



IRAN: THE DEATH PENALTY

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1. EXECUTIVE SUMMARY

Iran executes more people per year than any other country in the world except China.¹

At least 721 people were executed during 2014,² a rise from the estimated 687 people executed during 2013, which at that time constituted the highest number of executions in over 15 years. The trend continues in 2015, with 83 documented executions as of 3 February. Possession and trafficking of narcotic drugs remain the charges the most commonly used against those executed in Iran in 2013 and 2014. Juvenile offenders are among those executed, and more than 40% of the executions either were not announced by the authorities or were conducted secretly.³

The Iranian government does not announce many executions, so the true figure is difficult to determine. It is generally believed, however, that true figures are far higher than those recorded. For example, the International Campaign for Human Rights in Iran asserts that there were 600 executions in 2011, 161 of which were secret deaths, unannounced by the authorities.⁴ The Campaign has documented 471 secret executions in Mashhad and other cities since January 2010.

Death sentences were imposed in 2012 for sexual offences, political actions, espionage, and drug smuggling, as well as rape and murder. Notable death sentences in 2012 were meted out to individuals convicted of enmity against God (*moharebeh*), corruption on earth, sodomy (homosexual acts), armed robbery, bank fraud, drugs-related offences, alcohol use, 'spying for the CIA', and even cultural activities. In 2011 more than 4,000 Afghans were thought to be in Iranian jails, the majority of them for drug-related offences, facing the death penalty.⁵ Concern for Afghan prisoners grew after a group of Afghan MPs visited Iran in March 2010. Following this visit, Afghan MP Taj Mohammed Mojahed said that officials from the Iranian Supreme Court had informed them that 5,630 Afghans were in prison, with more than 3,000 sentenced to death. Javad Larijani, Chief of the Iranian Judiciary's Human Rights Council, has admitted that the policy of execution for drug-related offences has been unsuccessful, and that capital punishment has not reduced drug-related social

maladies. This makes clear that in this instance the use of the death penalty has not worked as a deterrent.⁶

Of considerable concern in recent years has been the case of Pastor Yousef Nadarkhani, an Iranian house church leader who was facing the death penalty for apostasy. He had been imprisoned since 2009. Observers were increasingly worried that the death penalty might have been implemented as an 'example' to others who have left Islam. However, it is clear that international pressure in his case persuaded the Iranian authorities in September 2012 to lift his death sentence for apostasy and replace it with a three-year sentence for 'converting Muslims', which he was deemed to have already served.

The Islamic Republic of Iran must be reminded of its obligations under international law to protect, as stated in the Universal Declaration of Human Rights, the right of everyone to 'freedom of thought, conscience and religion' for all its citizens, including 'freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.'⁷

1 See Appendix for death penalty statistics in Iran from 1999 to 2012. According to Amnesty International no official statistics are available for China. However, it is believed there are thousands of executions each year.

2 Iran Human Rights, Chart of Executions in the Islamic Republic of Iran - 2014

3 Iran Human Rights, *Annual Report on the Death Penalty in Iran - 2013* <http://iranhr.net/2014/03/report-death-penalty-iran-2013/>

4 International Campaign for Human Rights in Iran, 'Secret Executions: Findings Challenge Judiciary's False Narrative', 2 January 2012 www.iranhumanrights.org/2012/01/vakilabad-101/

5 Amnesty International, 'Iranian authorities must end secrecy surrounding executions of Afgans, [sic] says Amnesty', 9 May 2010 www.amnesty.org.uk/press-releases/iranian-authorities-must-end-secrecy-surrounding-executions-afgans-says-amnesty

6 International Campaign for Human Rights in Iran, 'Javad Larijani's Admission to Ineffective Death Penalties for Drug Traffickers', 4 January 2011 www.iranhumanrights.org/2011/01/larijani-drug-traffickers/

7 Universal Declaration of Human Rights, Article 18 www.un.org/en/documents/udhr/

2. RECOMMENDATIONS

To the government of the Islamic Republic of Iran:

- Uphold the rights of ethnic and religious minorities in accordance with constitutional provisions for them, and end judicial intimidation and punishment of individuals who exercise their right to freedom of thought, conscience, religion and belief. Iran must also issue an invitation to the Special Rapporteur on freedom of religion or belief to investigate the case of Pastor Nadarkani, the plight of the Bahá'í community, and recent curtailing of religious freedom in the country;
- Clarify the role and scope of shari'a law, address ongoing tensions with the standards set by international law, and undertake to abide in full by international treaties and covenants to which it is signatory, most notably the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC);
- Withdraw its blanket reservation to the CRC, under which any clause deemed contrary to shari'a law is currently disregarded;
- Institute within its legal codes a prohibition against the death sentence being imposed on anyone who was under 18 at the time the crime was committed for which he or she is convicted, in line with its obligations under the ICCPR, and commute all capital sentences for juveniles currently facing a death sentence;
- Pending the abolition of the death penalty, institute a moratorium on executions, in accordance with UN General Assembly Resolutions 62/149 and 63/168;
- Abandon the sentence and practice of execution by stoning, as it constitutes cruel, inhuman and degrading treatment under the ICCPR;
- Cease its practice of holding persons without charge; those detained should be charged and allowed access to legal representation and contact with their family, or be swiftly released;
- Guarantee a stringent respect for fair trial and due legal process to all detainees, as stipulated in the ICCPR;
- Publicise comprehensive, accurate and reliable statistics of all executions within its territories, including details of all persons executed, their names, dates and places of execution, and the offences for which the death penalty was imposed;
- With due and fair warning, notify the person convicted and his or her lawyer and family members of the decision to execute, and the place and time of the execution;
- End public executions;
- Amend the new Islamic Penal Code, ensuring that any clauses stipulating the death penalty for the offences of apostasy, witchcraft or heresy are removed before the legislation is passed;

- Support the UN Special Rapporteur on the situation of human rights in Iran, Dr Ahmed Shaheed, in monitoring Iran's compliance with international human rights standards, including freedom of religion or belief. A key part of this should be allowing the Special Rapporteur to visit the country and fully cooperating with him;
- Issue an invitation to the UN Special Rapporteur on extrajudicial, summary, and arbitrary executions, and agree to act according to his recommendations.

3. LEGAL FRAMEWORK FOR THE DEATH PENALTY

Under Iran's Islamic Penal Code (IPC) of 1991, punishments for criminal offences are divided into five types:

1. *Hodood*: crimes against the divine will, the type and scope of punishment for which have been determined by shari'a (Islamic jurisprudence) and cannot be commuted or pardoned;
2. *Qesas*: retributive 'eye-for-eye' punishment meted out for a range of offences;
3. *Diyeh* ('blood money'): financial compensation as determined by shari'a and paid to the victim or his/her survivors;
4. *Ta'zirat*: discretionary punishments that have not been determined by shari'a; judges have the power to decide them. They may include imprisonment, lashing, fines, etc;
5. *Deterrent punishments*: punishments determined by the state, eg imprisonment, fines, closure of business, deprivation of social rights, exile and other punishments.

The death penalty is meted out mostly under the *hodood* section and the *qesas* section in the case of murder, as well as once under the *ta'zirat* section for 'cursing the Prophet'. However, the Iranian legal system also distinguishes between punishments considered to be the sole 'right of Allah' and those considered to be the 'right of the people'. An example of the 'right of the people' is *qesas* or retributive punishment. Under the law the Supreme Leader may grant amnesty if a crime violated the 'right of Allah' in cases that do not fall under *hodood* punishments, but he cannot grant amnesty if the 'right of the people' has been violated.⁸

Iranian civil law is derived chiefly from shari'a law, an uncodified body of jurisprudence derived from the precepts of the Qur'an and the *Sunnah* and the opinions of religious scholars, and also makes room for the Shi'a concept of 'Guardianship of the Jurist'. This concept states that Islam gives a *faqih* (jurist) or *fuqaha* (jurists) custodianship over people. The idea of custodianship or guardianship as rule was advanced by Ayatollah Khamenei, the founder of the Islamic Republic of Iran. As a result, the constitution of Iran calls for a *faqih*, or *vali-ye faqih* (Guardian Jurist) to serve as the Supreme Leader of the government, on the basis that society should be run by the individual who is most knowledgeable about shari'a law.

⁸ International Federation for Human Rights, *Iran: Death Penalty, A State Terror Policy*, April 2009, p.10

The Iranian legal system thus gives the Supreme Leader complete power over the judiciary, rather than the president, which explains why President Rouhani has so little influence over death sentences and executions.

A new IPC was officially adopted and published in 2013. While it does incorporate some reforms, the document as a whole advances closer to discriminatory precepts in shari'a law, and, in many areas, is in clear conflict with Iran's international obligations.⁹

4. LEGAL OBLIGATIONS UNDER INTERNATIONAL TREATIES

While shari'a is enshrined as the highest legal authority in Iran, the nation also has obligations under international law, some of which are fundamentally at odds with certain shari'a precepts. With regards to the death penalty, this tension emerges particularly in discrepancies between understandings of the age of maturity and full criminal responsibility, and with some shari'a-sanctioned methods used for execution.

Iran signed the ICCPR in 1968 and ratified it in 1975 without reservation. It should be noted that this ratification took place under the regime of the Shah, before the Islamic Revolution.

Article 6 of the ICCPR reads:

1. Every human being has the *inherent right to life*. This right shall be protected by law. No one shall be *arbitrarily deprived* of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed *only for the most serious crimes* in accordance with the law in force *at the time of the commission of the crime* and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a *final judgement rendered by a competent court...*
4. Anyone sentenced to death shall have the *right to seek pardon or commutation* of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by *persons below eighteen years of age* and shall not be carried out on *pregnant women*.

[italics added]

Article 7 of the ICCPR prohibits 'cruel, inhuman or degrading treatment or punishment', and execution by stoning is widely viewed as falling into this category. However, Iran executes convicted criminals by stoning, and in this regard violates its international obligations

by using cruel, inhuman and degrading treatment or punishment.¹⁰

Iran ratified the Convention on the Rights of the Child (CRC) in 1994, but with a reservation which stated that 'the government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic laws'. This reservation provoked objections in the ensuing months from various nations due to the lack of precision regarding which articles of the Convention Iran did not intend to uphold. The undefined reservation gives Iran the power to disregard any of the articles if it deems them to conflict with shari'a law.¹¹ Article 37a of the CRC states that 'Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.' Article 6(5) of the ICCPR also states that 'Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age.' However, Iran regularly executes persons for crimes committed as minors, thereby violating its obligations under international law.¹²

Iran ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1968, and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1975. However, Iran is not a signatory to the Convention against Torture (CAT), or the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

5. CRIMES PUNISHABLE BY THE DEATH PENALTY

5.1. APOSTASY

5.1.1. APOSTASY AND ISLAM

The Qur'an and the Prophet Mohammed's *Sunnah* are the prime authoritative sources of Islamic law. The *Sunnah* consists of the combined reported sayings or actions of Mohammed, his closest family and first adherents as they are written down in the *Hadith* literature. There is debate among Islamic scholars over whether or not the Qur'an directly stipulates the death penalty for apostasy. Some scholars point to certain disputed Qur'anic passages to justify such a penalty. There are undeniably, however,

10 See section 8.1 for information and analysis.

11 Article 19 of the Vienna Convention on the Law of Treaties (VCLT) states that 'A state may, when signing, ratifying, accepting, approving, or acceding to a treaty, formulate a reservation, unless...the reservation is incompatible with the object and purpose of the treaty.' Iran's reservation of the CRC is regarded as invalid because of its lack of precision, which enables Iran to ignore the whole object and purpose of the CRC.

