UPR pre-session on THE ISLAMIC REPUBLIC OF Iran,

Geneva, 8 October 2014

1- Presentation of the Organisation

This statement is delivered on behalf of the World Coalition against the Death Penalty (WCADP), Iran Human Rights (IHR), Abdorrahman Boroumand Foundation, The Advocates for Human Rights, an NGO with special consultative status, and Association for Human Rights in Kurdistan of Iran-Geneva.

2- Plan of the Statement

The statement addresses the following issues: (1) extensive use of the death penalty(official and unofficial figures); (2) the death penalty against juvenile offenders; (3) public executions; (4) the death penalty for murder or "qesas/retribution;" (5) the death penalty for drug-related charges, and; (6) the death penalty for other non-violent offenses.

3- Statement

I. Extensive use of the death penalty

A. Follow-up to the first review

At its last Universal Periodic Review by the UN Human Rights Council, Iran received 29 recommendations on the death penalty from 23 different states; it accepted only three. Moreover, the recommendations on the death penalty represented 23 percent of those made to Iran - a number only surpassed by recommendations made regarding cooperation with international instruments and the elimination of torture and other forms of ill treatment.

Of those three recommendations, the only one that Iran has actually implemented is that made by New Zealand, asking Iran to "reconsider the inclusion of 'apostasy', 'witchcraft' and 'heresy' as capital offences in its updated penal code." In the revised Islamic Penal Code, those crimes are no longer explicitly mentioned as crimes punishable by death. However, the new Penal Code does allow judges to refer to non-codified religious law, leaving a potential backdoor to prosecution for these types of so-called offenses.

Moreover, Iran failed to accept 26 important recommendations including, but not limited to:

- "Cease all planned executions of juvenile offenders, and to prohibit the imposition of the death penalty for crimes committed by minors." (Australia)
- "Consider a moratorium on the death penalty with a view to abolishing it." (Brazil)
- "Bring its legislation in line with the international human rights conventions that Iran has ratified, including CRC, and abolish at least the death penalty for crimes committed by persons under the age of 18." (Netherlands)

Since the last UPR in 2010, the number of executions has in fact been increasing. This increase has been dramatic since the second half of 2013, and the trend continues in 2014.

The number of crimes carrying the possibility of execution in Iran is among the highest in the world. There are currently more than 80 discrete offenses in Iran for which punishment can include the death penalty. Crimes, such as "adultery, incest, rape, sodomy, a non-Muslim party in same-sex relations, insulting the Prophet Mohammad and other great Prophets, possessing or selling illicit drugs, theft for the fourth time, premeditated murder, moharebeh (waging war [against God]), ifsad-fil-arz (corruption on earth) and human trafficking" are capital offenses. Some of these offenses, such as murder, are punishable by death in many other countries. The majority of others, such as adultery, theft, drug offenses, and fraud, are disconcertingly unique to Iran in their classification as capital crimes.

B. New developments since the first review

Since 2010 at least 2,489 people are reported to have been executed. In 2010, 546 executions were recorded; in 2011: 676^v; 2012: 580^{vi}, 2013: 687^{vii} and as of September 19, at least 550 executions have been reported in 2014.^{viii} About 40-50% of these executions are either carried out secretly or not announced by official sources. However, the unannounced executions included in these figures have been confirmed by at least two independent sources. Because of the secrecy and lack of transparency for many executions, the exact numbers of executions vary across sources.^{ix}

A significant number of executions are not announced by official Iranian sources. Some of these executions have been carried out secretly (without informing the family or the lawyer before the execution, as Iranian law requires), and some have just simply not been announced by the authorities or the Iranian media.

Vakilabad prison of Mashhad has been the site of secret mass executions of hundreds of prisoners. Reports about the first mass executions emerged in spring of 2010.^x These executions peaked in the summer of 2010 and the execution rates varied from then until the beginning of 2013.^{xi} It is estimated that more than 1000 prisoners have been executed in Vakilabad from spring of 2010 to spring of 2013.^{xii}

Among those executed, there have been a significant number of foreign citizens, mainly Afghans, and a few citizens from other countries such as Ghana and Nigeria. In violation of Article 36 of Vienna Convention on Consular Relations, embassies of these countries were not informed about the prisoners. Various reports indicate that the execution of Afghan citizens takes place regularly in the Iranian prisons. These executions are often not announced by the Iranian media. The bodies are not always delivered to the families in Afghanistan. There have been several reports by international broadcasting agencies such as BBC^{xiii} and Al Jazeera^{xiv} shedding light on these executions.

