



Home Office

Country Information and Guidance

Iran: Smugglers

Version 1.0

March 2016

Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained within this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the European Asylum Support Office’s research guidelines, [Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

Contents

Guidance	4
1. Introduction.....	4
1.1 Basis of Claim	4
2. Consideration of Issues	4
2.1 Credibility.....	4
2.2 Particular social group	4
Assessment of risk	4
2.3 Exclusion	5
2.4 Protection	6
2.5 Internal relocation.....	6
2.6 Certification	6
3. Policy summary	6
Country Information	8
4. Background	8
5. Legal position	10
5.2 Criminal offences.....	11
5.3 Punishment	11
5.4 Judicial system	14
6. Treatment of smugglers/suspected smugglers	15
Version Control and Contacts	21

Guidance

Updated 14 March 2016

1. Introduction

1.1 Basis of Claim

- 1.1.1 Fear of persecution or serious harm by the authorities because of the person's criminal activities as a smuggler (in particular those who smuggle drugs and/or alcohol).

[Back to Contents](#)

2. Consideration of Issues

2.1 Credibility

- 2.1.1 For further guidance on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview: see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing: see the [Asylum Instruction on Language Analysis](#).

[Back to Contents](#)

2.2 Particular social group

- 2.2.1 Smugglers in Iran do not constitute a particular social group (PSG) within the meaning of the 1951 UN Refugee Convention . This is because they do not possess a common immutable/innate characteristic that cannot be changed or a characteristic that is so fundamental to human identity that they should not be required to change it.
- 2.2.2 For further guidance on particular social groups, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

2.3 Assessment of risk

- 2.3.1 Iran has one of the most serious drug addiction problems in the world and drug trafficking/smuggling is a huge problem. Iran imposes the death penalty for those caught drug smuggling in the country and according to sources, thousands of people have been executed for drug related offences (see [Legal Position](#) and [Treatment of smugglers/suspected smugglers](#)).
- 2.3.2 Although there is a functioning criminal justice system in Iran there are numerous reports that the court system is subject to political interference, bribery, corruption, and that trials including those which award the death penalty, disregarded international standards of fairness. Defendants often find themselves denied access to representation and/or the right to appeal. Judges disregard allegations of torture or abuse while detained and often

accept forced confessions as evidence. There continue to be reports of politically motivated charges, a lack of due process, and regime officials, security and intelligence forces continuing to enjoy a high level of impunity (see country information and guidance on [Iran: Background information including actors of protection and internal relocation](#)).

- 2.3.3 In Iran, drug-related offenses are tried in Revolutionary Courts, which routinely fall far short of international fair trial standards. Under Article 32, death row prisoners convicted on drug-related offences do not have the right to appeal (see [Legal Position](#) and [Judicial system](#)).
- 2.3.4 Human Rights observers believe that many of those sentenced to death for drug related crimes are actually political opponents and/or activists and their families who have not committed any drug related offences but have merely been detained on the pretext of being involved in drugs. (See country information and guidance on [Iran: Kurds](#) and [Iran: Prison Conditions](#)).
- 2.3.5 Every month Iranian border guards shoot dozens of Kurdish people for trying to smuggle goods, including fuel, tea, tires, makeup, clothing and satellite dishes, across the border from Iraqi Kurdistan (see [Punishment](#) and [Treatment of smugglers/suspected smugglers](#)).
- 2.3.6 Persons who have been involved solely in smuggling are likely to face prosecution, rather than persecution, on return to Iran. It is legitimate for the authorities to prosecute those engaged in smuggling. However those prosecuted of drug smuggling in particular are likely to face a trial which did not meet international standards of fairness, with reports of torture, corruption and bribery rife throughout the judicial system. Human rights NGOs and opposition websites reported poor prison conditions and mistreatment of the prisoners that may amount to inhuman and degrading treatment see [Iran: Prison conditions](#).
- 2.3.7 In some cases those with a political profile or those who have come to the adverse attention of the authorities for other reasons could face victimisation in the application of drug smuggling charges. This could lead to disproportionate punishment amounting to persecution or serious harm (see also country information and guidance on [Iran: Illegal exit](#)).
- 2.3.8 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

2.4 Exclusion

- 2.4.1 Decision makers should have regard to the fact that a person's criminal activities may mean that they fall to be excluded from the 1951 Refugee Convention under Article 1F.
- 2.4.2 Where a person is excluded from protection under the Refugee Convention they are also excluded from Humanitarian Protection. However, if there is a real risk of a breach of Article 3 ECHR, or a flagrant denial of Article 6 (fair trial), they may be entitled to Discretionary Leave or Restricted Leave.
- 2.4.3 For further guidance on the exclusion clauses, discretionary leave and restricted leave, see the [Asylum Instruction on Exclusion: Article 1F of the](#)

[Refugee Convention](#), the [Asylum Instruction on Discretionary Leave](#) and the [Asylum Instruction on Restricted Leave](#).