12 See section 7 for information and analysis.

9 Iran Human Rights Documentation Center, 'IHRDC's Submission to the UN Universal Periodic Review', 15 March 2014 www.iranhrdc.org/english/human-rights-documents/united-nations-reports/un-reports/1000000454-ihrdc-s-submission-to-the-un-universal-periodic-review.html

numerous *ahadith*¹³ (sayings of Mohammed) in the *Sunnah* that appear to condone this punishment. For example, *Sahih al-Bukhari*, 9:84:57 reads 'Whoever changed his Islamic religion, then kill him.'¹⁴ Apostasy was one of the few crimes for which Mohammed (as recorded in the *Hadith*) sanctioned the killing of a Muslim.

The dominant Islamic view of apostasy as 'treason' – a political crime, rather than simply a religious and moral transgression – has its roots in Islamic doctrines of communal identity. Within Islam the unity of the Muslim body of believers is of paramount importance, with allegiance to the Islamic community, or *Umma*, mandatory for every Muslim. This requires a degree of surrender of one's individual identity and opinions for the greater good of the community, and demands the conformity of behaviour among all members, resulting in strict limits on individual expression. Criticism of Islam is seen as a threat to the unity of the state body, whose very identity is built around its religious and cultural cohesiveness. The rejection of Islam is thus seen as a rejection of the whole Islamic community and of the Islamic state. No matter what a convert's intentions, in rejecting Islam they are often seen as having defiled their community and its honour, which should be defended at all costs.¹⁵ Apostasy is therefore deemed to be not just a matter of personal choice, but a disgraceful act of betrayal of the family and of treason against the state.

Thus in accepted Islamic usage 'apostate' is the term for a Muslim (man or woman) who was born into a Muslim family and adopts another religion. It may also apply to someone who had become a Muslim and then later leaves Islam. The rejection of any of the individual principles of Islam, or the discarding of the faith as a whole, amounts to apostasy. An apostate is one who has known the 'true faith', however briefly, but has abandoned it and become a 'renegade'. For this offence, says Islam scholar Lewis, 'there is no human forgiveness and, according to the overwhelming majority of jurists the renegade must be put to death – that is, if male.'¹⁶

5.1.2. APOSTASY WITHIN CURRENT LAW

Iran's Press Law (1986) states in Article 26 that 'Anybody who insults Islam and its sanctities by means of the press, amounting to apostasy, shall receive the sentence for apostasy.' However, the current IPC does not specifically define apostasy, nor does it stipulate a consistent punishment. It can therefore be said that apostasy is not

codified as a crime within Iran's civil law. Nevertheless, two legal provisions have created a situation where judges may choose to sentence a convicted apostate to death, despite this punishment not being codified within civil law. Firstly, Article 12 declares Islam as the country's official religion, with Ja'fari Shi'ism as the chosen doctrine. The four mainstream Sunni Islamic *fiqh* (schools of Islamic jurisprudence), *Hanafi*, *Shaf'i*, *Maliki* and *Hanbali*, are granted 'full respect'. All these schools of shari'a agree on capital punishment for the male apostate.¹⁷

Secondly, Article 214 of the Criminal Procedure Code of Iran has given judges a free hand to sentence religious offenders to death. Article 214 of the Criminal Procedure Code incorporates the provisions of Article 167 of the Iranian constitution, which states that 'A judge shall be required to try to find out the verdict of every lawsuit in codified laws; if he fails to find out, he shall render a verdict on the matter under consideration based on authentic sources of authoritative Fatwas.'¹⁸ Judges have invoked Article 214 to mete out the death sentence in apostasy cases on the basis of the views held by Ayatollah Khomeini. Under the current penal code, however, judges can choose to mete out lesser punishments, such as hard labour or imprisonment, for apostates and other religious offenders.

5.1.3. APPLICATION OF THE DEATH PENALTY FOR APOSTASY

Christians

The death penalty has rarely been meted out specifically for apostasy in Iran, and has hardly ever been put into effect in the last two decades. In 1990 Reverend Hossein Soodmand of the Assemblies of God (AOG) denomination, who converted to Christianity from Islam in 1966, was hanged in prison in Mashad on charges of apostasy and operating an illegal Christian bookshop. It is not entirely clear whether at the time of his hanging, Pastor Soodmand had been convicted of the charges or sentenced to death by a judge. If there was no conviction and sentencing, his death should be considered an extra-judicial killing in prison, rather than the implementation of a legal sentence.

Pastor Mehdi Dibaj of the AOG was condemned to death for apostasy in December 1993. He was released three weeks later after a strong international outcry, only to be found murdered six months later. In 2005 another AOG pastor, Hamid Pourmand,¹⁹ was charged with apostasy and was facing a possible death penalty. However, in

13 The *Hadith* or 'traditions' are a collection of deeds and saying of Mohammed, collated in six volumes known as *sahih*. These collections are regarded as next to the Qur'an in value as a source for Islamic belief and practice.

14 *Sahih al-Bukhari*, 9:84:57

15 CSW (2008), *No Place to Call Home: Experiences of Apostates from Islam*, pp.61-62 <http://dynamic.csw.org.uk/article.asp?t=report&id=94>

16 Bernard Lewis (2003), *The Crisis of Islam: Holy War and Unholy Terror*, p.41

17 CSW (2008), *No Place to Call Home: Experiences of Apostates from Islam*, p.45 <http://dynamic.csw.org.uk/article.asp?t=report&id=94>

18 Constitution of the Islamic Republic of Iran 1979 (last amended 1989), Islamic Consultative Assembly Public Relations Department

19 Pastor Hamid had converted to Christianity in 1980 and was a colonel in the army. Though acquitted of apostasy, he was convicted of violating military law because he had allegedly kept his Christian faith hidden from his superiors. Pursuant to the law, only Muslims can become officers in the Iranian armed forces. Pastor Hamid was sentenced to three years' imprisonment, and his pension rights were revoked.

the end he was not sentenced to death. Pastor Behnam Irani of the evangelical Church of Iran denomination was arrested in April 2010 while conducting a church service and was released on bail, but tried on 16 January 2011 on charges of apostasy and 'action against the order'. He was found guilty of 'action against the order' only, and sentenced to one year in prison.

Pastor Yousef Nadarkhani, 35, of the Church of Iran, is the most recent Christian in Iran to receive a death sentence for apostasy. He was arrested in October 2009 and was tried and found guilty on 22 September 2010 at the 11th Circuit Criminal Court of Appeals for Gilan province, at which time a death sentence was delivered verbally in court. Written confirmation of the death sentence was received over a month later, on 13 November 2010, and the pastor's lawyer filed an appeal on 5 December 2010. The Supreme Court ruling requested that the lower court in Rasht investigate whether Pastor Nadarkhani was practising as a Muslim after the age of maturity (15) prior to becoming a Christian at the age of 19,²⁰ in order to determine whether the charge of apostasy was applicable or not. The ruling also included provision for pardon, should Pastor Nadarkhani renounce his faith.

During his trial in September 2010 Pastor Nadarkhani claimed he had not followed Islam after the age of maturity and therefore could not be convicted of abandoning Islam.²¹ It was also unclear how officials would be able to investigate further Pastor Nadarkhani's religious beliefs after the age of 15, since his parents are dead. International pressure on behalf of Pastor Nadarkhani was so widespread and sustained that in September 2012 the Iranian authorities withdrew the sentence of death for apostasy. It was replaced with a conviction for 'converting Muslims', for which the sentence was three years' imprisonment, which he had already served, with the result that he was released. On 25 December Pastor Nadarkhani was detained briefly at the request of prison officials, but then released again.

Pastor Nadarkhani's lawyer, the prominent human rights defender Mohammad Ali Dadkhah, a founding member of the Defenders of Human Rights Centre, was imprisoned subsequent to his client's release.

Despite the relative rarity of executions for the crime of apostasy, it should be noted that converts from Islam to another religion or to atheism are often persecuted in other ways as a result of their abandonment of Islam, and charged with other crimes (often related to the vague concept of *mofsed-e-filarz* usually translated as 'spreading corruption on earth', 'offences against the moral order' or 'activities against the order'), in attempts by the regime to terrorise minority communities and disrupt their activities.

Between late August and early September 2014, three members of the Church of Iran denomination received charges entailing capital punishment. Pastor Irani (see above) had initially been arrested in December 2006 and was sentenced in 2011 to six years' imprisonment. In September 2014 he faced 18 new charges including *mofsed-e-filarz*.²² Pastor Matthias Haghnejad, another Church of Iran leader in Karaj, was detained on 5 July 2014, charged in late August with *moharebeh*, and with *mofsed-e-filarz* soon thereafter. *Moharebeh* is defined as a crime in which 'a person brandishes or points a weapon at members of the public to kill, frighten and coerce them'. Although Iran's new IPC prohibits capital punishment for *moharebeh* in cases not involving the use of arms, the charge is regularly levelled against political activists from ethnic minority communities, who have been executed regardless of whether or not they were armed.²³ Both men were interrogated by Judge Mohammad Yari of the Sixth Branch of the Revolutionary Tribunal of Karaj prior to receiving these new charges. Silas Rabbani, a deacon of the Church of Iran in Karaj who was detained on 5 May 2014 and tortured while in Gohardasht prison, was also charged with *mofsed-e-filarz*.

Baha'is

The early years of the revolution saw particularly intense persecution of the Baha'i minority, with many dismissed from public sector jobs, many facing a suspension of their pension rights, and more than 200 executed.

Zabihullah Mahrami, a mid-ranking civil servant, was arrested in 1995 after renouncing an alleged previous conversion from the Baha'i faith to Islam. At his first appearance at the Revolutionary Court in Yazd, Mr Mahrami admitted that he had attended Baha'i meetings and festivals. Instead of moving immediately to a criminal trial, the court decided that it would seek to guide Mr Mahrami back to Islam. When this did not work, he was charged with apostasy and insulting Islam and, on 2 January 1996, was found guilty as charged. The judge stated that his conduct was 'a clear insult to the beliefs of one billion Muslims', and sentenced him to death. In addition, as he had no Muslim heirs and his Baha'i family was ineligible to inherit, all his property was confiscated by the state.

When the verdict was passed to the Supreme Court for approval, it ruled that the Revolutionary Court was not the appropriate tribunal to address a case of this nature, and that the case should instead be tried in a civil court. However, the authorities did not comply with the Supreme Court ruling and instead introduced new charges of espionage. Mr Mahrami was brought before a revolutionary

²² *ibid*.

²³ Christian Solidarity Worldwide, 'Iran: Pastor Irani faces 18 new charges', 3 September 2014 <http://dynamic.csw.org.uk/article.asp?t=press&id=1770>

²⁰ World Watch Monitor, 'Pastor in Iran Awaits Decision on Execution', 28 July 2011 www.worldwatchmonitor.org/2011/07-July/article_115478.html/

²¹ International Campaign for Human Rights in Iran, 'Unprecedented Death Sentence for Christian Pastor on Charge of Apostasy', 7 December 2010 www.iranhumanrights.org/2010/12/khanjani-nadarkhani-apostasy/

court again and, in February 1997, the head of the court announced that he had been sentenced to death. His sentence was later commuted to life imprisonment. In 2005 he was found dead in his cell: the cause of his death is not known. Mr Mahrami had no known health concerns.²⁴

In another case, two Baha'is, Kayvan Khalajabadi and Bahman Mithaqi, originally detained without charge in April 1989, were brought to trial in November 1993 on charges of 'engaging in Baha'i activities'. They were sentenced to death on 23 November 1993 by the Revolutionary Court of Karaj, and the verdict was confirmed by the Supreme Court in February 1996. In 2001 the chief of the judicial branch reduced their sentences to 15 years in prison for 'association with Baha'i institutions'. Both men were released on 7 February 2004, having served out their full sentences.²⁵

The last Baha'i to be executed by the state was Ruhullah Rawhani. Mr Rawhani was arrested in September 1997 (having been arrested previously in 1984 and 1994) and placed in solitary confinement in Mashad, accused of converting a woman to the Baha'i faith. No charge or sentence was announced, but on the night before his execution in July 1998, someone from the Iranian Intelligence Department telephoned a Baha'i in Mashhad stating that Mr Rawhani was to be executed the next day. Mr Rawhani's family was summoned to collect his body afterwards, and was required to complete the burial within one hour, under the supervision of government intelligence agents.

