

fidh

International Federation for Human Rights

IRAN /death penalty

A state terror policy

Special edition for the 4th World Congress
against the death penalty

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security



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FIDH published a 60-page comprehensive report on the death penalty in the Islamic Republic of Iran (IRI) in April 2009, covering the various aspects of the topic: domestic laws, international legal framework, execution of juvenile offenders, religious and ethnic minorities, and methods of execution. According to that report, there are over 20 categories of offences, some of them with several sub-categories, in the IRI, which are punishable by the death penalty. The majority of those “offences” are certainly not among “the most serious crimes.” Some others should not be considered as “offences” at all.¹ In conclusion, FIDH issued a wide set of recommendations to the IRI and the international community. Among others, it recommended the adoption of an immediate moratorium on executions in light of the serious shortcomings of the guarantees of due process and fair trial.

Cover picture: © AFP
Iranian criminals hang
from the nooses during
public execution in the
southern city of Shiraz,
950 kms south of Tehran,
05 September 2007.

Unfortunately, the IRI has continued to be out of step with the rising trend of abolition of the death penalty worldwide. While an increasing number of countries each year join the list of abolitionists, the IRI persistently ranks second, next to China, regarding the absolute number of executions and first, regarding the per capita executions in the world. Even China seemed to show signs of

1. http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf (English)
http://www.fidh.org/IMG/pdf/Death_Penalty_report_Persian_.pdf (Persian)

heeding the international calls when its Supreme Court urged judges to limit the use of death penalty to those convicted of “the most serious crimes” in February 2010. Furthermore, the IRI has continued with the practice of executing juvenile offenders and issuing stoning sentences.

The number of executions in the IRI increased from 346 in 2008 to 388 in 2009.² Furthermore, the IRI executed no less than five juvenile offenders in 2009, ranking first as compared with Saudi Arabia that executed two juvenile offenders in the same year.³ One man was stoned to death in Rasht in March 2009⁴ and stoning sentences continued to be issued. Two lists of political prisoners on death row have recently appeared, one with 65 names and another with 56 names.

Post-election developments

In the aftermath of the vastly disputed outcome of the 12 June presidential election, Mahmoud Ahmadinejad was declared the winner thus triggering protests by millions of people; tens of people were killed, thousands were arrested (more than 3,000 persons currently remain in detention in connection with the post-election protests and their number is on the rise), many of whom were tortured and raped in prison, and a number of them were executed. In the span of 50 days after the election, from 12 June to the Presidential Inauguration Day on 5 August, no less than 115 executions were recorded.⁵ For the first time, some people were charged with *moharebeh*⁶ for having taken part in protests against fraud in elections.

On 28 January 2010, two prisoners, Arash Rahmanipour (20) and Mohammad Reza Ali Zamani (46) were the first to be executed for election-related offences.⁷ However, they had both been arrested several months before the 12 June election and been deceived to make false confessions in exchange for mitigation of their sentences. Rahmanipour told his lawyer later that the officials had brought his pregnant sister to him and threatened to torture her if he refused to make the desired confessions.⁸ According to Rahmanipour’s lawyer, many of the actions he had been accused of related to the time when he was under 18 years of age. It was announced on the same day that 9 others were also facing the death sentence on similar charges.

The Iranian judiciary and the legislators of the applicable IPC have narrowly interpreted the Shiite *sharia* to apply the concepts of *moharebeh* and *mofsed fel-arz*⁹ to certain opponents of the government. *Moharebeh* is an Arabic term that literally means “fighting”; hence a *mohareb* is a fighter or warrior. Under the conventional *sharia* provisions as well as the IPC, strictly speaking, a *mohareb* is somebody who uses arms to terrorise the people. The IPC even stipulates that a person who fails to create fear by using arms is **not** a *mohareb* (Article 183). The *sharia* provisions have thus been overstretched to apply those concepts to members and supporters of political groups that have waged armed uprising against the Islamic government, even though they personally may not have used arms.

2. Amnesty International has recorded 388 executions in 2009, but believes that the real figures are likely to be higher.

3. <http://www.amnesty.org/en/death-penalty/executions-of-child-offenders-since-1990>

4. See http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf, P. 45

5. <http://www.amnesty.org/en/for-media/press-releases/iran-alarmed-spike-executions-disputed-presidential-election-20090807>

6. See FIDH DP Report, Page 12, Footnote 41 and <http://www.fidh.org/Iran-Political-opponents-face-execution>

7. <http://www.fidh.org/Execution-of-two-opposition-activists>

8. <http://www.roozonline.com/persian/news/newsitem/article/////107/-50700f1412.html>

9. See source as in Footnote 6



The most dramatic turn since the onset of post-election unrests has come with the decision to charge the post-election protestors with *moharebeh* and to execute them. This was clearly indicated after the execution of the two political prisoners on 28 January, after which the secretary-general of the Guardian Council, Ayatollah Jannati, praised the judiciary and called for more executions. This blatantly confirms that there is a political will to use the death penalty to terrorise the peaceful protestors not to pursue their demand for free

and democratic elections, freedom of political prisoners, freedom of press, speech, assembly and association.