[Back to Contents](#)

2.5 Protection

- 2.5.1 As the person's fear is of ill treatment/persecution at the hands of the state, they will not be able to avail themselves of the protection of the authorities.
- 2.5.2 For further guidance on assessing the availability or not of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.5.3 See also country information and guidance on [Iran: Background information including actors of protection and internal relocation](#).

[Back to Contents](#)

2.6 Internal relocation

- 2.6.1 As the person's fear is of ill treatment/persecution at the hands of the state, they will not be able to relocate to escape that risk.
- 2.6.2 For further guidance on internal relocation, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.6.3 See also the country information and guidance reports on [Iran: Background information, including actors of protection and internal relocation](#) and [Iran: illegal exit](#).

[Back to Contents](#)

2.7 Certification

- 2.7.1 Where a claim falls to be refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.7.2 For further guidance on certification, see the [Appeals Instruction on Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

[Back to Contents](#)

3. Policy summary

- 3.1.1 Persons likely to be found guilty of smuggling on return to Iran are likely to face prosecution rather than persecution. However, drug smuggling can result in a person receiving the death penalty.
- 3.1.2 People fleeing from prosecution for drug trafficking are at risk of serious harm. And an unfair trial The justice system in Iran is subject to political interferences and faces accusations of corruption and bribery with defendants denied access to a fair trial and representation.
- 3.1.3 There may also be cases where political opponents and/ or those who have come to the adverse attention of the authorities have been wrongly charged/detained on the pretext of having been involved in drug smuggling. In such cases the punishment for drug related offences is disproportionate which may constitute persecution.

- 3.1.4 State protection and internal relocation to escape the risk will not be available.
- 3.1.5 If a claim is refused it is unlikely to be certifiable as clearly unfounded.

[Back to Contents](#)

Country Information

Updated 14 March 2016

4. Background

- 4.1.1 The US State Department's 2015 International Narcotics Control Strategy report (INCSR) published in March 2015 noted that:

'Iran has one of the most serious drug addiction problems in the world, with Iranian officials estimating addiction rates in November 2013 at 2.65 percent of the population, or upwards of 1.8 million people. Other informed observers have provided higher estimates. In September 2014, Iran's parliament amended the country's 2010 anti-narcotics law to pay for treatment for all drug addicts with government-provided insurance. According to the DCHQ, there are approximately 1,200 non-governmental organizations operating in Iran that are active in prevention and treatment, and provide nearly 80 percent of all services in these fields. Over 755,000 patients received some form of treatment or counseling in 2013, according to official statistics.'¹

- 4.1.2 The UN General Assembly, Situation of human rights in the Islamic Republic of Iran : note by the Secretary-General published on 6 October 2015 noted that:

'During meetings with the Special Rapporteur in September 2015, Iranian officials asserted that over at least 4,000 and as many as 10,000 individuals die annually as a result of drug abuse in the country. They reported that 12,000 police agents were also injured or killed in the past five years in more than 700 "armed clashes" to combat drug-trafficking. Officials assert that capital punishment functions as a sound deterrent to would-be criminals. They reported that the punishment is only applied to perpetrators guilty of importing exceptionally large quantities of narcotics regarded as serious by the Government, including opium and crystal methamphetamines, and that sufficient judicial safeguards to ensure defendants are not wrongfully convicted are in place and observed. Officials also pointed to statements about its efforts issued by the United Nations Office on Drugs and Crime to demonstrate international support for its approach.'²

- 4.1.3 The United Nations Office on Drugs and Crime, Drug Trafficking And Border Control- Situation Analysis reported that:

'The Islamic Republic of Iran reportedly spends millions of dollars annually on border control, including for the construction of expensive barriers along its borders with Afghanistan and Pakistan. More than 3,700 national law enforcement officials have been killed and over 12,000 have been maimed in counter-narcotics operations over the last three decades.'

¹ US State Department, 2015 International Narcotics Control Strategy Report (INCSR), March 2015 <http://www.w.state.gov/j/inl/rls/nrcrpt/2015/vol1/238981.htm> [date accessed 25 November 2015]

² UN General Assembly, Situation of human rights in the Islamic Republic of Iran : note by the Secretary-General, 6 October 2015, <http://www.refworld.org/docid/5631da2c4.html> [accessed 30 November 2015]

'In addition to opium and heroin trafficking, the Islamic Republic of Iran also faces emerging trends of illicit production and trafficking in Amphetamine-Type Stimulants (ATS). Over the last few years, there has been a sudden increase of reported seizures of high purity crystalline Methamphetamine (locally known as "Shisheh"). National authorities have also detected greater reliance on in-country production of ATS, mostly Methamphetamines. According to the 2014 Global Synthetic Drugs Assessment, Methamphetamine trafficking from the Islamic Republic of Iran to East and South-East Asia also appears to have spread to Europe.'³