The killing of Mr Rawhani was the first official execution of a Baha'i since 18 March 1992, when 52-year-old Bahman Samandari was secretly executed in Tehran's Evin prison. Mr Samandari was also executed with no advance notice and in the absence of due process. A businessman from a distinguished Baha'i family, Mr Samandari was buried secretly on 20 March 1992, and his family was not notified until 5 April 1992.²⁶

Muslims

There have been several reported apostasy convictions and death sentences handed down to and enacted against Muslims. Charges of apostasy were levelled at the cleric Hasan Yousefi Eshkevari in 2000, and the university professor Hashem Aghajari in 2002. A man named Darvish, who claimed to be the twelfth Shi'a imam, was executed

for apostasy in Qom in 2007.²⁷ According to a report of 21 December 2008 a man named Alireza Payghan, who also claimed to be the twelfth imam, was sentenced to death for apostasy and executed in Qom on 18 December 2008. On 26 January 2011 Seyyed Ali Gharabat was executed in Khuzestan for 'corruption on earth' and apostasy, after he claimed to be God. This execution was officially announced by Khuzestan Province Justice.²⁸ In October 2011 Rouhollah Tavana was arrested at his house in Mashhad. Mr Tavana was charged with *sabb-e nabi*, or insulting the Prophet. On 3 August 2013 the Fifth Branch of the Khorasan Razavi Criminal Court found Mr Tavana guilty of swearing at the Prophet, and sentenced him to death. His sentence was upheld on appeal, and on 14 February 2014 Branch 14 of the Iranian Supreme Court also upheld his death sentence.²⁹

5.1.4. THE BILL FOR THE AMENDMENT OF THE ISLAMIC PENAL CODE

In November 2007 the Iranian judiciary submitted a new bill for a permanent legislation. The Bill for the amendment of the IPC was passed in its first reading by the parliament (the *majlis*) in September 2008, and was handed on to the Council of Guardians.

Apostasy

Article 225 of the new Bill provided the first concrete definition of the offence of apostasy in Iranian civil law. An apostate is defined as any Muslim who denies Islam and converts to 'infidelity'. There are two types of apostates: an 'innate apostate' is a person born to Muslim parents, and therefore a Muslim who leaves his/her first religion. A 'parental apostate' is a person born to non-Muslim parents who converts to Islam after the age of maturity (15), and later denies Islam. The punishment for men is stipulated as death in both cases, though the latter type of apostate will be given three days to repent, and if he does so, will escape death. For female apostates of both types, the penalty is life imprisonment.³⁰

Heresy and witchcraft

Article 225 of the amendment Bill also defines the crimes of heresy and witchcraft and, for the first time, stipulates the death sentence for those convicted of these crimes. Anybody who commits heresy by claiming to be a prophet is to be condemned to death; and any Muslim who 'devises a heresy' and creates a sect that is 'detrimental to Islam', shall be considered an apostate and thus subject to the death sentence. This provision seems to be directed at followers of the Baha'i religious minority, who have suffered ongoing persecution since the 1979 revolution. Witchcraft also carries the death sentence for convicted Muslims under the new bill. 'Any Muslim that is

24 Baha'i World News Service, 'Wrongly imprisoned Baha'i dies in Iranian jail', 19 December 2005 <http://news.bahai.org/story/415>

25 Baha'i World News Service (2008), *The Baha'i Question* http://question.bahai.org/003_4.php

26 One Country, 'In Iran, one Baha'i is executed and two more are sentenced to death, raising sharp doubts about the new Government's human rights policies' www.onecountry.org/e102/e10207as.htm

27 International Federation for Human Rights, *Iran: Death Penalty, A State Terror Policy*, April 2009

28 Iran Human Rights Documentation Center, 'Executions in Iran', 7 September 2011, p.4 http://iranhrdc.org/files/pdf_en/Executions/Executions-in-Iran-9-7-2011.pdf

29 Iran Human Rights Documentation Center, 'Apostasy in the Islamic Republic of Iran', 30 July 2014 www.iranhrdc.org/english/publications/reports/1000000512-apostasy-in-the-Islamic-Republic-of-Iran.html#3.1

30 International Federation for Human Rights, *Iran: Death Penalty, A State Terror Policy*, April 2009, p.17

involved with witchcraft and promotes it within society as a profession or a sect shall be condemned to death.³¹ This provision regarding witchcraft could eventually impact the cases of close allies of the current Iranian president, if implemented. In May 2011, at the height of tension between President Ahmedinejad and Supreme Leader Ayatollah Khamenei, close allies of the president were accused of using supernatural powers to further his policies. The president's chief of staff, Esfandiar Rahim Mashaei, among others, was arrested and charged with being a 'magician' and invoking djinns (spirits).

In June 2009 a decision was reportedly made by the Iranian government's Parliamentary Committee to remove the article stipulating the death penalty for apostasy from the amendment Bill, since it was 'not in the interests of the regime'. The withdrawal of the death penalty from this Bill has not been officially confirmed, nor has a copy of the newly-worded version of the Bill been made publically available; verification of the removal of the death penalty clause has therefore not been possible. It is not yet clear whether the amendment without the death penalty has been approved in all its stages and has become law. At best knowledge, no version of the Bill has yet been passed and implemented. However, there is a chance that the Bill has been passed without publicity, and may in fact include the death penalty clause.

Cursing the prophet or blasphemy

This section is the closest that the currently applicable IPC comes to specifically addressing apostasy, although the wording of the law is rather vague and allows for extensive interpretation. 'Anybody who insults the sanctities of Islam and/or any of the grand prophets or the infallible imams shall be executed if the case is considered to be cursing of the prophet...' (Article 513).

5.2. POLITICAL AND ARMED OFFENCES

Section 7 of the *hodoood* chapter of the IPC deals with two key concepts: *moharebeh* (usually translated as 'enmity against God' or 'waging war on God and people') and *mofsed-e-flarz* (usually translated as 'spreading corruption on earth', 'offences against the moral order' or 'activities against the order'). Article 183 of the original IPC provides the following definition: 'Anybody who takes up arms to create fear and to divest people of their freedom and security is deemed to be *mohareb* and *mofsed-e-flarz*.' Anybody convicted of these offences may be sentenced to death at the behest of the ruling judge. The provisions of the law are not confined to armed activities alone, however. The terms are generally used as catchall indictments of political dissent, but are also often falsely applied to people deemed to have committed religious transgressions.

The new IPC has made some changes in this matter. For example, it has expressly divided the offence of *moharebeh* from *mofsed-e-flarz* and has also added a new concept, *baqy* (rebellion), allocating a separate chapter to each one. As a result *moharebeh* now has an independent definition (Article 279) with possible punishments of

execution, crucifixion, amputation of right hand and left foot, or banishment (Article 282). The definitions of *moharebeh* and *mofsed-e-flarz* are arguably the most vague and extensive provisions of the new IPC, and are open to further interpretation to include some crimes of a highly political character, such as membership in opposition groups and supporting the overthrow of the Islamic regime.³²

Members of ethnic and religious minorities are regularly convicted of *moharebeh* or *mofsed-e-flarz*. In March 2008 Iranian MP Hossein Ali Shahryari stated that 700 people were awaiting execution in Sistan and Balochistan provinces, many of them Baloch political prisoners.³³ This staggering number of death sentences seems to be evidence of intense repression taking place against this ethnic minority. Two Sunni religious workers were hanged in Zahedan jail in April 2008 after having confessed, under extreme torture, to resistance activities against the Iranian regime.³⁴ Tehran accused them of supporting the armed Baloch nationalist groups. However, the evidence against them was purely circumstantial and the conduct of their trials was seriously flawed. Three more Baloch rights campaigners were executed in Zahedan prison on 24 August 2008.

On 7 July 2012 Branch 2 of the Ahwaz Revolutionary Court handed down death sentences to five civil activists, sentences which were later upheld by the Supreme Court. On 18 January 2013, the five prisoners were transferred from Karoun prison to an undisclosed location. The authorities claimed that the accused had connections with 'foreign entities' and had used violence. The men told their families they were innocent, and that the charges against them were 'trumped up'. Moreover, the Committee of Human Rights Reporters has stated that these prisoners' confessions were extracted under torture and that the accused are innocent.³⁵ One of them, Mokhtar Alboshoka, a worker at a stone mining company, has suffered from extreme psychological illness since he was tortured.

32 Iran Human Rights Documentation Center, 'IHRDC's Submission to the UN Universal Periodic Review', 15 March 2014 www.iranhrdc.org/english/human-rights-documents/united-nations-reports/un-reports/1000000454-ihrc-s-submission-to-the-un-universal-periodic-review.html

33 *Guardian*, 'Iran's War on Sunni Muslims', 16 October 2008 www.theguardian.com/commentisfree/2008/oct/16/iran-humanrights

34 *ibid*.

35 Committee of Human Rights Reporters, 'Family of Arab prisoners sentenced to death stated in an interview with CHRR: The prisoners' confessions were extracted under torture and they are innocent', 26 January 2013 www.chrr.biz/spip.php?article20045

31 International Federation for Human Rights, *Iran: Death Penalty, A State Terror Policy*, April 2009, p.18

In July 2009 the official IRNA news agency³⁶ reported that Abdulhamid Rigi, the brother of Abdulmalik Rigi, leader of the Sunni militant group known as Jundallah (Soldiers of God) had been sentenced to death and was scheduled to be hanged, along with 13 members of the Sunni Muslim rebel group. According to state radio the executions took place in the city of Zahedan, 930 miles south-east of Tehran, and the scene of some of the deadliest attacks blamed on Jundallah – which has carried out bombings, kidnappings and killings in the area in recent years. On 20 December 2010 the authorities hanged 11 members of Jundallah, which claimed to have conducted the devastating suicide bombing of a Shi'ite mourning procession the previous week.³⁷

In Iran apostates often face trial before the Revolutionary Courts on accusations of *moharebeh* and *mofsed-e-filarz*. In April 2006 an Iranian church leader was arrested on charges of working against the Islamic government of Iran and conspiracy to overthrow it. If convicted, he faced the death penalty. He was later released on bail.³⁸ Eleven Christians from Bandar Anzali were accused of *moharebeh* and *mofsed-e-filarz* in April 2011. The charges related to their involvement in a house church, and to taking communion wine; the group was acquitted in May 2011. In September 2011 five Christians from Shiraz, members of the Church of Iran evangelical denomination, heard that their sentence of one year in prison for *moharebeh* and *mofsed-e-filarz* had been upheld by an appeals court. They are also facing charges of blasphemy, but their hearings have repeatedly been postponed due to a lack of evidence.

