



Input on “the imposition of the death penalty and its impact” to Special Rapporteur on extrajudicial, summary or arbitrary executions

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About Iran Human Rights (IHRNGO)

Founded in Norway in 2005, Iran Human Rights (IHRNGO) is a non-partisan and politically independent international human rights NGO with members inside and outside Iran. Iran Human Rights’ work is focused on the abolition of the death penalty, the rule of law, supporting human rights defenders, empowering civil society and promoting all human rights for all citizens.

Executive summary

Human rights violations of death row prisoners start from the moment of arrest in the Islamic Republic of Iran. Defendants are systematically denied access to legal representation in the investigation phase where they are often subjected to torture to force confessions, which will later be used as the proof of guilt. Lack of due process and fair trials, and inequality before the law are other aggravating factors in death penalty cases in the Islamic Republic of Iran. Furthermore, the application of the death penalty goes beyond the scope of “*most serious crimes*” and the “*absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment*” are systematically breached. Moreover, the laws themselves perpetuate the cycle of violence, which directly affect the prisoner and their family. Finally, there are no effective accountability mechanisms for victims to seek justice.

Qisas laws (retribution-in-kind for “intentional killing”) force the victim’s family as the private plaintiff, to choose whether the defendant should be executed and encourages them to watch and physically carry out the hangings. The impact becomes more layered in murder cases that occur within families and as 2021 cases demonstrate, can lead to children carrying out the execution of their parents. Uncapped *diya* sums (blood money paid by the perpetrator in lieu of a death penalty) are discriminatory by their very nature, with the poor regularly failing to raise the requisite amounts and being executed as a result. In political cases in particular, families of defendants are pressured and threatened to cooperate and stay silent. They are deprived of the right to mourn, and the bodies are either not returned or buried under security measures at a location determined by the authorities. Methods of hanging are not standard and in some cases, it can take up to 15 minutes for the prisoner to die of suffocation. There is also a serious lack of transparency in reporting death penalty cases. In 2021, only 16.5% of the 333 executions recorded by Iran Human Rights were reported by official sources.

1. Treatment of individuals sentenced to death, including conditions on death row and access to family members and legal representatives;

Upon arrest for capital punishment offences, rights of due process, a presumption of innocence, equality before the law and fair trials are systematically breached. Of the crimes most leading to the death penalty in the Islamic Republic of Iran, murder and rape are tried by the Criminal Courts while all drug-related and security-related charges (*efsad-fil-arz* or corruption on earth, *moharebeh* or enmity against God and *baghy* or armed rebellion) fall within the jurisdiction of the Revolutionary Courts. In both Courts, confessions are the first and most common method of proving guilt. While

Article 38 of the Iranian Constitution bans all forms of torture and forced confessions, all death row prisoners Iran Human Rights has been in contact with, have testified to being subjected to torture to confess to the crime they were charged with.

Access to legal representation:

Article 35 of the Iranian Constitution grants defendants access to legal representation. The 2013 Code of Criminal Procedure (CCP) and its 2015 amendments, address, among others, a suspect's right to access a lawyer in the pre-trial phase.¹ Article 48 of the CCP states that "*when a suspect is arrested, they can request the presence of a lawyer.*" However, a Note added to Article 48 in 2018 states that in serious criminal cases and those involving security charges, during the pre-trial investigation phase, defendants may only select lawyers from a list approved by the Head of Judiciary. This applies to defendants with security charges of *efsad-fil-arz* (corruption on earth), *moharebeh* (enmity against god) and *baghy* (armed rebellion). In both the Criminal and Revolutionary Courts, lawyers are denied access to case files, rendering them ineffective in defending their clients.

Conditions on death row:

Once a defendant's death sentence has been confirmed by the Supreme Court, they are held in death row wards. A prisoner can be held on death row for months, years, or decades, before their execution is carried out. They may be taken to the gallows multiple times before their execution, amounting to torture. Juvenile offender, Arman Abdolali was transferred seven times before being executed on 24 November 2021.² Juvenile offender Mohammadreza Hadadi spent 19 years behind bars for a crime he did not commit at 15³ before his conviction was overturned.⁴ Iran Human Rights published accounts about death row conditions in 2018.⁵ Wrongful executions are also not rare. Kheyr Ghavidel's death sentence for drug-related charges would have been commuted to 30 years imprisonment by the Supreme Court in July 2021⁶ if he had not been executed on 10 September 2020 while his appeal was still pending.⁷ The wrongful execution of Babak Rezaei who was executed for murder on 16 May 2018 in Ardabil Central Prison,⁸ did not come to light until two cousins were executed for the same charges on 6 February 2022.⁹