4.1.4 The UN Human Rights Council, noted in a report of 4 August 2015 that:

'Iran's neighbouring countries are the largest producer of traditional narcotics in the world. This fact has given planning to combat the smuggling of narcotics, a strategic urgency. The country has taken effective steps to combat drugs; but the physical and nonphysical toll is high. To date, more than 3700 police and military officers have laid down their lives in the line of duty; with more than 12,000 injured. Each year, Iran spends hundreds of millions of dollars to combat drug smugglers and the transit of narcotics. Huge budgets are also spent on prevention, treatment and rehabilitation of addicts.'⁴

4.1.5 The US State Department INCSR noted that:

'Iran is a significant transit and destination country for Afghan opiates and hashish, as well as a growing source of methamphetamine for both international and domestic consumption. Most opiates and hashish are smuggled into Iran across its 572-mile eastern land border with Afghanistan and Pakistan, though maritime conveyance may be increasing as traffickers reportedly seek to avoid Iranian border interdiction efforts. Iranian officials claim to have invested over \$1 billion in the country's static interdiction infrastructure on the eastern border, which includes roads, watch towers, trenches, barriers, and surveillance cameras.'⁵

4.1.6 The United Nations Office on Drugs and Crime, Drug Trafficking And Border Control- Situation Analysis reported that:

'Drug trafficking represents a major challenge for the Islamic Republic of Iran. The geographical location of the country, particularly its porous 1,923 km-long Eastern border with Afghanistan - the world's largest illicit opium producer - and Pakistan, has turned it into a major transit country for illicit drugs. In response to this challenge, the country has built one of the strongest counter-narcotics enforcement capabilities in the region over the

³ United Nations Office on Drugs and Crime, Drug Trafficking And Border Control- Situation Analysis, undated <https://www.unodc.org/islamicrepublicofiran/drug-trafficking-and-border-control.html> [date accessed 30 November 2015]

⁴ UN Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 : Iran (Islamic Republic of), 4 August 2015, A/HRC/WG.6/20/IRN/1, available at: <http://www.refworld.org/docid/55b9f3a74.html> [accessed 25 November 2015]

⁵ US State Department, 2015 International Narcotics Control Strategy Report (INCSR), March 2015 <http://www.state.gov/j/inl/rls/nrcrpt/2015/vol1/238981.htm> [date accessed 25 November 2015]

years. According to the UNODC World Drug Report 2014, Iran accounted for 74% of the world's opium seizures and 25% of the world's heroin and morphine seizures in 2012.'

'Another rising challenge is represented by the increasing use of maritime routes for the trafficking of drugs and illicit chemicals from/to the region. Since the beginning of 2012, there have been an increasing number of reports made by the drug enforcement authorities of the Islamic Republics of Iran and Pakistan and the Persian Gulf Arab states on the illegal use of maritime transport for the trafficking of drugs and illicit chemicals from/to the region.'⁶

4.1.7 Amnesty International noted in a 2011 report on drug offences in Iran:

'Executions of alleged drugs offenders have rocketed in Iran since mid-2010. They have continued at a high rate, with the Judiciary announcing a crackdown on drug trafficking in October 2010 and following amendments to the Anti-Narcotics Law that came into force in January 2011. Many of those convicted have been killed in secret mass executions inside prisons, sometimes with their family and lawyer having little or no warning. Most, if not all, were condemned to death after grossly unfair trials, including being denied access to a lawyer and having no right to appeal...'

'Under Article 32 of the Anti-Narcotics Law, death sentences passed under the law are subject to confirmation by either the Head of the Supreme Court, or the Prosecutor General and Amnesty International has received information that those convicted under the law are not permitted to lodge appeals, despite the requirement in the Code of Criminal Procedures and other laws that all death sentences should be the subject of an appeal....'

'Under the Anti-Narcotics Law, those suspected of drugs offences may be held in temporary detention for up to four months, after which the authority that issued the order "has a duty to terminate or decline [the detention] unless there are legal or justified reasons for the continuation of [the] detention order" (Article 37). This four-month period is longer than the maximum one-month initial period for which detainees may be held in temporary detention on suspicion of "national security offences" under the Code of Criminal Procedures, but since in either case such orders are renewable any number of times, in practice, this means that individuals can be kept in detention without charge or trial for an indefinite period.'⁷

[Back to Contents](#)

5. Legal position

5.1.1 A Guardian article of 25 June 2012 noted:

⁶ United Nations Office on Drugs and Crime, Drug Trafficking And Border Control- Situation Analysis, undated <https://www.unodc.org/islamicrepublicofiran/drug-trafficking-and-border-control.html> [date accessed 30 November 2015]

