sentencings under the amendments are ad hoc.<sup>17</sup>

**C. The number of juvenile offenders executed in Iran continues at an increasing pace**

12. Iran reportedly executes more juvenile offenders than any other country in the world.<sup>18</sup> In 2017, at least five juvenile offenders were executed.<sup>19</sup> Between April 2016 and January 2018, that figure was at least 10.<sup>20</sup>
13. In January 2018 alone, Iran reportedly carried out three executions of juvenile offenders.<sup>21</sup> Amir Hossein Pourjafar was executed when he was 15.<sup>22</sup> Ali Kazemi was

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<sup>14</sup> IIPC, Art. 146.

<sup>15</sup> IIPC, Art. 91. <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html#32>

<sup>16</sup> See IHR and ECPM 2017 Report, *supra* note 1.

<sup>17</sup> The Advocates for Human Rights and Iran Human Rights “Iran’s Compliance with Article 37(a) of the Convention on the Rights of the Child,” submitted for the 71<sup>st</sup> Session of the Committee on the Rights of the Child (Jan. 2016).

<sup>18</sup> See IHR and ECPM 2017 Report, *supra* note 1, at page 27.

<sup>19</sup> See IHR and ECPM 2017 Report, *supra* note 1.

<sup>20</sup> Human Rights Watch, “Iran: Three Child Offenders Executed,” <https://www.hrw.org/news/2018/02/07/iran-three-child-offenders-executed> (7 Feb. 2018); *Id.*; IHR and ECPM 2016 Report, *supra* note 2.

<sup>21</sup> *Id.*

<sup>22</sup> Iran Human Rights, “Iran: Juvenile Offender, Amir Hossein Pourjafar Executed Today” <https://iranhr.net/en/articles/3172/> (4 Jan. 2018).

executed for an alleged murder committed when he was 15.<sup>23</sup> Mahbubeh Mofidi was executed for the alleged murder of her husband when she was 17.<sup>24</sup>

14. Juvenile offenders executed during the period April 2016 – April 2018 (known cases):

	<b>Date of Execution</b>	<b>Name</b>	<b>Age at Time of Offence</b>	<b>Charge</b>
1.	May 24, 2016	Mehdi Rajai	16	Murder
2.	July 18, 2016	Hassan Afshar	16	Rape
3.	January 15, 2017	Arman BahrAsemani	16	Murder
4.	January 18, 2017	Hasan HasanZade	15	Murder
5.	May 23, 2017	Asghar	16	Murder
6.	July 15, 2017	Kabir Dehghanzahi	13	Drug Trafficking
7.	August 10, 2017	Alizera Tajiki	15	Murder-Rape
8.	January 4, 2018	Amir Hossein Pourjafar	15	Murder-Rape
9.	January 2018	Ali Kazemi	15	Murder
10.	January 30, 2018	Mahbubeh Mofidi	17	Murder

**D. Juvenile offenders remaining on death row are in danger of execution**

15. As of February 2018, approximately 80 juvenile offenders were on death row in Iran.<sup>25</sup> OHCHR has noted that a number of juvenile offenders remaining on death row “are also believed to be in danger of imminent execution in Iran.”<sup>26</sup>
16. Among those at risk is Mahomammad Kalhor, a student accused of stabbing his teacher at the age of 15. Although Kalhor was deemed to be mentally immature at the time of the crime according to the forensic report, he was sentenced to death in 2016. In 2017 the Supreme Court rejected the sentence and remanded the case. But in April 2018, Kalhor’s

<sup>23</sup> Iran Human Rights, “Execution of a Juvenile Offender in Iran” <https://iranhr.net/en/articles/3216/> (31 Jan. 2018)

<sup>24</sup> Iran Human Rights, “Iran Executions: Third Juvenile Execution in a Month” <https://iranhr.net/en/articles/3218/> (1 Feb. 2018).

<sup>25</sup> United Nations Human Rights Office of the High Commissioner (OHCHR), “Zeid urges Iran to stop violating international law by executing juvenile offenders,” <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22664&LangID=E> (16 Feb. 2018).

<sup>26</sup> *Id.*

lawyer reported that the Head of the Judiciary approved the sentence and sent it to the Sentence Implementation Branch.<sup>27</sup>

17. Abolfazl Chezani Sharahi was sentenced to death for a crime allegedly committed at the age of 14.<sup>28</sup> His execution, most recently scheduled for January 17, 2018, has been postponed at least four times.<sup>29</sup>
18. Hamid Hamidi, sentenced to death for a crime allegedly committed at the age of 17 following a trial reported to be “grossly unfair,” has been scheduled for execution five times and remains in imminent danger of execution.<sup>30</sup>

#### **IV. Imposition of Death Penalty on Offenders with Disabilities**

##### **A. Reported cases of persons with disabilities being sentenced to death**

19. Notwithstanding the lack of official information,<sup>31</sup> human rights organizations and news agencies have reported cases of the death penalty being imposed on persons with disabilities during 2017 and 2018:
  - a. On January 21, 2017, Ghabl Ali Bagher was executed at Urmia’s Central Prison. He was reportedly unable to move without a wheelchair and he had been detained in the prison’s clinic due to his “disabilities and illnesses.”<sup>32</sup>
  - b. On April 4, 2017, Morovat Abbasi, who had been diagnosed with a mental illness and had been exempt from mandatory military service, was found guilty of murder and executed at Tabriz Central Prison.<sup>33</sup>
  - c. On April 12, 2017, Rahman Hosseinpur, an inmate with a psycho-social disability who had been imprisoned in a psychotherapy ward, was found guilty of murder and executed at Tabriz Central Prison. A source close to his family was quoted as

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<sup>27</sup> Iran Human Rights, “Juvenile Offender, Mohammed Kalhor, in Imminent Danger of Execution” <https://iranhr.net/en/articles/3271/> (4 April 2018).