Authorities executed at least 30 people between January 2010 and August 2012 on the charge of *moharebeh* for their alleged ties to armed or terrorist groups.³⁹ Two young men involved in a knife attack and theft were convicted of *moharebeh* by a Revolutionary Court in late December 2012, and hanged in January 2013.⁴⁰

36 *Telegraph*, 'Iran hangs 13 members of rebel Sunni Muslim group', 14 July 2009 www.telegraph.co.uk/news/worldnews/middleeast/iran/5825208/Iran-hangs-13-members-of-rebel-Sunni-Muslim-group.html

37 BBC, 'Iran hangs 11 Jundallah Sunni militants', 20 December 2010 www.bbc.co.uk/news/world-middle-east-12039745

38 CSW (2008), *No Place to Call Home: Experiences of Apostates from Islam*, p.47 www.csw.org.uk/2008/04/29/report/94/article.htm

39 Human Rights Watch, 'Iran: Proposed Penal Code Deeply Flawed', 29 August 2012 www.hrw.org/news/2012/08/29/iran-proposed-penal-code-deeply-flawed

40 *Telegraph*, 'Iran hangs two for "waging war against God"', 21 January 2013 www.telegraph.co.uk/news/worldnews/middleeast/iran/9815872/Iran-hangs-two-for-waging-war-against-God.html

At least 28 Kurdish prisoners were known to be awaiting execution in August 2012 on national security charges including *moharebeh*.

Gholamreza Khosravi Savadjani, a political prisoner sentenced to death for *moharebeh*, was in imminent danger of execution after his lawyer's request for a retrial was rejected by Iran's Supreme Court on 15 December 2012. Since his arrest in 2008 he had endured more than three years in solitary confinement. His mother has asserted that the Iranian authorities have not presented any evidence to support the death sentence.⁴¹

Sherko Moarefi, a 30-year-old political prisoner from Baneh held in Saqqez prison, was arrested on 30 September 2008 and sentenced to death by a revolutionary court on a charge of *moharebeh*, according to HRANA News Agency.⁴²

An Iranian-American, Amir Hekmati, accused of 'spying for the CIA', was sentenced to death in January 2012.⁴³ Although foreign citizens are rarely executed in Iran, a Dutch-Iranian woman was unexpectedly hanged in January 2011 after being charged with drug smuggling.

In February 2014 the UN High Commissioner for Human Rights expressed especial concern at the reported execution in secret of Hadi Rashedi and Hashem Sha'bani Amouri, both members of the Ahwaz Arab community. Their executions were reportedly carried out in January 2014, following proceedings that did not meet international fair trial and due process standards as laid out in Article 14 of the ICCPR. The two men were reportedly sentenced to death on ill-defined charges of *moharebeh*, *mofsed-e-filarz* and acts against national security. They were allegedly denied access to a lawyer and their families for the first nine months of their detention, and subjected to torture to force confessions.⁴⁴

On 24 September 2014 a former psychologist was executed for heresy after eight years in detention. Mohsen Amir Aslani was hanged in a prison near the city of Karaj, west of Tehran, for 'corruption on earth and heresy in religion'.⁴⁵ Iranian opposition news websites said that Mr

41 Huffington Post Canada, 'Help a Mother Save Her Son From Execution in Iran', 8 November 2012 www.huffingtonpost.ca/maryam-nayeb-yazdi/a-mothers-plea-for-help-t_b_1768269.html

42 Human Rights Activists News Agency, 'Sherko Maarefi is in uncertainty and danger of imminent execution', 8 September 2013 <https://hra-news.org/en/sherko-maarefi-uncertainty-danger-imminent-execution>

43 Radar Online, 'Iranian-American Given The Death Penalty Is "Victim Of Tensions With Iran And America"', 12 January 2012 <http://radaronline.com/exclusives/2012/01/iranian-american-death-penalty-victim-tensions-amnesty-international/>

44 UN OHCHR, 'Press briefing notes on Iran, Papua New Guinea and Haiti', 21 February 2014 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14271&#sthash.f8R4BnvJ.dpuf

45 Al Arabiya, 'Iranian man executed for heresy: rights group', 1 October 2014 <http://english.alarabiya.net/en/News/middle-east/2014/10/01/Iranian-man-executed-for-heresy-rights-group.html>

Aslani had given religious classes where he propagated a new interpretation of the Qur'an. He was also accused of insulting the Prophet Jonah. It was reported that in one of his classes he told his audience that Jonah could not have emerged from the whale's belly, and it was this statement that led to the charge of insulting the Prophet Jonah.

Between August and September 2014, Pastors Behnam Irani and Matthias Haghnejad and Deacon Silas Rabbani of the Church of Iran denomination, were charged with *mofsed-e-filarz*, with Pastor Irani facing 17 other charges, including *moharebeh*. In October 2014 these capital charges were dropped, but they all received six-year sentences on questionable political charges and were ordered to serve these sentences in remote locations. The sentences were revoked following an appeal hearing on 9 December 2014, and Pastor Haghnejad and Deacon Rabbani were subsequently released. However, Pastor Irani remains in Ghezel Hesar prison in Karaj, where he is serving a one-year sentence for 'action against the state' and a five-year sentence for 'action against national security'.

The pastor recently appealed for conditional release on good behaviour. Under Iranian law prisoners can be released conditionally for good behaviour once they have served more than half of their sentence, although this is subject to the agreement of the prison authorities and the judge. While the prison authorities agreed to this, the judge did not, resulting in his continued detention.⁴⁶

5.3. THEFT

Theft is punishable by death on the fourth conviction, provided that the person convicted has received the due punishment in the first three instances. Under this law the punishment for the first offence is amputation of four fingers of the right hand, for the second offence amputation of the left foot, for the third, life imprisonment, and for the fourth, execution.

Four people were sentenced to death in July 2012 for their roles in Iran's biggest-ever bank fraud scandal. (Two other defendants received life sentences, while 33 faced up to 25 years in jail.) The scandal involved forged documents reportedly used by an investment company to secure loans worth USD2.6bn. The identities of the defendants were not made public. It is believed that this is the first time that persons convicted of an offence such as financial fraud have been sentenced to death.

5.4. MURDER

Murder is punishable under a section of the IPC headlined *qesas*. The Iranian legal system considers murder to be a matter between private parties and therefore does not refer to its punishment as the 'death penalty' or execution. Theoretically it is not the state but the survivors of the victim or 'heirs of the blood' who impose retribution on the culprit. In practice, in *qesas* cases the judicial authorities execute the murderer if that is what the family of the victim demands. Survivors of a murder

victim may alternatively decide to withdraw their demand for execution of the murderer in exchange for financial compensation.

The payment of 'blood money' spared 358 Iranians from execution in the year March 2013 to March 2014, the country's prosecutor general reported.⁴⁷ The practice, made possible under the shari'a law provision of *diyeh* (restitution or 'blood money'), allows a convict to be pardoned by a victim's family if they receive financial recompense.

The most high-profile case of *diyeh* involved a blindfolded murderer known only as Balal being pictured with a hangman's noose around his neck. The convict escaped the gallows at the last minute when his victim's mother pardoned him, and only administered a slap on his face as punishment. The blood money in the Balal case had been raised from the proceeds of a film director's special screening, amounting to 3 billion rials (approximately £71,900). After Balal dramatically escaped death, the media reported several other cases in which the victim's family pardoned the killer at the very last minute, with one of them being pardoned even after he had been hanged for a few minutes.

In the years 2012 and 2013, while there was a reduction in the number of narcotics-related state-sanctioned hangings, there was also a huge rise in those executed after being found guilty of murder (18 people convicted of murder in 2012 compared with 148 in 2013 and 215 in 2014). Citing a series of directives allegedly issued by the head of the judiciary from 2007 onwards, co-founder of the Abdorrahman Boroumand Foundation, Roya Boroumand, said that the rise in executions (especially for murder) appear to be a cold-blooded effort to address the issue of overcrowding in the country's prisons.⁴⁸

5.5. DRUG-RELATED OFFENCES

Iran has one of the most serious drug addiction problems in the world and it annually confiscates between a third and a half of all the world seizures of heroin.⁴⁹ Alongside this high drug consumption rate in-country – one of the highest in the world – Iran is also a key transit country for drug trafficking across its borders with Afghanistan and Pakistan, towards western Europe. Capital punishment for drug offences is cited by the Iranian authorities as an instrument to combat this high level of drug consumption and drug trafficking.

47 Al Arabiya, 'Iran: "Blood money" saved 358 from death penalty', 28 April 2014 <http://english.alarabiya.net/en/News/middle-east/2014/04/28/-Blood-money-saved-358-from-death-penalty-Iran.html>

48 Deutsche Welle, 'Iran's death penalty stays off global agenda', 14 June 2014 www.dw.de/irans-death-penalty-stays-off-global-agenda/a-17705731

49 UN Office on Drugs and Crime, 'Drug trafficking' www.unodc.org/unodc/en/drug-trafficking/

46 CSW, 'Authorities raid home of three Christians', 18 February 2015 www.csw.org.uk/2015/02/18/news/2477/article.htm

The Law for Amendment of the Anti-Narcotics Law & Annexation of Other Articles to It (November 1997) prescribes the death sentence for drug-related offences in several instances. These include:

- Planting poppies, coca or cannabis with intention to produce drugs, on the fourth conviction;
- Smuggling more than 5kg of opium or cannabis into Iran;
- Buying, keeping, carrying or hiding more than 5kg of opium and other drugs;
- Smuggling into Iran, dealing, producing, distributing and exporting more than 30g of heroin, morphine, cocaine or their derivatives, on the third conviction.

The Anti-Narcotics Law, including the 2011 amendments, imposes the death penalty for 17 drug-related offences. Drug crimes in Iran subject to the death penalty range from criminal offences such as manufacturing and trafficking, to simple personal possession. No distinction is made in the law between drug-related crimes, such as armed smuggling, or transportation across a border of more than 30g of narcotics.

Drug-related crimes carrying the death penalty now include:

- Armed smuggling of drugs;
- Smuggling of drugs into prisons, barracks or rehabilitation centers;
- Hiring or supporting activities to commit crimes under the Anti-Narcotics Law;
- Being head of a drug gang or network;
- Placing drugs in a locality in an attempt to accuse another person of a crime mentioned in the Anti-Narcotics Law;
- Forcing children or mentally ill persons to commit any crime mentioned in the Anti-Narcotics Law.

From December 2010 to early September 2011, at least 260 individuals are thought to have been executed for drug trafficking in Iran, making it the offence that produces the highest number of executions.⁵⁰ An Amnesty International press release of November 2012 stated: 'Of the more than 380 people we believe were put to death in Iranian prisons so far this year [2012], the vast majority were convicted of drugs-related offences – which fall far short of the "most serious crimes" threshold set by international human rights law.'⁵¹

Until 2013, between 70% and 80% of those executed were sentenced on drug-related charges. However, in 2013 the number executed on drug-related charges fell to around 60%.⁵² This appears to have been in keeping with the general trend, since 353 people were executed for narcotics offences in 2014, a total which represents almost 49% of all executions.⁵³

On 2 June 2012 Iran's Revolutionary Court sentenced a shop worker to death after he was convicted (with three other men) of purchasing and possessing 512kg of methamphetamine ('crystal meth').

In the last 12 days of 2012, it was reported that Iran had executed one prisoner convicted of drug trafficking in Sari, one Afghan citizen convicted of drug trafficking in Damghan, four prisoners convicted of drug trafficking in Ghezel Hesar Prison, and ten prisoners convicted of drug trafficking in Taybad.⁵⁴

The effectiveness of the use of the death penalty for drugs offences has clearly been questioned within the judicial hierarchy in Iran itself. A foreign diplomat told the International Campaign for Human Rights in Iran that cleric Javad Larijani, Chief of the Iranian Judiciary's Human Rights Council, had expressed the opinion that the policy of executing drug-related criminals had been unsuccessful, and that capital punishment had not reduced drug-related social maladies.