⁷ Amnesty International, Addicted to Death: Executions for drug offences in Iran, <https://www.amnesty.org/download/Documents/.../mde130902011en.pdf>, Date accessed 26 February 2016

'In crimes related to alcohol consumption, Shariati [Head of Judiciary] warned: "We will show no mercy in finding, trying and punishing those breaking the law and we will punish them to the highest extent". Under Iranian Sharia law, certain crimes such as sodomy, rape, theft, fornication, apostasy and consumption of alcohol for the third time are considered to be "claims of God" and therefore have mandatory death sentences. People who belong to non-Muslim minorities such as Christians and Armenians, which are recognised by the authorities, are allowed to produce and consume alcohol in the country.'⁸

5.2 Criminal offences

5.2.1 The Anti Narcotics Law of the Islamic Republic of Iran as amended on 8 November 1997 by the Expediency Council states that:

'Article 1: The following acts are considered as crimes and the perpetrators shall be sentenced to punishments prescribed hereunder:

- (1) Cultivating poppy and coca absolutely, and cannabis for the purpose of production of narcotics.
- (2) Importing, exporting, producing and manufacturing any kind of narcotics.
- (3) Keeping, carrying, purchasing, distributing, hiding, transiting, supplying and selling narcotic drugs.
- (4) Setting up or running places for the use of drugs.
- (5) Using drugs in any form or manner except for cases provided for by law.
- (6) Producing, manufacturing, purchasing, selling and keeping tools and instruments used for manufacturing and consuming narcotics.
- (7) Causing to escape or giving protection to drug offenders and perpetrators who are under prosecution or have been arrested.
- (8) Destroying or concealing evidence of offenders' crimes.
- (9) Putting narcotic drugs or the tools used for their consumption in a place to entangle someone else.'

'In this law, narcotic drugs contain all substances in the 1959 Decree of narcotic schedule and its related amendments or all the drugs which have been considered as narcotics by Ministry of Health, Treatment and Medical Education.'⁹

[Back to Contents](#)

5.3 Punishment

5.3.1 The Anti Narcotics Law of the Islamic Republic of Iran as amended on 8 November 1997 by the Expediency Council states that:

⁸ The Guardian – 'Iranian pair face death penalty after third alcohol offence', <http://www.theguardian.com/world/2012/jun/25/iranian-pair-death-penalty-alcohol> Date accessed 26 June 2015

⁹ Iran: The Anti-Narcotics Law [Islamic Republic of Iran], 8 November 1997, <http://www.refworld.org/docid/4c35b0a52.html> [accessed 1 December 2015]

'Article 8: Anyone who imports, exports, distributes, produces, deals in, keeps or stores, conceals and carries (or transports) heroin, morphine, cocaine and other chemical derivatives of morphine or cocaine shall be sentenced to the following punishments, taking into account the amount of said drugs:

- (1) Up to five centigrams, a fine in the amount of five hundred thousand to one million rials in cash plus twenty to fifty lashes.
- (2) More than five centigrams to one gram, a fine in the amount of two million to six million rials in cash plus thirty to seventy lashes.
- (3) More than one gram up to four grams, a fine in the amount of eight million to twenty million rials in cash plus two to five years of imprisonment and thirty to seventy lashes.
- (4) More than four grams up to fifteen grams a fine in the amount of twenty million to forty million rials in cash, plus five to eight years of imprisonment and thirty to seventy four lashes.
- (5) More than fifteen up to thirty grams, a fine in the amount of forty million to sixty million rials fine in cash, plus ten to fifteen years of imprisonment and thirty and seventy four lashes.
- (6) More than thirty grams, death penalty and confiscation of property excepting the normal living costs for the family of the convicted.'¹⁰

5.3.2 The Iran Human Rights Documentation Center in an article of 18 July 2013 reproduced the first comprehensive English translation of Book Five of the Islamic Penal Code of the Islamic Republic of Iran (passed on 22 May 1996) which included the following articles:

'Article 702- Anyone who produces or buys or sells or proposes to sell or carries or keeps alcoholic beverages or provides to a third person, shall be sentenced to six months to one year of imprisonment and up to 74 lashes and a fine five times as much as the usual (commercial) value of the aforementioned object.

'Article 703- Importing alcoholic beverages into the country shall be considered as smuggling and the importer, regardless of the amount [of the beverages], shall be sentenced to six months to five years' imprisonment and up to 74 lashes and a fine ten times as much as the usual (commercial) value of the aforementioned object. This crime can be tried in the General Courts.