<sup>28</sup> Amnesty International, “Urgent Action: Teen Arrested at 14 Still At Risk of Execution” <https://www.amnesty.org/download/Documents/MDE1377452018ENGLISH.pdf> (19 January 2018).

<sup>29</sup> *Id.*

<sup>30</sup> OHCHR, *supra* note 25.

<sup>31</sup> Correspondence with Iran Human Rights, 10 April 2018, on file with The Advocates for Human Rights.

<sup>32</sup> Iran Human Rights, “Northwestern Iran: Four Prisoners Hanged”, 24 January 2017, last visited 10 April 2018, <https://iranhr.net/en/articles/2773/>

<sup>33</sup> Iran Human Rights, “Iran: Man Diagnosed with Mental Illness Hanged on Murder Charges”, 5 April 2017, last visited 10 April 2018, <https://iranhr.net/en/articles/2829/>

saying that he had a mental illness, that he had committed the murder in self-defense after being sexually abused.<sup>34</sup>

20. Iran's criminal justice system violates the rights of individuals with psycho-social and physical disabilities in several ways:<sup>35</sup>
  - a. Iranian law imposes arbitrary standards to determine "insanity." The opinion of the judge concerning the defendant's psycho-social disabilities plays an important part when adjudicating guilt, regardless of the existence of opinions of forensic pathologists.<sup>36</sup>
  - b. Individuals with psycho-social disabilities that manifest themselves during trial proceedings are at heightened risk of being sentenced to death. If the defendant is charged with more serious crimes, such as *Qesas* or certain other *Hudud* crimes, or if the case is of a private nature, such as murder, and the defendant becomes "insane" after the alleged criminal act but before the court delivers a verdict, the proceedings continue and the court does not accommodate the defendant's psycho-social disability.<sup>37</sup>
21. On 10 May 2017, the Committee issued its concluding observations on Iran's initial report on the implementation of the CRPD and stated that persons with disabilities, particularly persons with psycho-social and/or intellectual disabilities, may be at a greater risk of the death penalty due to a lack of procedural accommodations in criminal proceedings.<sup>38</sup> The Committee recommended that Iran take measures to replace the death penalty as a form of punishment and ensure that persons with disabilities are not subject to arbitrary deprivation of life.<sup>39</sup>

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<sup>34</sup> Iran Human Rights, "Iran: Prisoner with Mental Illness Executed on Murder Charges", 13 April 2017, last visited 6 April 2018, <https://iranhr.net/en/articles/2836/>

<sup>35</sup> The Advocates for Human Rights, The Abdorrahman Boroumand Foundation and The World Coalition Against the Death Penalty, "Iran's compliance with the Convention on the Rights of Persons with Disabilities: The Death Penalty", for the 17<sup>th</sup> session of the Committee on the Rights of Persons with Disabilities, 20 March 2017-12 April 2017, last visited 9 April 2018, [https://www.iranrights.org/attachments/library/doc\\_410.pdf](https://www.iranrights.org/attachments/library/doc_410.pdf) ("2017 CRPD alternative report").

<sup>36</sup> *Id.* at 13; correspondence with Iran Human Rights, 10 April 2018, on file with The Advocates for Human Rights.

<sup>37</sup> 2017 CRPD alternative report, at 5.

<sup>38</sup> Committee on the Rights of Persons with Disabilities, "Concluding Observations", 10 May 2017, p. 6, last visited 6 April 2018, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/IRN/CO/1&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/IRN/CO/1&Lang=En)

<sup>39</sup> *Id.*

## **B. The Bill for the Protection of the Rights of People with Disabilities postponed**

22. In December 2017, Parliament passed the outline of a bill designed to better protect the rights of people living with disabilities in the country.<sup>40</sup> Pursuant to Article 24 in an initial draft of the Bill, the Iran Bar Association, legal counseling centers, lawyers and judiciary experts, have to provide legal counseling and a lawyer for free, for all cases against persons with disabilities, or for any kind of legal issues they might have.<sup>41</sup> But Parliament early on stripped this provision from the bill.<sup>42</sup>
23. On January 20, 2018, Iran's Guardian Council, rejected the Bill.<sup>43</sup> The Council may return the Bill to Parliament for it to include some amendments.<sup>44</sup>

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<sup>40</sup> Centre for Human Rights in Iran, "Iran's Parliament Overwhelmingly Agrees to Begin Deliberating Disabilities Rights Bill", 22 December 2017, last visited 10 April 2018, <https://www.iranhumanrights.org/2017/12/irans-parliament-overwhelmingly-agrees-to-begin-deliberating-disabilities-rights-bill/>; Human Rights Watch, *Iran Country Summary*, January 2018, p. 6, last visited 6 April 2018, [https://www.justice.gov/sites/default/files/pages/attachments/2018/01/25/hrw\\_iran\\_2018.pdf](https://www.justice.gov/sites/default/files/pages/attachments/2018/01/25/hrw_iran_2018.pdf)

<sup>41</sup> Correspondence with Iran Human Rights, 10 April 2018, on file with The Advocates for Human Rights.

<sup>42</sup> *Id.*

<sup>43</sup> Center for Human Rights in Iran, "Guardian Council Rejects Bill That Could Protect Rights of People Living With Disabilities in Iran", 2 March 2018, last visited 9 April 2018, <https://www.iranhumanrights.org/2018/03/guardian-council-rejects-bill-that-could-protect-rights-of-people-living-with-disabilities-in-iran/>

<sup>44</sup> Correspondence with Iran Human Rights, 10 April 2018, on file with The Advocates for Human Rights.