C. Recommendations

Abolish the death penalty altogether or impose a moratorium;

- Provide access to counsel throughout all phases of the criminal investigation, trial, and appeal and give unrestricted access to files and any evidence against the accused:
- Provide complete information about all implemented death sentences and those on death row
- Respect Article 36 of Vienna Convention on Consular Relations and provide information and free consular access to Afghan and other foreign nationals in Iranian prisons.
- Allow independent investigations by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions on allegations about the secret executions in Iran.

II. Death penalty against juvenile offenders

A. Follow-up to the first review

During its last Universal Periodic Review, Iran rejected all the recommendations on elimination of the death penalty for juvenile offenders, but accepted the recommendation of Kazakhstan to "consider the abolition of juvenile execution." Iran also accepted the recommendation of Belgium to "respect at least the minimum standards and the provisions of ICCPR and CRC concerning the death penalty." Yet, as this report indicates, Iran continues to execute juvenile offenders despite accepting these recommendations. XVIII

B. New developments since the last review

The new penal code explicitly defines the "age of criminal responsibility" for children as the age of maturity under *shari'a* law, meaning that girls over nine years of age and boys over fifteen years of age are eligible for execution if convicted of "crimes against God" (such as apostasy) or "retribution crimes" (such as "intentional murder"). "Juvenile offenders under the age of 18 years who commit *hodood* or *qesas* offenses may not be sentenced to death, if the judge determines the offender lacked "adequate mental maturity and the ability to reason" based on forensic evidence. "The accompanying legislative note allows, but does not mandate, the judge to seek an expert forensic opinion or other source, to make that determination." Article 88 provides that children who commit "discretionary crimes," such as drug possession or trafficking, are not eligible for capital punishment."

However, Iran executes more juvenile offenders than any other country in the world. Since 2010, at least 20 juvenile offenders have been executed in Iran. There are currently about 160 juvenile offenders on the death row in the Iranian prisons. In practice, the Government of Iran typically holds juvenile offenders on death row until they reach or surpass 18 years of age before executing them. Reports indicate that between five and nine executions of juvenile offenders took place in 2013. For example, the UN Secretary-General notes in his report that, in January 2013, a 21-year-old male was executed for an alleged crime committed at the age of 17. In September 2013, an 18-year-old male was hanged in the prison of Kazeroun (Southern Iran) for an alleged murder committed at the age of 14. In 2014, at least 11 juvenile offenders have

been executed in Iran. Executions of two of the juvenile offenders, Hasan Gholami and Mehras Rezaei, have been announced by the media inside Iran, while the rest have been announced by the human rights groups. Hassan Gholami was 14 year old when he was convicted of a murder as a result of a street fight in 2007. He was executed seven years later on 2. March 2014 in the prison of Shiraz xxvi. As mentioned by the UN High Commissioner for Human Rights and in the report of the UN Secretary-General, another juvenile offender, 17-year-old Jannat Mir, an Afghan boy, was hanged in April in Isfahan prison, in central Iran, for drug-related offences. He reportedly had no access to a lawyer or consular services, raising concerns about whether fair trial standards were observed in his case and those of five other Afghans executed along with him for similar offences. xxvii

C. Recommendations

- Eliminate the application of the death penalty to juveniles under 18 years of age;
- Eliminate the death sentences of all those currently on the death row who committed an offence at an age under 18 years.

III. Public executions

Since the last UPR, Iran has continued its practice of public executions. There were least 60 reported cases of public hangings in 2012, xviii and the Report of the UN Secretary-General notes that at least 63 public executions took place in 2013. At least 45 public executions have been reported so far in 2014. Hanging by a crane is the most common way of public execution. Public executions are often carried out in a way that it takes several minutes until the death occurs as a result of strangulation. Public executions themselves, and specifically as carried out in Iran, have been deplored by the Human Rights Committee and constitute inhuman and degrading treatment. Turklermore, children have been witness to these public executions and in September 2013, an eight-year-old boy died while staging an execution during playtime.