'Note 1 - In respect to articles 702 and 703, when the discovered alcoholic beverages are more than twenty liters, the vehicle used for its transport, if its owner is aware of the matter, shall be confiscated in favor of the government; otherwise the offender shall be sentenced [to a fine] equal to the value of the vehicle. Tools and equipments used for producing or facilitating the crimes mentioned in the said

¹⁰ Iran: The Anti-Narcotics Law [Islamic Republic of Iran], 8 November 1997, <http://www.refworld.org/docid/4c35b0a52.html> [accessed 1 December 2015]

articles, as well as the money gained through the transactions, shall be confiscated in favor of the government.

‘Note 2 - When civil servants or employees of governmental companies or companies or institutes dependant to government, councils, municipalities or Islamic revolutionary bodies, and basically all the three powers and also members of armed forces and public service officials, commit, or participate, or aid and abet in the crimes mentioned in articles 702 and 703, in addition to the punishments provided, they shall be sentenced to one to five years’ temporary suspension from civil service.

‘Note 3 - The court, under no circumstances, shall suspend the execution of the punishment provided in articles 702 and 703.’¹¹

5.3.3 A Venice International University Paper of July 2008 noted:

‘The main regulatory development to combat smuggling of goods and foreign exchange realized through governmental discretionary punishments of 1994 and its executives guidelines in 2000. On the base of this regulation, penalty on smuggled goods depends on the value of goods and categorized into two groups: (1).the products with the value of equal or less than 10 million rials, and (2). The products with the value beyond 10 million rials.

‘Products with the value equal or less than 10 million rials:

‘Upon detection of this group of products by the relevant governmental bodies (customs or police), they can seize the goods and send the detected case to the revenues recipients offices. In this case, related official bodies without extra monetary penalty will seize the detected consignment. On the base of articles 12 and 20 of the executives’ guidlines of governmental discretionary punishments, the governmental revenues recipients’ offices must transfer the seized smuggled goods to “possessory goods seller organization”.

‘Products with the value beyond 10 million rials:

‘In this case, according to the governmental discretionary punishments rule (approved in 1994) governmental revenues recipients’ offices besides seizing the smuggled consignment will receive the cash penalty, too. The cash penalty is two times the value of smuggled products. In this case, the offender may accept or reject to pay the fines. In the former case, upon payment of penalty, the offender will receive an official fine receipt and will be free of any other judicial prosecution. In the latter case, the case will be sent to court within 5 days upon detection. In the case of confirmation of smuggling offence, the offender will be sentenced to imprisonment besides seizing her smuggled products or foreign exchange. Furthermore, she must

¹¹ Iran Human Rights Documentation Center – ‘Book Five of the Islamic Penal Code of the Islamic Republic of Iran’, 18 July 2013 <http://iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html> Date accessed 26 June 2015

pay the amount of monetary penalty, which will not be lower than 2 times the value of smuggled products.’¹²

- 5.3.4 The Special Rapporteur noted in a report dated 6 March 2012 that unofficial punishment by state officials can also include indiscriminate killings:

‘The Special Rapporteur was also informed of the systematic killings of kulbars (back carriers) and kasebkaran (tradesmen), Kurds residing in border areas. The kulbaran, who ferry cargo across the border on their backs or smuggle commodities such as tea, tobacco and fuel to earn a living, are particularly affected. Iranian law regards the activities of the kulbari as a crime that is punishable by several months of detention or a fine equal to the value of the seized commodities. The Special Rapporteur received reports, however, that Iranian border guards indiscriminately shoot at these individuals, thereby killing and wounding dozens of kulbari annually, as well as their horses.’¹³

5.4 Judicial system

- 5.4.1 An International Bar Association October 2007 report on the justice system in Iran noted:

‘After the 1979 revolution, a number of new laws with respect to legal aid were adopted, which have not been adequately implemented. These include the following provisions:

‘...Article 35 declares that in all of the courts, both parties have the right to have a lawyer and anybody who cannot afford a lawyer will be provided with one.

‘...As laws were passed requiring lawyers to provide legal aid, but no funding was provided for the services, difficulties soon arose. In essence, the legal aid system in Iran does not operate in the manner envisaged in the Law of the Obligatory Interference of Attorneys in Lawsuits. When the law making it mandatory for all parties in court to have a lawyer was passed, no appropriate measures were taken to enforce it. The funds necessary for legal aid were not established and the amount of remuneration stipulated in the legislation (US\$8.12 per case) was unrealistically low and was only provided for one year.’¹⁴

- 5.4.2 The International Bar Association October 2007 also noted that:

¹² Venice International University – Illicit Trade and Globalisation, Illegal Trade in the Iranian Economy, July 2008 https://www.cesifo-group.de/portal/pls/portal/!PORTAL.wwpob_page.show?_docname=1053970.PDF Date accessed 26 June 2015

¹³ UN Human Rights Council, March 2012 report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 6 March 2012, <http://shaheedoniran.org/english/dr-shaheeds-work/latest-reports/report-of-the-special-rapporteur-on-the-situation-of-human-rights-in-the-islamic-republic-of-iran-3-6-2012/>, Date accessed 26 February 2016