Converts from Islam have been known to be arrested on false criminal charges such as drug-related offences. The US State Department reported in 2006 that the authorities arrested Issa Motamedi Mojdehi, a Muslim convert to Christianity, following his attempt to register his son as a Christian. A charge of drug trafficking was brought against him, which Christians said was an attempt to punish him for his conversion.⁵⁵ This charge could have resulted in the death penalty.

The large numbers executed for drug-related offences in Iran must raise awkward questions for the UN and Western countries, who supply anti-narcotics funding. The United Nations Office on Drugs and Crime (UNODC) and a number of European countries continue to fund counter-narcotics policing operations in countries such as Iran which impose the death penalty for drugs offences. The UNODC, which receives significant funding from the UK, France and the EU, runs programmes in Iran that help the country's anti-narcotics forces carry out arrests and prosecutions – inevitably contributing to large numbers

50 Iran Human Rights Documentation Center, 'Executions in Iran', 7 September 2011 http://iranhrdc.org/files/pdf_en/Executions/Executions-in-Iran-9-7-2011.pdf

51 Amnesty International, 'Fears for five men facing execution in Iran, including one tomorrow', 6 November 2012 www.amnesty.org.uk/press-releases/fears-five-men-facing-execution-iran-including-one-tomorrow

52 Deutsche Welle, 'Iran's death penalty stays off global agenda', 14 June 2014 www.dw.de/irans-death-penalty-stays-off-global-agenda/a-17705731

53 Iran Human Rights Documentation Center, 'Capital Punishment in Iran: 2014' www.iranhrdc.org/english/news/features/1000000559-capital-punishment-in-iran-2014.html

54 Human Rights Activists News Agency, 'Iran: at Least 33 Executions within the last 12 days of 2012', 1 January 2013 <https://hra-news.org/en/iran-at-least-33-executions-within-the-last-12-days-of-2012>

55 US Department of State, *International Religious Freedom Report 2007*, Iran www.state.gov/g/drl/rls/irf/2007/90210.htm

of death sentences, as no conditions are imposed on the aid to prevent such outcomes.

5.6. DISRUPTION OF PUBLIC SERVICES AND PUBLIC SAFETY

The Law for Punishment of Disruptors of Oil Industry, the Law for Punishment of Disruptors of Water, Electricity and Telecommunication Facilities, the Law for Punishment of Disruptors of Flight Security, the Law for Punishment of Offences concerning Railways and the Law for Increase of Punishment for Arms Smuggling also stipulate the death sentence.

5.7. SEXUAL CRIMES

5.7.1. FORNICATION AND RAPE

Article 63 of the IPC defines fornication as sexual intercourse between persons not married to each other, and is initially punishable by 100 lashes. However, a man or woman who has been convicted for fornication several times is to be killed on the fourth count, provided that s/he has been convicted and received the lashing penalty in the previous three instances (Article 90). Article 82 specifies that the death penalty shall be meted out to fornicators without exception in the following cases: incest, fornication with stepmother (the man shall be killed), fornication of a non-Muslim with a Muslim woman (the man shall be killed), and rape (the rapist shall be killed).

In the last 12 days of 2012, it was reported that Iran had publicly executed five prisoners convicted of rape in Yasuj, four prisoners convicted of rape in Yazd, and at least two prisoners convicted of rape in Urmia. According to the state-run Iranian news agency, Fars, a man identified only as 'Yaser K' was convicted of rape and hanged in public on 26 January 2013 in Kerman, south-eastern Iran.

5.7.2. ADULTERY

In the case of sexual intercourse between married men and single or married women, or married women with single or married men, the punishment stipulated by the IPC is the stoning of the married person. The single party in such a relationship would usually be sentenced to 100 lashes for fornication.

5.7.3. SAME SEX RELATIONS

The penalty for anal sex involving penetration is death for both parties provided that they are adults, mature and of free will (Articles 109 and 111). If same sex relations without penetration occur between a non-Muslim and a Muslim as a passive partner, the former shall be killed (Note to Article 121).

In early September 2011 three men were hanged in the south-western city of Ahvaz, the capital of Iran's Khuzestan province, after being found guilty of charges related to homosexuality.⁵⁶ It is believed that the execution of

the three men is the first time for many years that any Iranians have been given death sentences on the basis of their sexuality; the Iranian authorities often present such cases as rape, being unwilling to admit to the wider world that homosexuality exists in Iran.

Four men in a south-western province in Iran were sentenced to death for 'sodomy', according to a report dated 16 May 2012.⁵⁷ Commenting on such executions in its 2011 report, Human Rights Watch stated that because of the lack of transparency (ie secret trials), 'it cannot be ruled out that Iran is sentencing sexual minorities who engage in consensual same-sex relations to death under the guise that they have committed forcible sodomy or rape.' Another commenter remarked that 'The issue of the death penalty for same-sex acts is further compounded by the fact that the Iranian legal code does not differentiate between rape and [consensual] homosexual acts.'⁵⁸

5.7.4. OBSCENE AUDIO-VISUAL PRODUCTS

The Law for Punishment of Persons with Unauthorised Activities in Audio-Visual Operations, passed in January 2008, prescribes punishment for the producers of obscene products intended for sexual abuse, and for those who use such products to blackmail others. Offenders are prescribed the same punishment as for rape. Consequently all those offences can be punished by the death penalty.

6. LEGAL PROCESS

Under the Law of Appeals and the Code of Criminal Procedures, all death sentences are subject to appeal, which must be lodged within 20 days of the verdict.⁵⁹ If a sentence is confirmed on appeal, the case is sent to the Supreme Court for consideration. Officially, if fault is found with the conviction, the case can be returned to a lower court for retrial, as was the case with Pastor Nadarkhani. If the Supreme Court confirms the death sentence the verdict is sent to the Head of Judiciary, who reviews it and has the power to issue a stay of execution. The Supreme Leader also has the power to grant pardons or commute sentences on the recommendations of the Head of Judiciary, although not in *hodood* cases. These processes, however, do not in practice offer much protection against unjust death sentences. For many crimes punishable by death there is only limited possibility of pardon or commutation, and for some

57 Digital Journal, 'Four alleged gay men sentenced to death in Iran', 16 May 2012 www.digitaljournal.com/article/325019

58 Death Penalty News, 'Four Iranian men sentenced to death by hanging for sodomy', 14 May 2012 <http://deathpenaltynews.blogspot.co.uk/2012/05/four-iranian-men-sentenced-to-death-by.html>

59 Amnesty International (2008), *Iran: End Executions by Stoning*, p.6 www.amnesty.org/download/Documents/56000/mde130012008en.pdf

56 Mohabat News, 'Iran executes three men on homosexuality charges', 7 September 2011 www.mohabatnews.com/index.php?option=com_content&view=article&id=2788:iran-executes-three-men-on-homosexuality-charges&catid=35:inside-iran&Itemid=278

crimes there is none, particularly for those who have not confessed to their alleged crime.

The criminal justice system in Iran offers little protection for human rights. Those detained on suspected political crimes tend to receive grossly unfair trials in which they often face vaguely worded charges which do not amount to any recognisable offences. Under Iranian law, the accused has no right to legal representation prior to being formally charged. Convictions are frequently made in the absence of defence lawyers, on the basis of confessions or other information allegedly obtained under torture in pre-trial detention. Courts often accept such confessions as evidence without investigating how they were obtained.⁶⁰

Detainees are often held for lengthy periods of time prior to trial, where they are at grave risk of being subjected to torture or other ill-treatment. Prisoners held for suspected political crimes in particular are often held incommunicado. A Christian detainee, Farshid Fathi, who has been imprisoned since December 2010, is held in the political wing of Evin prison, and has been incommunicado for much of his detention; he remains in prison. A group of four Christians arrested in Hamadan in September 2010 were also held in solitary confinement and incommunicado for 44 days before being taken to prison, and did not receive any charges for many months. Trials are generally unfair, and detainees are systematically denied access to a lawyer until investigations have been completed, which may take some months. According to Freedom House, juveniles imprisoned on death row were frequently denied access to a lawyer.⁶¹ Proceedings, especially those held outside Tehran, are often summary, lasting only a few minutes.⁶²

On 2 June 2012 the Revolutionary Court sentenced a shop worker to death after he was convicted (with three other men) of purchasing and possessing 512kg of methamphetamine ('crystal meth'). His state-appointed lawyer never met him and did not have access to his case file before the trial started. Like others sentenced to death under the Anti-Narcotics Law, the defendant appears to have had no opportunity to appeal against his conviction and sentence, a violation of the right to a fair trial.⁶³

60 Amnesty International Annual Report 2011, p.173 http://files.amnesty.org/air11/air_2011_full_en.pdf

61 UN Human Rights Council, Universal Periodic Review of the Islamic Republic of Iran: Summary of Stakeholders Submissions, 30 November 2009 (Ref. A/HRC/WG.6/7/IRN/3) p.5, no.25

62 Amnesty International, 'Death sentences and executions in 2010', 28 March 2011, p.26 www.amnesty.org/en/documents/ACT50/001/2011/en/

63 Amnesty International, 'Iran: Eleven men face imminent execution', 10 October 2012 www.amnesty.org/en/news/iran-eleven-men-face-imminent-execution-2012-10-10

Too often executions take place in secret, and without warning or notice to the person convicted or their family. This has been the case with many executions of members of the Baha'i faith, and was also the case with Pastor Soodmand, who was hanged in prison in 1990. In August 2010 a Nigerian was reportedly executed in secret at Vakilabad prison, along with 60 others. In December 2010 a man sentenced to death 12 months earlier was suddenly executed without warning. In January 2010 two men were hanged following unfair trials in which they were convicted of *moharebeh*. Their lawyers were not informed of the men's executions.⁶⁴ Mrs Adiva Mirza Soleiman Kalimi, a Jewish Iranian, and her husband, Varoujan Petrosian, an Armenian Iranian, were secretly executed in Evin prison at dawn on 14 March 2011 on unknown charges, along with one other woman and two men whose identities remain unknown. It is still unknown with what these prisoners were charged.⁶⁵

Two Christian women, Maryam Rostampour and Marzieh Esmaeilabad, who were held in the notorious Evin Prison in Tehran for nine months, have reported that while they were imprisoned they witnessed the sudden and unexpected executions of other prisoners. These executions occurred without any warning or notice given to those who were executed, and presumably without prior notice being given to relatives or lawyers.

The condemned and their relatives are not always notified before executions take place. On 27 January 2013 two prisoners, Masoud Alimoradi and Mahmoud Nezami, were hanged in Rajai Shahr prison, west of Tehran;⁶⁶ these executions had not been announced by the authorities. Reports even indicate that the Iranian authorities have increased secret and unannounced executions, which can take place on any day of the week. Death row prisoners live in constant fear that they are in imminent danger of execution.

According to reports on Iran Human Rights' website, as many as 400 prisoners may have been executed in Vakilabad prison, Mashhad. It has been reported that there have been secret executions of prisoners taking place every Wednesday and Sunday, and that there have sometimes been executions up to three times a week. Iran Human Rights' website reported on 3 February 2013 that the total number of executions on one particular occasion was as high as 50 people.