Collective executions

The practice of collective executions described in the FIDH report of April 2009 has been continued in Iran in the past few months. There have been several group executions since the publication of the FIDH report, e.g. 8 drug-related offenders in Taybad Prison, in the north-east, on 2 May 2009; 14 on 2 July; 20 on drug-related charges at Rajaieshahr Prison near the city of Karaj on 4 July; 24 other drugs-related offenders in the same prison on 30 July; and 13 members of an ethnic opposition group in Zahedan Prison on 14 July.

Religious minorities

Ahl-e Haq: Persecution of religious minorities went on unabated since the publication of the FIDH report on the death penalty in April 2009. Some members of Ahl-e Haq, a Sufi sect, have been sentenced to death. Mehdi Qasemzadeh, arrested with some other members of the sect, who had been sitting in prison since 2004, was executed on charge of *moharebeh* at the end of February 2009. Yunes Aqayan who was also a member of the same religious group and has been sitting in prison since 2004 was found guilty of fighting God and sentenced to death. His sentence was upheld in 2005. At some point in July 2009, there were reports that his death sentence had been implemented, but those reports could not be confirmed.

Baha'is: Persecution of the Baha'i minority has continued. Seven members of the Baha'i faith, responsible for the Baha'i community's religious and administrative affairs in Iran, who were arrested in March and May 2008,¹⁰ have ever since been under the threat of death sentence. They were told in May 2009 that they were facing charge of *mofsed fel-arz* (being corrupt on earth). After several postponements, the first session of their trial was held on 12 January 2010. The indictment accused them of "spying for foreigners", "propaganda against the system", "cooperation with Israel", "passing classified documents to foreigners", "assembly and conspiracy with intent to act against the national security" and "corruption on earth."¹¹ All those accusations and charges could carry the deathpunishment.

10. <http://www.fidh.org/Continuous-repression-against-the-Baha-i>

11. <http://www.rajanews.ir/article4580.html>

Followers of the Baha'i faith have consistently been accused of spying for Israel and plotting against the regime, in a move to deprive them of their right to practise freely their religion. Most recently, officials have accused the Baha'i community of involvement in post-election unrest to overthrow the Islamic regime.¹² A deputy minister of intelligence even reported that 13-14 followers of the Baha'i faith had been arrested for active involvement in unrests on 27 December 2009.¹³ The Tehran prosecutor said that weapons and bullets had been found in their homes.¹⁴

Ethnic minorities

Ethnic groups have continued to be targeted in death penalty cases.

Kurds: No less than 21 Kurdish political prisoners are currently on death row. Most recently, two young Kurdish political prisoners were executed. On 11 November, Ehsan Fattahian, 28, charged with *moharebeh* through membership of the Kumala, a Kurdish opposition group, was executed in Sanandaj after the appeal court overturned his 10-year imprisonment sentence issued by the court of first instance. Another young Kurdish man, Fassih Yassamani, 27, was executed in Khoy, north-western Iran, on 6 January 2010, on charge of *moharebeh* for membership of the Free Life Party of Kurdistan.¹⁵

Baluchis: Members of the Baluch ethnic minority have also frequently been victims of executions. Sizable numbers of Baluch men have been executed after unfair trials on charge of *moharebeh* allegedly for membership of an armed opposition group, People's Resistance Movement of Iran (formerly known as Jondollah). Three Baluch people charged with *moharebeh* were reportedly executed in public in Zahedan on 3 May 2009, in connection with a bombing in the city only two days after the incident – which in itself demonstrates that they did not benefit from a fair trial, but were rather victims of an expeditious revengeful procedure. Other members of the Baluch minority, who were executed on the same charge, included three people on 30 May, two on 6 June, and 13 on 14 July, all in Zahedan.

Arabs: Members of the Arab ethnic group in Khuzestan have also been facing the force of repression. It was reported in October 2009 that seven members of the community were at imminent risk of execution for “acting against national security” and killing a Shia cleric.¹⁶

Juvenile offenders

As noted above, no less than five juvenile offenders have been executed in Iran in 2009. In addition to Molla Gol-Hassan, whose case was already reported in the FIDH report of April 2009,¹⁷ four others were executed later. They were Delara Darabi (f), executed on 1 May 2009, on charge of murder; Ali Ja'fari, on 20 May; Behnood Shoja'ei, on charge of murder on 11 October; and Mosleh Zamani on 17 December 2009 on charge of raping his girlfriend even

12. http://www.jomhourieslami.com/1388/13881108/13881108_jomhori_islami_04_dakheli.HTML#matlab_12 and <http://isna.ir/ISNA/NewsView.aspx?ID=News-1487175>

13. http://www.jomhourieslami.com/1388/13881108/13881108_jomhori_islami_04_dakheli.HTML#matlab_12

14. <http://www.farsnews.com/newstext.php?nn=8810190440>

15. http://www.bbc.co.uk/persian/iran/2010/01/100106_106_fasih_executed.shtml

16. <http://amnesty.org/en/library/info/MDE13/109/2009>

17. See http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf, P. 30, No. 42

though she consistently denied it. All were 17 at the time of the alleged crimes, but had been kept in prison for several years and executed when they were older. This is a common practice in the IRI. In addition, Arash Rahmanipour (see Post-election developments above) may also be considered as a possible juvenile offender.