¹⁴ International Bar Association – ‘...A background report on the justice system in Iran’, October 2007 <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=8281ffa3-1ce7-4976-a93d-e488cc0fa333> Date accessed 26 June 2015

‘Fernando Pombo, President of the IBA and delegation leader said, “Access to justice must be available to all citizens, including those who are unable to pay legal costs. The responsibility for guaranteeing this lies both with the Government, to fund and support legal aid programmes, and with independent bar associations, which must ensure sufficient numbers of qualified lawyers are entering the profession. Furthermore, the Iranian Government and the Iranian Bar Association should be encouraged to educate the general public by developing public information campaigns on legal rights and responsibilities.”’¹⁵

5.4.3 The undated GlobalLex summary of the court system in Iran noted:

‘The courts are functionally classified according to their area of jurisdiction, civil or criminal, and according to the seriousness of the crime or the litigation, e.g., value of property under dispute or the level of punitive action involved. There are four civil courts: first level civil courts, second level civil courts, independent civil courts, and special civil courts. The latter attend to matters related to family laws and have jurisdiction over divorce and child custody. Criminal courts fall into two categories: first and second level criminal courts. The first level courts have jurisdiction over prosecution for felony charges, while the second level courts try cases that involve lighter punitive action.

‘In addition to the regular courts, which hear criminal and civil suits, the judiciary encompasses clerical tribunals, revolutionary tribunals, and the Court of Administrative justice. Clerical courts are entrusted with the task of trying and punishing misdeeds by the clergy. Revolutionary tribunals are charged with the responsibility of hearing and trying charges of terrorism and offenses against national security. The Court of Administrative Justice under the supervision of the head of the judicial branch is authorized to investigate any complaints or objections by people with respect to government officials, organs, and statues. The Constitution also requires the establishment of a Supreme Court with the task of supervising the implementation of laws by the courts and ensuring uniformity in judicial procedures. The head of the judiciary, in consultation with the judges of the Supreme Court, nominates the Chief of the Supreme Court and the Attorney-General who, among other qualifications, must be specialists in Islamic Law. ‘The Constitution requires all trials to be open to the public unless the court determines that an open trial would be detrimental to public morality or public order, or in case of private disputes, if both parties request that open hearings not be held.’¹⁶

[Back to Contents](#)

6. Treatment of smugglers/suspected smugglers

6.1.1 The New York Times reported in December 2014 that:

¹⁵ International Bar Association – ‘...A background report on the justice system in Iran’, October 2007 <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=8281ffa3-1ce7-4976-a93d-e488cc0fa333> Date accessed 26 February 2016

¹⁶ GlobalLex - A Guide to the Legal System of the Islamic Republic of Iran, undated http://www.nyulawglobal.org/globalex/Iran.htm#_The_Court_System Date accessed 26 June 2015

'Iran, a conduit for opium trafficking from neighbouring Afghanistan, has one of the world's harshest drug laws. It imposes mandatory death sentences for making, trafficking and possessing specified quantities of opium, opiates and other drugs, like methamphetamines. On Dec. 4, Mohammad Javad Larijani, the secretary of Iran's Human Rights Council, said in an interview with the France 24 news channel that "nobody is happy" about the number of executions and that he would like to see Iran's drug punishment softened. "We are crusading to change this law," he said.'¹⁷

- 6.1.2 In information for 2015 the 'Hands Off Cain' website, undated, explained the legal position regarding the death penalty, stating:

'Iranian law imposes the death penalty for possession of more than 30 grams of heroin or five kilos of opium. Iranian authorities say that most of the people put to death in the country are convicted of drug-related crimes, but human rights observers believe that many of the people put to death in Iran for ordinary crimes, particularly drug crimes, may well be in fact political opponents.'

'In 2014 the Islamic Republic carried out at least 800 executions, a 16.5% increase compared to 687 in 2013 [...] the majority of those who were executed were convicted of drug-related offences (371 cases, 125 of them reported by official Iranian sources).'¹⁸

- 6.1.3 Amnesty International reported in an article titled 'Is the death penalty the answer to drug crime?' published on 9 October 2015 that:

'Iran has executed thousands of people in a bid to deter drug trafficking in the country, even though the authorities have admitted it doesn't work.- Thousands of people have been executed for drug offences since 1959, when this type of crime was made punishable by death. There have been at least 829 executions from January to 20 September this year in Iran. Of these, at least 571 have been for drug-related offences. People most likely to be accused, sentenced and executed are those from disadvantaged groups like foreign nationals and poor people, including ethnic minorities. The authorities themselves have admitted that the death penalty has done little to tackle Iran's drug problem. According to an expert at Iran's Centre for Strategic Research, the death penalty has failed to reduce drug trafficking in the country.'¹⁹

- 6.1.4 The UN General Assembly report on the Situation of human rights in the Islamic Republic of Iran dated 6 October 2015 noted that:

¹⁷ The New York Times, Iran Criticized for Executing Drug Offenders, 17 December 2014, http://www.nytimes.com/2014/12/17/world/middleeast/iran-criticized-for-executing-drug-offenders.html?_r=0 [date accessed 30 November 2015]

¹⁸ Hands Off Cain. Iran, 2015.