Iran's method of hanging has led to at least one botched execution. In a recent case, Iran's method of hanging did not actually kill the condemned man. In October 2013, Alireza M. was hanged for 12 minutes before being declared dead by a physician. Morgue workers later discovered he was still alive after the execution. While judges attempted to subject him again to hanging a second time, following widespread outcry, Justice Minister Mostafa Pour-Mohammadi stated he would not be subject to execution again.

Recommendations

- Eliminate the practice of public executions.
- Eliminate all practices of public punishments.

IV. Retribution death penalty or "gesas"

Because murder is specifically punished under qesas, the penal code of Iran does not state specifically that convicted murderers are subject to the death penalty, but instead to "qesas" which means "retribution in kind". The state effectively steps into the shoes of the heirs of the

victim in administering punishment, and because the victim was murdered, the retribution will be the death penalty.

In addition, under the Iran Penal Code (IPC), the death penalty is generally subject to discriminatory application. For example, the IPC also differentiates sentences on the basis of the religion of both the perpetrator and the victim. Article 310, governing intentional murder and qesas, states that if a non-Muslim kills a Muslim, the punishment will be qesas; if a Muslim kills a non-Muslim, qesas does not apply, and the punishment is subject to ta'zirat under Book 5.

Since 2013, there has been a dramatic increase in the number of implemented death sentences for murder charges. With 148 executions for murder charges, the number of executions in 2013 were 7 times higher than the average numbers for the period 2010-2012. So far in 2014, at least 200 people have been executed for murder charges. Instead of placing responsibility for punishment with the state, Iran's criminal justice system places retribution in the hands of civilians. For example, on October 5, 2013, a man carried out the public execution of two men convicted of murdering his family members.

Recommendations

- Eliminate discrimination based on religion in law and practice.
- Disallow family members of murder victims from administering the executions.

V. Death penalty for drug-related charges,

The Anti-Narcotics Law requires the death penalty on the fourth conviction for drug-related offences in several instances including: planting opium poppies, coca plants or cannabis seeds with the intent to produce drugs; smuggling more than 5 kilograms of opium or cannabis into Iran; buying, possessing, carrying or hiding more than 5 kilos of opium and the other aforementioned drugs (punishable on third conviction); smuggling into Iran, dealing, producing, distributing and exporting more than 30 grams of heroin, morphine, cocaine or their derivatives.

The Anti-Narcotics Law clearly violates the right to appeal, as required under the international human rights law. Under Article 32, death row prisoners convicted on drugs-related offences do not have the right to appeal.

Drug-related charges count for the majority of the executions in Iran. Based on death penalty reports, at least 1,930 people have been executed for drug-related charges since 2010 in Iran. Iranian authorities claim that many of those sentenced to death for drug-related charges are involved in organized, armed smuggling. However, there is a general lack of transparency in the Iranian judicial system and all those convicted for drug-related charges have been tried by the Revolution Courts behind closed doors, and most of those executed are not identified by name. Rights organizations have received many reports on unfair trials

and confessions under torture. An example is Saeed Sedighi^{xxxvii} who was executed in October 2012 despite calls from the UN Special Rapporteurs to halt the execution.^{xxxviii} Furthermore, many of those executed belong to the most marginalized parts of the society.

Recommendations

- Amend the Anti-Narcotics Law to ensure the minimum standards and provisions of the ICCPR and CRC are respected.
- Suspend all executions for drug-related offences until the Anti-Narcotics Law has been revised.
- In the absence of outright abolition, eliminate the death penalty for drug-related charges.
- Grant the right to appeal for those sentenced for drug-related charges.
- Provide the UNODC with all documentation on drug-related death penalty cases between 2010-2014.