Family members of executed persons also face persecution and are often not given the bodies of their

64 Amnesty International, 'Death sentences and executions in 2010', 28 March 2011, p.27 www.amnesty.org/en/documents/ACT50/001/2011/en/

65 Mohabat News, 'Secret execution of a Jewish-Armenian couple in Tehran's Evin Prison', 27 March 2011 http://mohabatnews.com/index.php?option=com_content&view=article&id=1463:secret-execution-of-a-jewish-armenian-couple-in-tehrans-evin-prison&catid=36:iranian-christians&Itemid=279

66 Iran Human Rights, 'New Reports: Daily Secret Executions in Rajai Shahr Prison', 4 February 2013 <http://iranhr.net/2013/02/new-reports-daily-secret-executions-in-rajai-shahr-prison/>

relatives for burial. For example, when the families of Mrs Adiva Mirza Soleiman Kalimi and Mr Varoujan Petrosian requested the return of the bodies of their loved ones for burial according to their cultural and religious customs, they were allegedly threatened by the agents of the Ministry of Intelligence.⁶⁷ Some families have been forced to pay officials a charge for the rope used to hang their relatives, in order to receive the bodies for burial. Those lawyers that bravely defend members of religious or ethnic minorities as they face the death penalty also face the risk of persecution.

Several lawyers who spoke out against the sentences and the executions of their clients faced reprisals, including imprisonment. Mohammed Olyaeifard was detained on 1 May 2010 on charges of 'propaganda against the system', and given a one-year jail term. Lawyer Khalil Bahramian conducted various interviews with different foreign and Iranian media, defending his client's innocence and exposing the various judicial irregularities leading to the hangings of five political activists on 9 May 2010. Mr Bahramian stated clearly that all Iranian officials knew full well that the teacher Farzad Kamangar was innocent, but he was finally executed in violation of many judicial norms and practices. In February 2010, following his own conviction for 'insulting the Head of the Judiciary' and 'acting against state security', Mr Bahramian was sentenced to 18 months' imprisonment and banned from practising law for ten years.⁶⁸

The Centre for Human Rights Defenders, co-founded by Mohammad Ali Dadkhah and Nobel Peace Laureate Shirin Ebadi, was forcibly closed by the Iranian authorities in December 2008. Its members have faced repeated harassment, intimidation, arrest and imprisonment as they have continued their work in supporting human rights. Mr Dadkhah also represented cases where people had filed suit against the government for building the Sivand Dam in Fars province, and for granting the construction permit for Jahan Nama Tower, a high-rise building in Isfahan. Mr Dadkhah was first arrested in 2002 during wide arrests of Iran Freedom Movement members. He represented many prominent clients, including Pastor Yousef Nadarkhani. On 8 July 2009 Mr Dadkhah, his daughter and three of his colleagues were arrested by plain clothes officers who did not have a warrant. His law firm was subsequently closed and the doors sealed with lead. Mr Dadkhah was accused of 'keeping weapons, opium as well as documents' that illustrated links with foreign 'enemies'. On 3 July 2011 the Revolutionary Tribunal disbarred Mr Dadkhah for 'actions and propaganda against the Islamic regime', 'membership of an association seeking the soft overthrow of the government', and 'spreading propaganda against the system through interviews with foreign media', as well as keeping banned books at home.

67 Mohabat News, 'Secret execution of a Jewish-Armenian couple in Tehran's Evin Prison', 27 March 2011 http://mohabatnews.com/index.php?option=com_content&view=article&id=1463:secret-execution-of-a-jewish-armenian-couple-in-tehrans-evin-prison&catid=36:iranian-christians&Itemid=279

68 Amnesty International, 'Death sentences and executions in 2010', 28 March 2011, p. 29 www.amnesty.org/en/documents/ACT50/001/2011/en/

He was also sentenced to nine years in jail and a ten-year ban on practising law or teaching at university. On 10 January 2013 Mr Dadkhah was released on furlough. Reyhaneh Jabbari was hanged in October 2014 for murdering a doctor she said had tried to rape her. She admitted during her trial in 2009 that she had killed Dr Morteza Abdolali Sarbandi, a physician and a former employee of the Ministry of Intelligence, but insisted that she had done so in self defence. The UN Office of the High Commissioner for Human Rights said there was evidence that Ms Jabbari's conviction was based on a confession coerced under the threat of torture. The death sentence against her prompted widespread denunciations, as did the execution. In a statement before the hanging, Amnesty International said that the investigation into the crime had been 'deeply flawed' and that Ms Jabbari's claims 'do not appear to have ever been properly investigated'.⁶⁹

7. CHILD EXECUTIONS

The execution of persons who were under the age of 18 at the time of offence constitutes one of the major breaches of Iran's commitments under international treaties. Since 1990 Iran is known to have executed 24 people who were under the age of 18 when they committed the offence for which they were convicted. This means that Iran has executed roughly half the total number of juveniles executed globally during the 1990s and 2000s. Furthermore, Amnesty International has compiled a list of more than 140 people sentenced to death in recent years in Iran for crimes allegedly committed when they were under the age of 18; however, it has proved difficult to monitor their subsequent fate.⁷⁰ At the end of 2010 at least 140 juvenile offenders remained on death row.⁷¹

As defined by Islamic codes, and as designated in the Iranian civil code, the age of maturity in Iran is 15 for boys and nine for girls.⁷² Thus at 15 and nine respectively, boys and girls cease to be considered 'minors' and can be held criminally responsible. In contrast, under international law, maturity is understood to have been reached at the age of 18. Due to the Islamic definition of maturity, the conviction and execution of juveniles is far more likely to occur in Iran than in non-Islamic countries. Article 82 of the Iranian penal code explicitly states that the penalties for adultery are applicable 'regardless of the age...of the culprit'. Under Article 513 the penalty of execution

69 *New York Times*, 'Rights Groups Condemn Execution of Iranian Woman', 25 October 2014 www.nytimes.com/2014/10/26/world/middleeast/rights-groups-condemn-iranian-execution.html?_r=0

70 Amnesty International, 'The slow death of the death penalty', 28 March 2011, p.29 www.amnesty.org.uk/blogs/end-death-penalty/slow-death-death-penalty

71 Amnesty International, Annual Report 2011, p.175 http://files.amnesty.org/air11/air_2011_full_en.pdf

72 Iranian Criminal Code (1990), Article 49

is applicable to anyone who denounces the Prophet, regardless of the age of the person convicted.

A 16-year-old girl, Atefeh Rajabi Sahaaleh, was reported to have been executed by hanging on 15 August 2004 in the city centre of Neka in the northern province of Mazandaran, for 'acts incompatible with chastity'.⁷³ Later the authorities said that she was 'mentally incompetent'. During the trial she had no access to legal help. Her sentence was reportedly imposed by a clerical judge in a lower court who severely criticised her clothing, and was apparently incensed by her protestations against the misogyny and injustice of the Islamic judicial system. The judge was reported to have personally put the noose around her neck before the hanging.

In 2006 an 18-year-old man identified only as Mohammed was sentenced to death by Branch 71 of the Tehran Criminal Court, for a murder he committed in August 2003, aged 16.⁷⁴ He had reportedly originally been tried by the Children's Court and sentenced to five years' imprisonment and payment of blood money. However, the family of the victim is reported to have complained, and he was subsequently tried in the Criminal Court at age 18 and sentenced to death. The Islamic Republic News Agency (IRNA) reported in February 2006 that a judge in Tehran's Appeal Court stated that Iran would continue to sentence child offenders to death without considering other options.⁷⁵

Ebrahim Hamidi, aged 16, was arrested in the suburbs of Tabriz in East Azerbaijan province in 2008, after a fight with members of another family. Three of his friends who were involved in the incident were also arrested. Later the four were accused of homosexual assault; however, the other three young men were cleared of all charges after being told by officials that they would be freed if they testified against Hamidi. By 2010, aged 18, Mr Hamidi alone was facing execution on charges of homosexuality, originally without legal representation. Mr Hamidi is said to have confessed to homosexual charges under torture. In addition, the alleged victim has admitted that he had been under pressure from his parents to make false accusations.⁷⁶ Mr Hamidi, who protests he is not homosexual, was sentenced to death for *lavat* (sodomy) – on the basis of 'judge's knowledge', a legal category that allows for subjective judicial rulings where there

is no conclusive evidence. Later in the case Mr Hamidi was represented by human rights lawyer Mohammed Mostafaei, who has since been forced to flee Iran because he is in serious danger for giving information on death penalty cases to the international media.

Mohammed Reza Haddadi was sentenced to death in 2004 for a murder he allegedly committed when he was 15. He was first scheduled for execution in October 2008, then in May, July and December 2009. In July 2010 his family were told to visit him for the last time before his execution in Shiraz, but this was again postponed. Facing repeated executions, stayed only at the last minute, qualifies as a form of psychological torture.

According to state-run media agency Mehr, Ali Naderi was executed in Raja'i Shahr prison in Karaj, north-west of Tehran, on 16 January 2013. The execution of a 21-year-old man for a crime he allegedly committed while apparently still a juvenile 'shows a deplorable disregard for international standards on the death penalty', said an Amnesty International spokesperson.

In a report dated 29 August 2012, Human Rights Watch stated that Iran's proposed amendments to its penal code would still violate the rights of accused people and criminal defendants.⁷⁷ The most serious problems with the new provisions included their retention of the death penalty for child offenders, Human Rights Watch stated. The proposed new legal code retained the death penalty for children in certain circumstances, explicitly pegging the age of criminal responsibility to the age of maturity or puberty under shari'a law: nine years for girls and 15 years for boys. Therefore a judge might still sentence to death a girl as young as nine or a boy as young as 15 if convicted of a 'crime against God' or a *qesas* crime such as sodomy or murder. Human Rights Watch asserted that Iran remained the world leader in executing people convicted of committing an offence while under the age of 18. The government maintained that Iran does not execute children, on the basis that authorities wait for child offenders to reach 18 before executing them. In 2011 at least 143 child offenders were on death row in Iranian prisons, the vast majority for alleged crimes such as rape and murder. Death sentences for those crimes would not be affected by the proposed amendments.

In early 2013 Iran's judiciary implemented an amended penal code under which children convicted of 'discretionary crimes' such as drug-related offences would no longer be sentenced to death. However, a judge may still sentence to death juveniles convicted of crimes such as rape, sodomy, and murder if he determines that the child understood the nature and consequences of the crime, a vague standard susceptible to abuse.⁷⁸

The new IPC has made some changes which need to be considered carefully. Article 146 states that 'Immature

73 Reported by Safa Haeri in Paris 27 August 2004: IPS www.democraticunderground.com/discuss/duboard.php?az=view_all&address=116x7184

74 Iran Students Correspondence Association, and news agency Fars

75 Amnesty International, 'Iran: Worrying trends in the use of the death penalty', 27 February 2006 www.amnesty.org.au/news/comments/234/

76 *Guardian*, 'Iran set to execute 18-year-old on false charge of sodomy', 8 August 2010 www.theguardian.com/world/2010/aug/08/iran-mohammad-mostafaei-rights-lawyer

77 Human Rights Watch, 'Iran: Proposed Penal Code Deeply Flawed', 29 August 2012 www.hrw.org/news/2012/08/29/iran-proposed-penal-code-deeply-flawed

78 Human Rights Watch, World Report 2014: Iran www.hrw.org/world-report/2014/country-chapters/iran

children have no criminal responsibility.’ However, the new IPC fixes the age of maturity at 8 years and 9 months for girls and 14 years and 7 months for boys (Article 147). Thus the hope that the minimum age of criminal responsibility would be raised has still not been fulfilled. Consequently, if a 15-year-old boy or girl commits a murder, and according to the opinion of the judge, s/he understands the nature of the crime and forensic medicine confirms his/her mental development, s/he may be sentenced to *qisas* (ie the death penalty). Similarly, in the case of hudud crimes such as illicit sex (*zina*), sodomy (*lavat*), homosexual behavior between girls (*mosaheqeh*), and other offences, it is still possible for juvenile offenders to be sentenced to violent and inhuman punishments such as the death penalty, stoning to death, and flogging.⁷⁹

8. METHODS OF EXECUTION

8.1. STONING

Death by stoning is authorised in Article 83 of the IPC, which prescribes this punishment for offences of adultery committed by a married man or woman. Adultery can be proved by the testimony of an eyewitness, the confession of a defendant, or by ‘judge’s knowledge’, the loophole which allows the judge to make decisions without factual, written or verbal evidence.