<http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=23&nome=iran> [Date accessed 25 November 2015]

¹⁹ Amnesty International, Is the death penalty the answer to drug crime?, 9 October 2015 <https://www.amnesty.org/en/latest/campaigns/2015/10/is-the-death-penalty-the-answer-to-drug-crime/> [date accessed 30 November 2015]

'The apparent escalation in executions is seemingly related to the response of the Islamic Republic of Iran to the increasing influx of drugs and rising levels of drug abuse in the country. At least 69 per cent of executions during the first six months of 2015 were reportedly for drug -related offences. The Government holds the view that the implications posed by drug -trafficking to the health and security of the Iranian people render drug-related offences "most serious" crimes and, therefore, they deserve to be considered capital offences.'

'Iranian officials report that at least 255,000 individuals were arrested on suspicion of drug-related offences from March 2011 to March 2012; a 7 per cent increase in the number of these arrests from previous years, and that by some official estimates, at least 70 per cent of the prison population of the country is reportedly incarcerated for drug-related offences. Some Iranian experts on drug abuse and harm reduction report that increased economic pressures resulting from sanctions may have caused more risky behaviour among some drug users in the country despite access to information on HIV/AIDS and harm-reduction tools.'²⁰

6.1.5 In November 2015 the news website Tribune reported that:

'Iranian border guards on Monday blew up a vehicle allegedly belonging to drug smugglers near their country's border with Pakistan. All eight men on board the vehicle were killed. The Iranian border guards took the bodies into custody and shifted them to Zahedan, the capital of Iran's Sistan-Baluchestan province.[...] Iranian officials claimed that five of the alleged smugglers were Pakistanis and residents of Taftan Township while three were Iranian nationals. [...] It is the first time that the Iranian border forces have used a rocket to blow up a vehicle suspected to be carrying drugs into the Islamic Republic. Earlier, there used to be exchanges of fire between smugglers and Iran's border guards. Iran accuses Pakistani officials of providing a safe passage to drug smugglers to use Iran's route and not taking action against them in the border regions. During the 1980s, Iran had lost more than 3,000 security personnel in a war against the drug mafia, Iranian officials claimed.'²¹

6.1.6 The New York Times published a photo-story in June 2015 which followed smugglers in Kurdistan the story noted that:

'Smuggling is an integral way of life in villages where, for many, there is no other way to earn a living. Often, it is a business that certain families have practiced for generations. In some cases, a few individuals from a town are involved — in others, the entire community. The leaders of these groups request specific products unavailable on their side of the border.'

²⁰ UN General Assembly, Situation of human rights in the Islamic Republic of Iran : note by the Secretary-General, 6 October 2015, <http://www.refworld.org/docid/5631da2c4.html> [accessed 30 November 2015]

²¹ Tribune, Iran rocket attack kills 8 smugglers, 8 September 2015 <http://tribune.com.pk/story/952701/iran-rocket-attack-kills-8-smugglers/> [date accessed 1 December 2015]

'Privately owned warehouses, rented to smugglers on a nightly basis, are filled either with newly delivered goods from across the border or with items waiting to be carried to the other side. For 100,000 Iranian rials (approximately \$3.50), smugglers make several trips daily, carrying on their backs or on mules fuel, tea, tires, alcohol, makeup, clothing and electronics. Satellite dishes, which are illegal in Iran, are especially popular.'²²

6.1.7 An Ekurd Daily article of 8 May 2013 noted:

'Every month Iranian border guards shoot dozens of poor Kurdish people for trying to smuggle goods across the border from Iraqi Kurdistan, but authorities ignore complaints by relatives of victims who allege their loved ones were killed without reason or proper warning, relatives and lawyers complain.

'Relatives of victims – who are poor Kurds trying to eke out a living in the deprived and poor Kurdish regions of Iran that are among the country's most neglected – say that instead of looking into complaints and conducting an investigation, the local courts automatically label the dead as "criminals."

"The courts don't conduct a thorough investigation. Oftentimes, they categorize the victim as a criminal, saying he deserved what he got because he ignored the police," said Osman Muzain, an Iranian Kurdish lawyer who deals with such cases.

"The court doesn't summon the soldiers who carried out the shooting, and the public prosecutor rejects to work on these cases," he complained.

'Muzain said that sometimes the families of victims receive some compensation, but not the full amount. Other times, they receive threats from the police for speaking out against them.... He [Muzain] added that the border guards are not trained on how to use weapons in these kinds of situations.