Stoning

One man, Vali Azad, was stoned to death in Rasht, northern Iran, in March 2009.¹⁸ As in the case of Abdollah Farivar Moqaddam¹⁹, two other people who had previously been sentenced to stoning were executed by hanging: Afsaneh R. (f)²⁰ and Rahim Mohammadi. At the time of writing, at least eight women and three men were facing the stoning sentence. The women were: Iran Eskandari, Khayrieh Valania, Ashraf Kalhori, Kobra Babaei (wife of Rahim Mohammadi), Sakineh Mohammadi (in Tabriz, her appeal has been turned down twice), Hashemi-Nasab, M. Kh., Sorimeh Sajjadi (30, in Orumieh, mother of two). The three men were: Buali Janfeshani (32, in Orumieh, father of 1 child), Mohammad Ali Navid-Khomami and Naqi Ahmadi (sentenced in June 2008).²¹

Domestic legal framework

The Islamic Penal Code has not been amended since the FIDH report was published in April 2009. Nevertheless, invoking Article 85 of the Constitution, *majles* (parliament) empowered its Judicial and Legal Affairs Committee to pass the draft bill, with 737 articles and 204 notes, to replace the applicable IPC.²² The House voted on 16 December 2009 to have the new law implemented for five years on trial basis.²³ However, the Guardian Council, having examined it for discrepancies with the Constitution and the *sharia*, returned it to the House for amendments to no less than 80 Articles at the end of January 2010. The Guardian Council noted in conclusion of its opinion that “there are still numerous religious flaws and other ambiguities in the bill, which will be communicated later.” At the time of writing, it is not clear yet how long it will take for the new bill to become law and replace the applicable IPC.

International legal framework

— Under the International Covenant on Civil and Political Rights (ICCPR), to which Iran is a State party, member states may use the death penalty only for the “most serious crimes”, meaning intentional crimes with lethal or other extremely grave consequences. The charges and offences alleged by the Iranian judicial authorities against the post-election protestors, even if proved, do not amount to “the most serious crimes.”

18. See http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf, pages 41 and 45

19. *Ibid.* P 45 (see 2004)

20. *Ibid.* P 45 (see 2008)

21. <http://amnesty.org/en/library/asset/MDE13/082/2009/en/7fdb4e30-712a-4fca-b807-1365834fcd17/mde130822009en.html>;

<http://amnesty.org/en/library/asset/MDE13/041/2009/en/cd8a0a48-b092-4a23-8907-867a5c722ddf/mde130412009en.html>;

<http://amnesty.org/en/library/asset/MDE13/110/2009/en/a86e2588-3a62-4726-b31b-b9c2bf084501/mde131102009en.html>

and FIDH DP Report P. 44

22. For a discussion of the version of the draft bill that was available at the time, see the original FIDH DP Report, P. 16

23. *Ibid.*, Footnote 57

- Article 18 (1) of the ICCPR states: “Everyone shall have the right to freedom of thought, conscience and religion...” The Iranian constitution guarantees equality of all people regardless of their ethnic origin, language and race.²⁴ As a state party to both the ICCPR and the Convention on the Rights of the Child, Iran has undertaken not to execute juvenile offenders.
- The UN Committee on the Rights of the Child urged the IRI to suspend immediately the imposition and execution of all forms of torture, and other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, for crimes committed by persons under 18.



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Conclusion and recommendations

The Islamic Republic of Iran clearly violates its international human rights obligations as far as the application of the death penalty is concerned.

Recommendations to the IRI government

- Stop execution of juvenile offenders
- Stop execution of political prisoners and prisoners of conscience
- Stop using the death penalty as a tool of repression against members of religious and ethnic minorities
- Stop cruel and inhuman punishments such as stoning
- As a first step toward its abolition, limit the use of death penalty to the most serious crimes as defined by international conventions
- Join the increasing number of countries worldwide and issue a moratorium on executions with a view to abolish the death penalty.

Recommendations to the international community

- We renew our urgent call for the international community to establish a monitoring mechanism concerning the human rights situation in Iran.

²⁴ However, only three religious minorities – Christians, Jews and Zoroastrians – are recognised to practise their religion. A specific branch of Shiism enjoys superior status over all other religions as well as other branches of Islam.

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of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest,

ABOUT FIDH

- FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.
- A broad mandate
FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.
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FIDH was established in 1922, and today unites 155 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.
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