¹ <https://iranhrdc.org/amendments-to-the-islamic-republic-of-irans-code-of-criminal-procedure-part-1/>

² <https://iranhr.net/en/articles/4986/> and <https://iranhr.net/en/articles/4987/>

³ <https://iranhr.net/en/articles/4392/>

⁴ <https://iranhr.net/en/articles/5096/>

⁵ <https://iranhr.net/en/articles/3512/>

⁶ <https://iranhr.net/en/articles/4793/>

⁷ <https://iranhr.net/en/articles/4422/>

⁸ <https://iranhr.net/en/articles/3322/>

⁹ <https://iranhr.net/en/articles/5093/>

2. Impact of the death penalty on family members, including children of parents sentenced to death;

In order to analyse the impact of the death penalty on family members in Iran, it is necessary to distinguish between the application of the death penalty in general, and that of *qisas*, retribution-in-kind for murder. The key and relevant difference is that while all other death penalty cases are between the state and the defendant, retribution is considered the private right of the victim's family and the law requires them to decide whether the defendant should be executed or not. In 2018, Iran Human Rights published accounts of both the psychological and financial impact of the death penalty in general, on the families of those executed.¹⁰

In cases other than *qisas*, and in political cases in particular, families are pressured to force defendants into confessions and to keep them from publicising the case. In the case of Abbas Daris who was arrested in the November 2019 nationwide protests in Mahshahr with his younger brother Mohsen, their family were falsely told that he had been sentenced to death and they should seek to settle the *diya* amount with the victim's family. Abbas had not been sentenced to death in either his murder or *moharebeh* (enmity against God) charges but his wife sadly died of a stroke upon hearing the news.¹¹ When the case of protester Amirhossein Moradi who was also arrested at the November 2019 protests and sentenced to death on charges of *moharebeh*, caused a public backlash, his family came under intense pressure. As a result, his father sadly committed suicide. Amirhossein was denied furlough to attend his father's funeral.

Qisas (retribution-in-kind) for murder:

Under *sharia* law, an "intentional killing" is punishable by *qisas* or retribution-in-kind, a right granted to the victim's family as the next of kin. After a defendant has been found guilty of "intentional murder" by the Criminal Courts, the victim's family must decide whether they want retribution, to accept *diya* (bloody money) or to simply forgive. This has several implications for both the family of the defendant and that of the victim.

Psychological:

First, the responsibility is placed on the victim's family to decide whether the defendant should be executed, is in itself psychologically damaging. Should they decide to forgo their right to retribution through *diya* or forgiveness, they have to accept that the person who has murdered their loved ones and may be dangerous to society, may also only receive 3-10 year prison terms.

Second, the victim's family are not only encouraged to attend the executions, but to personally carry them out. In cases where the defendant and victim are related, family members are not only obliged to decide on execution for one another, but that they may be the ones to pull the proverbial stool from under their feet. Of the 12 women executed for murder in 2021, eight were found guilty of killing their husbands (five were confirmed domestic violence cases), a situation compounded by

¹⁰ <https://iranhr.net/en/articles/3512/>

¹¹ <https://iranhr.net/en/articles/5002/>

women not having the right to divorce.¹² The execution of two of the women, Maryam Karimi and Zahra Esmaili, were personally carried out by their own children as next of kin to their fathers.¹³

Third, *qisas* perpetuates the cycle of violence. Parviz Khodadi was executed on 18 January 2022 for the murder of another tribe's member. A tribal clash broke out after his funeral when four of Parviz's relatives who were all boys under 15, threw stones at the victim's family's house. According to Iran Human Rights sources, a man fired a gun from inside the house, killing Parviz's young cousin and injuring three others. Iran Human Rights published a video of the armed clash that ensued.¹⁴

Financial: When the victim's family do choose *diya* instead of retribution, life and death comes down to the defendant's financial means. While the Head of Judiciary sets an annual indicative amount for *diya* based on inflation and other considerations, the victim's family can choose their own amount. They can demand a lower or higher amount than the judiciary's indicative number but crucially, no upper limit is set. This year's *diya* which was determined in March 2022, was set at 600 million tomans (€20,000) for a Muslim man and 300 million tomans for a Muslim woman.

At 21, juvenile offender Ali Arjangi was given months to come up with a 1 billion tomans *diya*. At the time, he told Iran Human Rights that his mother who was a double-amputee and suffered ill-health, had sold their whole life and was only able to raise 200 million tomans.¹⁵ As his execution date loomed closer, Ali attempted suicide in desperation¹⁶ and needed 45 stitches.¹⁷ Ultimately, charitable organisations and individuals helped raise his *diya* amount.¹⁸ However, many are executed every year simply because they cannot afford the uncapped *diya* amounts set by their victims' families.