6.1.8 Rudaw News noted in an article dated 8 May 2013 that:

'...Article 3 of the Iranian law allows the police border to use weapons as the last resort against anyone who tries to cross its border illegally. According to a study by the Kurdpa website, in 2012 alone more than 67 Kurdish border porters and smugglers were killed by Iranian frontier guards and more than 40 were wounded.

'Smuggling across Iran and Iraq's Kurdish borders is common, usually carried out as a last resort by dirt-poor villagers trying to eke out a living, according to Rebaz Qurbani, a political science student at the University of Tehran who has conducted research into the smuggling and its causes. "The people of the border villages are forced to do this work, because there are not many job opportunities in their area," he said...'

²² The New York Times, LENS- Following Smugglers in Kurdistan, 12 June 2015, http://lens.blogs.nytimes.com/2015/06/12/following-smugglers-in-kurdistan/?_r=2 [date accessed 1 December 2015]

'Qurbani, the university researcher, said that relatives of several victims from Qularash village had demanded financial compensation. "Instead, the police forced them to sign a pledge to withdraw their complaint and declare that their victims weren't killed by Iranian security forces," he said. Likewise, Osman Muzain, an Iranian Kurdish lawyer who deals with such cases, said that "killing the smugglers is illegal, and that instead they should be arrested and fined. When a prosecutor does recommend a case for investigation, it is the police who are given the task of looking into it, but it is the police who carry out the killings in the first place. There must be the third party to investigate the killings".'²³

6.1.9 'In August 2015 Rudaw published an article noting that Iran had issued permits to legalize goods like walnuts or chewing gum across the border the report noted that:

'Four thousand local Kurdish labourers in Iran were granted permits allowing them to bring in goods like chewing gum and walnuts from Iraqi Kurdistan, as Tehran tries to stamp out cross-border smuggling, much of it on foot. The permits were granted to workers in the border city of Piranshahr, allowing them to carry goods legally without the threat of being charged as smugglers. "Four thousand labourers like me have received permits. We show the cards when we bring in the goods," said Tahir Tawana. Iran's Kurdish regions bordering Iraq are among the country's poorest. Many on the border eke out livelihoods and feed their families by carrying goods for small businessmen, on their backs or on donkeys and horses. The size of that trade is not known, but legal cross-border trade between Iran and Kurdistan reached \$4 billion in 2013. Iran has announced it plans to expand trade but crush the cross-border smuggling of goods by locals. Granting the permits legalizes the entry of many goods, but some of the trade is in prohibited items like alcohol, which is banned in Iran. Hasan Shimshali, businessman, said most goods were legal products like chewing gum and walnuts, but still were not permitted under Iranian custom laws.'²⁴

6.1.10 An article in the Atlantic of 28 June 2012 noted:

'...even as the Islamic Republic forbids drinking, some of the regime's most hard-line factions might be profiting from the enormous black market trade. Analysts have long suspected that the powerful, shadowy Iranian Revolutionary Guard Corps dominate the lucrative smuggling routes in and out of Iran, including the path across Iraqi Kurdistan, over which most foreign booze flows.

"The relative ease of obtaining alcohol -- and the vast quantities available -- have led many analysts to believe that Iran's Revolutionary Guard Corps and other elements of the government actually profit from the illicit trade, among

²³ Rudaw, Lawyer: Border Guards shoot 'smugglers' with impunity in Iranian Kurdistan, 8 May 2013, <http://rudaw.net/mobile/english/middleeast/iran/08052013>, Date accessed 26 February 2016

²⁴ Rudaw, Iran legalizes border smuggling with Kurdistan by issuing permits, 17 August 2015, <http://rudaw.net/english/middleeast/iran/170820151> [date accessed 25 November 2015]

other banned industries," Memarian wrote, noting that an apparently disapproving Iranian member of Parliament had even hinted as much.

'Memarian also quotes a Dubai-based exporter as saying that most of the "huge" market for smuggling alcohol into Iran goes through government hands. Paradoxically, this is the same regime -- although through different branches -- that, as part of a nationwide crackdown on imbibing, sentenced two Iranians to death for drinking. It's one of the many contradictions of Iran's theocratic, authoritarian rule over a devoutly Islamic, Western culture-loving society.'

²⁵

[Back to Contents](#)

²⁵ The Atlantic – 'Why Alcoholism is Soaring...', 28 June 2102
<http://www.theatlantic.com/international/archive/2012/06/forbidden-drink-why-alcoholism-is-soaring-in-officially-booze-free-iran/259120/> Date accessed 26 June 2015

Version Control and Contacts

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

Clearance

Below is information on when this version of the guidance was cleared:

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First version of country information and guidance in new template

[Back to Contents](#)