Death by stoning is justified in Islam by reference to the authority of Mohammed. It is asserted that many *Hadith*, including Sahih Bukhari, give proof that stoning was ordered and practised by Mohammed, for example: ‘The Jew brought to the Prophet a man and a woman from amongst them who have committed (adultery) illegal sexual intercourse. He ordered both of them to be stoned (to death), near the place of offering the funeral prayers beside the mosque.’⁸⁰ Some scholars have found as many as 35 examples of stoning in these *Hadith* writings.

The original IPC was specific about the manner of execution and types of stones used. Article 102 states that men should be buried up to their waists and women up to their breasts for the purposes of execution by stoning. Article 104 states that the stones used should be ‘not large enough to kill the person by one or two strikes, nor should they be so small that they could not be defined as stones.’ This makes it clear that the purpose of stoning is to inflict a slow and painful death.⁸¹ As such, this method of execution clearly constitutes cruel and inhuman and degrading treatment or punishment as outlined in Article 7 of the ICCPR. However, the Iranian authorities deny this. In September 2007 the Secretary General of Iran’s Human Rights Headquarters and Deputy Head of the Judiciary, Javad Larijani, stated that “Stoning is neither

torture nor an incongruous punishment,” and added that it is less severe than other types of execution “because in stoning the defendant has a chance to survive.”

In Iran, executions by stoning have always been few in comparison with executions by other methods. However, stonings have been reported regularly over the years. In 1986 at least eight people were stoned to death, among them a woman who in April of that year was given 100 lashes before being stoned to death in Qom. In 1995 Amnesty International received reports that as many as ten people may have been stoned to death. In May 2001, a woman named Maryam Ayoubi and another unnamed woman were reported to have been stoned to death, with a further two stonings reported in 2002. There appears to have been a moratorium on stoning after 2002; however, in May 2006 two men named as Abbas H. and Mahboubeh M. were reported to have been executed by stoning in Mashad. Reports suggest that these men took over 20 minutes to die.⁸²

The majority of those stoned to death are women. In 2008, of the 11 people awaiting death by stoning, nine were women. Many were sentenced after grossly unfair trials.⁸³ Research by the *Guardian* newspaper found 12 women and three men on death row in 2010 awaiting execution by stoning.⁸⁴

Women are not treated equally with men under the law, and are particularly vulnerable to unfair trials because their higher rate of illiteracy makes them more likely to sign confessions to crimes they did not commit. Moreover, women from ethnic minorities (such as Kurds) are less likely to be able to speak Farsi than men, so they often do not understand what is happening during the legal process.

Sakineh Mohammadi Ashtiani’s case featured prominently in the Western media after she was sentenced to death by stoning in 2006, after being convicted of adultery. She speaks Azerbaijani Turkic but little Farsi. Although she told the court her confession was false and had been forced out of her, three judges convicted her under the ‘judge’s knowledge’ clause, used where there is no clear evidence. In May 2007 the Supreme Court confirmed her sentence. She remains in Tabriz Central prison, denied

⁸² Amnesty International, ‘Iran: End Executions by Stoning’, 15 January 2008, p.9 www.amnesty.org/en/documents/MDE13/001/2008/en/

⁸³ Amnesty International, ‘Iran: death by stoning “a grotesque and unacceptable penalty” says new Amnesty report’, 15 January 2008 www.amnesty.org.uk/press-releases/iran-death-stoning-grotesque-and-unacceptable-penalty-says-new-amnesty-report

⁸⁴ *Guardian*, ‘Sakineh Mohammadi Ashtiani will not be stoned to death - for the time being’, 12 July 2010 www.theguardian.com/world/2010/jul/12/iran-sakineh-mohammadi-ashtiani-stoned-death

⁷⁹ Iran Human Rights Documentation Center, ‘IHRDC’s Submission to the UN Universal Periodic Review’ www.iranhrdc.org/english/human-rights-documents/united-nations-reports/un-reports/1000000454-ihrdc-s-submission-to-the-un-universal-periodic-review.html

⁸⁰ Hadith Sahih Bukhari: Volume 2, Book 23, Number 413: Narrated ‘Abdullah bin ‘Umar

⁸¹ Amnesty International, ‘Iran: End Executions by Stoning’, 15 January 2008 www.amnesty.org/en/documents/MDE13/001/2008/en/

visits by her children and lawyer since August 2010. Her son and lawyer were arrested and are also held in prison. International protests, such as the Stop Stoning Forever Campaign, have delayed her execution but have not changed the verdict or the sentence.⁸⁵

Stop Stoning Forever has succeeded in helping to save at least five people from stoning. Campaigners often face harassment and intimidation by the authorities. Asieh Amini, Shadi Sadr, and Mahboubeh Abbasgholizadeh were among 33 female activists arrested in Tehran while protesting in March 2007 about the trial of five women's rights activists.

When the Bill of the new IPC was initially approved by the Guardian Council on 18 January 2012, it did not have any particular article penalising adultery committed by a married man or woman (*zina-ye-mohsaneh*), which was previously punishable by stoning to death. The silence of the new IPC on this issue caused some observers to assume that stoning was abolished, although legal commentators strongly rejected this claim. It later became evident that the decriminalisation of adultery and the abolition of stoning was not to be. Several additional changes were made to the draft of the IPC, including the stipulation that stoning to death was the punishment for *zina-ye-mohsaneh* (adultery).⁸⁶

8.2. OTHER METHODS AND CONTINGENCIES

Executions can take place by a variety of other methods. Hanging is the most common in Iran, while in *hodood* cases crucifixion and cross amputation are legal forms of execution.⁸⁷ The Encyclopaedia of Islam states that execution of an apostate 'should be by the sword'.⁸⁸

One of the controversial matters in the Iranian use of the death penalty is the fate of anyone who survives execution. A prisoner named as Alireza M, a father of two, was arrested in 2010 for possessing 1kg of methamphetamine. He was convicted of smuggling drugs and sentenced to death by a revolutionary court. He was secretly hanged on 9 October 2013 at Bojnord prison, and medics pronounced him dead after he had been hanging by the neck for 12 minutes. After 24 hours, he showed

vital signs; morgue workers realised he had survived only when they spotted condensation on the plastic cover he was wrapped in, after which he was transferred to the hospital. Alireza was taken to Bojnurd's Imam Ali hospital and contradictory reports were given as to his condition. A nurse told *Jam-e-Jam*, a state newspaper, that his general health was satisfactory and improving every day. A legal expert employed by the court announced that, although his death penalty was originally ineffectively executed, he would be executed again after he regained his health. However, Iran's justice minister, Mostafa Pourmohammadi, said that the 37 year old, who was on life support, would not face a second execution.

9. PUBLIC EXECUTIONS

Many executions take place in public places in Iran and there was a sharp rise in public executions in 2011. In 2013 there were 59 executions performed in public, as far as perusal of official statistics can reveal.⁸⁹ (There are no statistics available for public executions in 2014.) While executions are normally held in prisons, it has been reported that one was held in a sports stadium,⁹⁰ and others have been held in public parks.⁹¹ Public executions in Iran are usually by hanging, and are carried out by cranes which lift the condemned person by a noose around the neck. Such executions are advertised in advance to attract an audience. Sometimes guards will take the condemned on top of open buses with ropes draped around their necks, and the victims are then hanged from bridges as the vehicle drives away. One human rights activist, Fazel Hawramy, affirms that at such executions, "thousands of people are watching as if it were a football match. People are shouting and cheering. But what is most shocking is the participation of children in this barbaric spectacle."⁹²

Unfortunately, whenever an execution is carried out in public, children are often among the spectators. What children think of such spectacles is hard to know. However, the violence of the scene cannot leave young witnesses unaffected psychologically.

A 12-year-old boy died on 31 August 2013 after re-enacting a public execution he had witnessed – a frequent occurrence in his home province of Kermanshah in western Iran. He and his younger brother threw a rope over a lamppost, Mehran stood on a cart and put the noose around his neck, his eight-year-old brother pulled

85 Founded in 2006, the campaign seeks to locate attorneys to defend cases of those facing death by stoning, and to use activism and publicity to see convicts freed, with an eye towards abolishing stoning altogether.

86 Iran Human Rights Documentation Center, 'IHRDC's Submission to the UN Universal Periodic Review' www.iranhrdc.org/english/human-rights-documents/united-nations-reports/un-reports/1000000454-ihrdc-s-submission-to-the-un-universal-periodic-review.html

87 Amnesty International, 'Iran: Worrying trends in the use of the death penalty', 27 February 2006 www.amnesty.org.au/news/comments/234/

88 *Encyclopaedia of Islam*, Third edition (2007), Volume VII, p.635

89 Iran Human Rights, 'Annual Report on the Death Penalty in Iran - 2013', 12 March 2014 <http://iranhr.net/2014/03/report-death-penalty-iran-2013/>

90 International Campaign for Human Rights in Iran, 'Photo of the Day: Public Execution in a Sports Stadium in Iran', 20 January 2013 www.iranhumanrights.org/2013/01/photo_day/

91 *New York Times*, 'Iran Resorts to Hangings in Public to Cut Crime', 20 January 2013 www.nytimes.com/2013/01/21/world/middleeast/iran-resorts-to-hangings-in-public-to-cut-crime.html?_r=0

92 *Guardian*, 'Iran public execution outrages human rights groups', 22 July 2011 www.theguardian.com/world/2011/jul/22/iran-public-execution-human-rights

the cart away, and Mehran was hanged in reality.⁹³ The rationale for public executions, under the country's harsh legal code, is that they work as a deterrent to crimes ranging from murder and rape to drug smuggling. One commentator has pointed to an important factor evident in the recent wave of public executions: '...the one goal that critics of the Islamic Republic believe to be the true reason for the crackdown: the dominance [of society] by fear. Almost all of the executions have been carried out through public hangings. Videos of the whole process are then broadcast over the Internet for those who might have missed the show. The quality of many of these videos, and the restricted areas that they have been shot from, leave almost no doubt that they have been filmed by state-authorized cameramen and released intentionally...Although it might seem that the current Iranian government has been at least periodically "successful" in its latest series of crackdowns aimed at boosting control over society through the primitive method of spreading fear, psychological studies, along with sociological evidence, casts doubt on the ultimate effect of such methods...A society that is heavily exposed to violence gradually turns less vulnerable and more resistant toward [state] aggression, thus giving way to the establishment of new behavior norms...the "normalization of violence".'⁹⁴

10. UN RECOMMENDATIONS TO IRAN ON THE DEATH PENALTY AND EXECUTIONS

Under Articles 4 and 8 of the Anti-Narcotics Law, the death penalty is mandatory for crimes involving a stipulated quantity of a listed drug. This mandatory requirement is contrary to the stipulations of Article 6 of the International Covenant on Civil and Political Rights, which requires the death penalty to be imposed only for the 'most serious crimes'.

The UN Special Rapporteur on extra-judicial, summary or arbitrary executions defined the most serious crimes as ones 'where it can be shown that there was an intention to kill which resulted in the loss of life.'⁹⁵ Drug offences do not meet this threshold since the *intention* of someone who is involved in drug trafficking, drug distribution, manufacturing, cultivation, or even the possession, of certain quantity of drugs is not likely to be to kill but rather to generate income. In fact, the Special Rapporteur himself emphasised that drug trafficking does not fulfil the criterion of a crime

with the intention to kill resulting in the loss of life.⁹⁶ Iran was reviewed under the UN Universal Periodic Review (UPR) process in February 2010 and in October 2014.