3. Information provided to individuals on death row, their families, and legal representatives in the lead-up to executions (e.g. date of execution, visits prior to the execution date, etc.)

According to Article 43(h) of the Regulations on carrying out executions, the prisoner's lawyer must be informed 48 hours prior to their execution.¹⁹ Article 35 states that the prisoner should also be informed so they can decide who they wish to see on their last visit. However, this is not always the case in practice. On 19 December 2020, Kurdish political prisoner Heydar Ghorbani was executed without notice to his family and lawyer, and his body secretly buried.²⁰ Heydar Ghorbani's case is not unique. A year prior, another Kurdish political prisoner, Hedayat Abdollahpour was also secretly executed and his family only informed after Iran Human Rights published news of his execution.²¹

¹² Women and the Death Penalty in Iran: 2010-October 2021:

https://iranhr.net/media/files/Women_and_the_Death_Penalty_2021.pdf

¹³ See page 76-77: https://iranhr.net/media/files/Annual_Report_on_the_Death_Penalty_in_Iran_2021.pdf

¹⁴ <https://iranhr.net/en/articles/5064/>

¹⁵ <https://iranhr.net/en/articles/4593/>

¹⁶ <https://iranhr.net/en/articles/4768/>

¹⁷ <https://iranhr.net/en/articles/4770/>

¹⁸ <https://iranhr.net/en/articles/4784/>

¹⁹ <https://www.ekhtabar.com/wp-content/uploads/2019/06/نحوه-اجرای-احکام-حدود-سلب-حیات-و-...pdf>

²⁰ <https://iranhr.net/en/articles/5046/>

²¹ <https://iranhr.net/en/articles/4294/>

4. Methods of execution, including existing safeguards to prevent physical pain and suffering;

Methods of execution:

The Islamic Penal Code (2013) prescribes several execution methods, including hanging, firing squads, crucifixion, and stoning. Hanging has been the main method of execution and the only method used from 2008 until 2020 when Hedayat Abdullahpour, a Kurdish political prisoner, was executed by firing squad in Oshnavieh Prison.²² No implemented stoning punishments have been reported since 2010. This is mainly due to the increasing international pressure in the decade prior, reaching its peak following the campaign to save Sakineh Ashtiani in 2010.²³ However, a directive issued by the Head of Judiciary in June 2019 gives a detailed description of how death sentences by hanging, stoning and crucifixion should be implemented.²⁴

Iran is one of few countries conducting executions in public spaces. Between 2010 and 2019 349 people were hanged publicly.²⁵ Due to the Covid-19 pandemic, only one public execution was carried out in Iran in 2020, the lowest number since 2006 when IHRNGO started its systematic monitoring of executions in Iran. In 2021, no public executions were recorded, raising hopes that this trend may continue beyond the pandemic. However, at the end of March 2022, quoting the Foulad Shahr Court Chief, state media reported that two men were sentenced to *qisas* (retribution-in-kind) for the murder of a security officer, to be carried out publicly at the location of the alleged crime.²⁶ In April 2022, citing the Khorramabad Public and Revolutionary Prosecutor, Mr Shahnavaand, state media reported that an unnamed man would be executed publicly after being sentenced to *qisas* for the murder of a police officer in Lorestan.²⁷

Physical pain and suffering

There are no safeguards to prevent the pain and suffering of those executed in the Islamic Republic of Iran. In the case of both public executions and those performed inside the prison, the prisoners are either pulled up by the crane or the object that they are standing on is removed from underneath them; however, the fall is not severe enough to cause dislocation of the neck and sudden death. In this case, the prisoners die of suffocation and strangulation and it often takes several minutes until death occurs. In some prisons, such as Rajai Shahr Prison in Karaj, the execution begins when a button that leads to releasing the trap door beneath the prisoner is pushed. However, in most cases, prisoners stand on a chair which is then pulled out from underneath them. In these cases, cervical dislocation does not occur, and it can take up to 15 minutes as the prisoner suffocates to death. There are cases where the prisoner has survived the

²² *ibid*

²³ <https://www.theguardian.com/world/sakineh-mohammadi-ashtiani>

²⁴ <https://rc.majlis.ir/fa/law/show/1152670>

²⁵ https://iranhr.net/media/files/Annual_Report_on_the_Death_Penalty_in_Iran_2021_BwW7LPR.pdf

²⁶ <https://iranhr.net/en/articles/5151/>

²⁷ <https://iranhr.net/en/articles/5159/>

execution. Iran Human Rights has received several reports from different prisons where prisoners are executed one by one and are forced to watch each execution before it is their turn. According to her lawyer, Zahra Esmaili who was executed on 17 February 2021, suffered a heart attack prior to execution as she was forced to witness 17 men being executed before her.²⁸ Iran Human Rights was able to verify nine of the executions²⁹ but the cause of death was recorded as a heart attack on her death certificate. Where the knot of the noose is positioned on the neck also impacts how long it takes for death to occur, with reports of this being intentionally used to prolong a prisoner's suffering.

Should a prisoner have received flogging sentences as well as the death penalty, they will be flogged prior to execution. Morad Salehbeigi was whipped 74 times prior to his execution on 28 February 2022 in Zanjan Prison.³⁰

5. Treatment of bodies of the executed, including the place of burial and the return of bodies.

For 43 years, the Islamic Republic of Iran has subjected families of those executed to more suffering by not returning bodies, secret burials, returns being contingent on agreed conditions and even charging them for the bullets or ropes used to kill their children.

In the first decade of its inception in the 1980s, thousands of political prisoners were extrajudicially executed in prisons across Iran. Many of the families still do not know where their loved ones were buried, amounting to ongoing crimes against humanity.³¹ Today, families are still denied the right to bury and mourn their children as they wish and when they do bury them, their graves may be destroyed and the cause of death distorted on the death certificate. Kurdish political prisoners, Hedayat Abdollahpour and Heydar Ghorbani were both secretly executed in 2020 and 2021 respectively. A death certificate was issued for Hedayat before his family were even informed of his execution by a firing squad in Oshnavieh in June 2020.³² After Heydar Ghorbani was executed in Sanandaj Central Prison on 19 December 2021, his cause of death was registered as "unknown" despite the fact that his execution was reported by official domestic media quoting judicial officials.³³ The Islamic Republic has a history of denying political executions. Some families of the victims of the 1988 prison massacre of political prisoners have still not received the death certificate of their loved ones. And in many cases, the word "executed" has been omitted from their death certificates. When questioned about this in court, Hamid Noury, who is currently on trial in Sweden for his role in the 1988 massacre, responded that the families themselves requested that the word "executed" not be written on the certificates. The victims' families have vehemently rejected this claim.

²⁸ <https://www.bbc.com/persian/iran-56122331>

²⁹ <https://iranhr.net/en/articles/4631/>

³⁰ <https://iranhr.net/en/articles/5121/>

³¹ <https://www.amnesty.org/en/documents/mde13/9421/2018/en/>

³² <https://iranhr.net/en/articles/4294/>

³³ <https://iranhr.net/en/articles/5046/>

In political cases and those that have received more public and international attention, returning bodies are contingent on conditions such as the location and time of the burial, and who can attend. In recent years, this has been particularly prevalent with families of those who have been extrajudicially killed in custody. Returning the body of Gonabadi dervish, Behnam Mahjoubi who passed away in a Tehran hospital on 21 February 2021 was made contingent on him “being buried in Kerman at night.”³⁴ He was medically unfit to serve his sentence, had been given the wrong medication and institutionalised in a psychiatric hospital where he later revealed in voice recordings to have been tortured. After death row protester Mehdi Salehi died under suspicious circumstances in custody, officials refused to return his body to his family, threatening that “every single family member would be imprisoned like Mehdi” if they spoke to the media. He was buried under strict security measures, with armed soldiers and security agents present and filming, in the early hours of 15 April 2022.³⁵

And while the practice of charging families for the bullets used for execution in the 1980s seems to have ended, there have been reports of families being charged for the “rope and sweets ” in recent years. Though unlawful according to Islamic Republic laws, reports are also difficult to verify due to the families being threatened with reprisal for speaking out.

There have also been reports of gravestones of those executed being broken in the last four decades. Such destructions may take place in the aftermath of executions or years and even decades later. The grave of executed protester, Navid Afkari was destroyed in December 2020, just two months after his execution in Shiraz Central Prison on 12 September 2020.³⁶ The Sajedi family who were not permitted to hold a funeral or lay gravestones for their 27-year-old twin sons- Massoud, executed by firing squad and Saeed, killed under torture in 1982- finally lay gravestones for them on their private property in March 2020. After their elderly parents ignored warnings by the Azna (Lorestan Province) intelligence officials to remove the gravestones, they were destroyed in December 2020.³⁷

³⁴ <https://iranhr.net/en/articles/4640/>

³⁵ <https://iranhr.net/en/articles/5165/>

³⁶ <https://iranhr.net/en/articles/4579/>

³⁷ <https://iranhr.net/en/articles/4434/>