During the UPR in 2010,⁹⁷ ten countries expressed concern about Iran's increasing use of the death penalty, including the numbers of executions, the use of the death penalty for minors, the offences for which it was applicable, and the use of execution by stoning. In 2014, ten countries again made recommendations concerning Iran's use of the death penalty.

Iran expressed its support for several recommendations made in the UPR by member states, including the recommendation to respect at least minimum standards of the ICCPR and CRC concerning the death penalty, and the recommendation to reconsider the inclusion of apostasy, witchcraft, and heresy as capital offences in its revised penal code. Iran also promised to consider the abolition of the death penalty for crimes committed by persons under the age of 18, execution by stoning, and the removal of its blanket reservation to the CRC.

The UN Secretary General's report to the General Assembly in September criticised the continuing high level of executions in Iran, particularly for political offences, as well as public executions, the continuing execution of juvenile offenders and the use of stoning as a method of execution. In December 2010 the General Assembly passed a resolution on the situation of human rights in the Islamic Republic of Iran, which expressed concern at the continuing high incidence of and dramatic increase in executions, including public executions; the absence of internationally recognised safeguards; the continued executions of juvenile offenders; the imposition of the death penalty for crimes that lack a precise and explicit definition—including *moharebeh*—or for crimes that do not qualify as the most serious crimes; and the use of stoning and suspension strangulation as methods of execution. Iran voted against the UN General Assembly resolution in December 2014 which called for a moratorium on the use of the death penalty.

The UN Special Rapporteur on extrajudicial, summary and arbitrary executions has stated⁹⁸ that all defendants facing the imposition of capital punishment must benefit from the services of a competent defence counsel at

93 Radio Free Europe/Radio Liberty, 'Iran's Public Executions prompt Fatal Reenactment', 26 October 2014 www.rferl.org/content/iran-hanging-rights-un/25131488.html

94 Worldpress, 'Public Executions Signal New Wave of Suppression', 9 October 2007 <http://worldpress.org/Mideast/2956.cfm>

95 2007 Report of the Special Rapporteur on extrajudicial, summary, or arbitrary executions, para. 53; the Special Rapporteur added that this interpretation of 'most serious crimes' is based on detailed examination of the jurisprudence of the major UN bodies responsible for interpreting these provisions. See also Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 29 May 2009, UN Doc A/HRC/11/2/Add.1, p.187

96 Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Addendum: Communications to and from Governments, 1 June 2010: A/HRC/14/24/Add.1, p.46

97 UN Human Rights Council: Fourteenth Session: Report on the Working Group on the Universal Periodic Review: Islamic Republic of Iran, 15 March 2010: A/HRC/14/12

98 Amnesty International, 'Iran: Worrying trends in the use of the death penalty', 27 February 2006 www.amnesty.org.au/news/comments/234/

every stage of the proceedings, and not just after charges have been preferred.

In late October 2011 Iran's human rights record was reviewed by the UN Human Rights Committee on its obligations under the ICCPR.

On 28 June 2012 three United Nations Special Rapporteurs, on Iran, summary executions, and torture, condemned the execution of four members of the Ahwazi Arab minority in Ahwaz's Karoun prison. The three Special Rapporteurs commented: "Given the lack of transparency in court proceedings, major concerns remain about due process and fairness of trials in cases involving the death penalty in Iran." They added that, "Under international law, the death penalty is the most extreme form of punishment, which, if it is used at all, should be imposed only for the most serious crimes. Defendants in death penalty cases should also receive fair trial guarantees stipulated in the International Covenant on Civil and Political Rights, ratified by Iran in 1975. Any death sentence undertaken in contravention of those international obligations is tantamount to an arbitrary execution."

The UN human rights experts noted with concern the high numbers of executions carried out in public, despite a circular issued in January 2008 by the Iranian Chief Justice that banned public executions. At least 25 executions were carried out in public in 2012.

The Special Rapporteurs also regretted that the authorities continue to apply the death penalty with alarming frequency, despite numerous calls to the government to establish a moratorium on executions. At least 140 executions were known to have been carried out since the beginning of 2012, they noted, with some sources indicating the figure to be as high as 220. The majority of these were for drug-related offences, which the Rapporteurs did not believe constituted the 'most serious crimes', as required by international law. The UN experts urged the Iranian authorities "to halt immediately the imposition of the death penalty for crimes which do not constitute the most serious crimes, as well as ensuring stringent respect for guarantees of fair trial."⁹⁹

A wide range of UN bodies have reported that Iran violates various fair trial guarantees with respect to cases of the death penalty for drug offences. In relation to Article 14, such allegations usually relate to denial of access to court; denial of any kind of legal or consular assistance; or conviction by the Revolutionary Courts (and denial of

the right to appeal).¹⁰⁰ Revolutionary Courts cannot be considered independent and impartial tribunals; they do not allow the accused to prepare a defence, and violate due process of law.

The UPR recommendations for Iran in 2010 requested that it respect the minimum standards set forth in the ICCPR and CRC with regard to inhumane and public executions.¹⁰¹ The UN Office of the High Commissioner for Human Rights stated in 2013 that it 'condemned the rise in public executions in Iran, which add to the already cruel, inhuman and degrading nature of the death penalty and have a dehumanizing effect on the victim and those who witness the execution.'¹⁰²

In 2014 Ahmed Shaheed, the UN Special Rapporteur on human rights in Iran, urged the Iranian authorities to conduct a retrial of a woman on death row, to 'ensure the defendant's right to due process which is guaranteed under both Iranian law and international law.'¹⁰³

In 2014 the Office of the High Commissioner for Human Rights in Geneva expressed its concerns about the increasing number of executions in Iran and issued a warning. A spokesperson for the UN said that, although there were signs of improvements in the domain of human rights after the election of Hassan Rouhani as the President of Iran, the new government had not made any changes in terms of the numbers of executions.¹⁰⁴

11. EUROPEAN PARLIAMENT RESOLUTION ON IRAN

On 22 November 2012 the European Parliament passed a resolution on Iran¹⁰⁵ which noted:

- That, on 22 October 2012, ten men were executed for drug offences, that most of these men did not receive a fair trial, and that most were subjected to torture during their detention;

100 OHCHR, 'UN Special Rapporteurs outraged with recent executions in Iran', 23 October 2012

www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12688&LangID=E

101 Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran, Human Rights Council, Fourteenth Session, 15 March 2010: A/HRC/14/12, paras. 90(39), 91(10)

102 OHCHR, 'UN human rights office condemns execution of Iranian juvenile', 22 January 2013 www.un.org/apps/news/story.asp?NewsID=43980&

103 Al Arabiya, 'Iran: "Blood Money" Saved 358 from Death Penalty', 28 April 2014 <http://english.alarabiya.net/en/News/middle-east/2014/04/28/-Blood-money-saved-358-from-death-penalty-iran.html>

104 HRANA, 'October to October- Annual review of executions in Iran 2013-2014', 12 October 2014 <https://hra-news.org/en/october-october-annual-review-executions-iran-2013-2014>

105 European Parliament Resolution number P7_TA-PROV(2012)0463, 20 November 2012 www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B7-2012-505&language=EN

99 International Campaign for Human Rights in Iran, 'UN Special Rapporteurs Condemn Ongoing Executions in Iran', 29 June 2012 www.iranhumanrights.org/2012/06/un-special-raps-executions/

- That a dramatic increase in executions, including of juveniles, had been recorded in Iran in recent years, with over 300 executions registered since the beginning of 2012;
- That the death penalty is regularly imposed in cases where the accused are denied their due process rights and for crimes that do not fall into the category of 'most serious crimes' under international standards.

In this resolution, the European Parliament:

- Strongly condemned the use of the death penalty in Iran;
- Called on the Iranian authorities to institute a moratorium on executions pending the abolition of the death penalty, in accordance with UN General Assembly Resolutions 62/149 and 63/168;
- Urged the Iranian government to prohibit the execution of juveniles and to consider commuting all capital sentences for juveniles currently facing a death sentence;
- Urged the Iranian government to publicise statistics on the death penalty and facts on the administration of justice in death penalty cases;
- Deeply deplored the lack of fairness and transparency of the judicial process and the denial of due-process rights in Iran;
- Called on the Iranian authorities to guarantee a stringent respect of fair trial and due process to all detainees, as stipulated in the ICCPR;
- Believed that a visit by the UN Special Rapporteur might help to establish an overview of the human rights situation in Iran;
- Noted with concern that Iran has not accepted any visits by UN Special Rapporteurs or by the High Commissioner for Human Rights since 2005;
- Called upon Iran to honour its stated intention to allow a visit during 2012¹⁰⁶ by the UN Special Rapporteur for Human Rights in Iran.

It is to be noted that these figures are the only ones available. It is generally believed, however, that the true totals are far higher.

For instance, it is believed that the true death toll in 2010 may have been in excess of 550 when unofficial executions for drug and other offences are included;¹⁰⁸ total executions in 2011 may well have reached 600;¹⁰⁹ the actual total for 2012 has been authoritatively estimated at 523;¹¹⁰ and total executions in 2013 may well be as many as 687.¹¹¹

Difficulties in determining accurate figures arise from Iran's failure to publish official figures, and the large number of secret executions. Human rights organisations have to confine themselves to monitoring those newspapers which record executions, though not all executions are reported and occasionally newspapers are banned from reporting them. Information about executions in remote areas of the country is especially hard to collect.¹¹²

The number of executions in 2013 was the highest reported in more than 15 years, and the trend continued in 2014. The frequency of public executions remains high, and possession and trafficking of narcotic drugs were the charges most commonly used against those executed in Iran in 2013. Moreover, there were several juvenile offenders among those executed.¹¹³

Of the 388 executions officially notified in 2013, not more than 30 women and 248 men were identified by name. At least 299 executions were either not officially announced or carried out secretly. Of the likely total of 687 believed to have been executed that year, the names of at least 60% are unknown. The charges in 114 cases are unknown.¹¹⁴

12. APPENDIX: STATISTICAL RECORDS OF OFFICIAL EXECUTIONS IN IRAN, 1999 TO 2013¹⁰⁷

Year	Number of executions
1999	165
2000	75
2001	139
2002	113
2003	108
2004	159
2005	94
2006	177
2007	335
2008	346
2009	388
2010	252
2011	439
2012	292
2013	388

108 Amnesty International Annual Report 2011, p.175 http://files.amnesty.org/air11/air_2011_full_en.pdf

109 International Campaign for Human Rights in Iran, 'Secret Executions: Findings Challenge Judiciary's False Narrative', 2 January 2012 www.iranhumanrights.org/2012/01/vakilabad-101/

110 Iran Human Rights Documentation Center, 'IHRDC Chart of Executions by the Islamic Republic of Iran – 2012' www.iranhrdc.org/english/publications/1000000030-ihrdc-chart-of-executions-by-the-islamic-republic-of-iran-2012.html

111 Iran Human Rights Documentation Center, 'Annual Report on the Death Penalty in Iran – 2013', 12 March 2014 <http://iranhr.net/2014/03/report-death-penalty-iran-2013/>

112 International Federation for Human Rights, *Iran: Death Penalty, A State Terror Policy*, April 2009, p.8

113 Iran Human Rights Documentation Center, 'Annual Report on the Death Penalty in Iran – 2013', 12 March 2014 <http://iranhr.net/2014/03/report-death-penalty-iran-2013/>

114 *ibid.*

106 This visit did not take place.

107 Statistics quoted from Amnesty International Annual Reports 2000 to 2011