VI. Death penalty for other non-violent charges

1. National security, Political and ideological affiliation

Since 2010, at least 60 people have been executed in Iran because of their political or ideological affiliations. The authorities have used charges such as "Moharebeh" (waging war against the God), Ifsad fel Arz (Corruption on the earth) or rebellion against them. In most of these cases, there has not been a story of being directly involved in acts of violence. Many of them have been family members or relatives of armed opposition combatants, non-violent political dissidents and members of banned opposition groups. Members of ethnic minorities, such as Kurds, Arabs, and the Baluch, are overrepresented in this group. XXXIX There are reports of unfair trials, torture and forced confessions in most of the cases. In many cases the executions were conducted secretly without the lawyer or family being informed. The bodies of those executed are often not handed to their families. In 2014, two Arab teachers, Hadi Rashedi and Hashem Shabani, belonging to an Arabic cultural group called "Al-Hawar" (dialogue) were convicted of Moharebeh and executed despite condemnation by UN independent experts and the international community. Al-Hawar promotes Arabic education, literature, and culture among Ahwazi Arab youth. Prior to his execution, Shabani retracted his confession he made under torture and stated that his writing was seeking to "[defend] the legitimate right that every nation in this world should have which is the right to live freely with full civil rights. With all these miseries and tragedies, I have never used a weapon to fight these atrocious crimes except the pen."xl The Kurdish prisoner Habibollah Golparipour was sentenced to death in a five-minute trial in March 2010. He was arrested in September of the previous year in northwestern Iran and convicted of moharebeh and corruption on earth because of his alleged cooperation with a banned armed group, the Party For Free Life of

Kurdistan (PJAK). According to court documents, he denied any armed activity and subsequently wrote a letter to Iran's Supreme Leader, alleging that he was tortured during interrogation – but these allegations were never investigated. The court documents also state that he was arrested carrying books and documents belonging to PJAK, with no mention of any weapons. Several prisoners have been executed since 2010 for their affiliation with the banned opposition group Mujahedin-e-Khalgh organization (MEK/PMOI). None of them were accused of being involved in armed actions. The most recent case, Gholamreza Khosravi Savadjani was convicted of cooperation with MEK and executed on June 1, 2014. Among the religious minorities, Sunni Muslims are the ones mostly targeted by the Iranian authorities. In December 2012, six Sunni Kurds were executed in the Ghezelhesar prison of Karaj. At least 33 Sunni prisoners are on the death row and several of them in danger of execution.

1. Apostasy and other "religious crimes"

Article 262 stipulates the death sentence for cursing the Prophet of Islam, any of the other grand prophets. Recently, the Iranian Supreme Court upheld the death sentence of Ruhollah Tavana for insulting the Prophet. Apostasy, sorcery, witchcraft and other such issues have not been explicitly mentioned in the new IPC, although apostasy has been specifically referred to in the Press Code (Article 26). Under sharia law, the punishment for apostasy is death, which a judge can impose by invoking. Ali Ghorabat was hanged 26 January 2011 in Ahwaz. He was charged with apostasy for claiming to have contact with God and the 12th Shiite Imam.*\text{XIV} Mohsen Amir Aslani was executed on 24 September 2014 convicted of Corruption on earth, insulting Prophet Yonah and heresy.\text{XIV}

2. Sodomy- Same-sex relations:

According to the new penal code, a death sentence shall be imposed on the "active party" only if he is married or has forced a sexual act, but the "passive party" shall receive the death penalty regardless of marital status. A non-Muslim "active party" involved in a sexual act with a Muslim party shall also receive the death sentence (Article 234). The non-Muslim "active party" in same-sex relations not involving penetration shall also be sentenced to death. On September 4, 2011, three men were executed in the Karoun Prison of Ahwaz and had been convicted of lavat (sodomy). *Iviii Their death sentences were based on the paragraphs 108 and 110 of the former Penal Code. According to the Iranian state media, on 26 August 2014, two men identified as "Abdollah Gh. Ch." and "Soleiman Gh. Ch." were hanged publicly in Shiraz. According to the official website of the Iranian Judiciary in Fars Province, their offenses were sodomy. *Iviiii Party Iranian Province in Fars Province in Shiraz Province in Shiraz Province in Fars Province in Shiraz Province in Shiraz Province in Fars Province in Shiraz Province in

3. Adultery and stoning

Iran is one of the only countries in the world to provide for punishment of adultery by imposition of the death penalty. Under the former Penal Code, sexual intercourse occurring between married men with single or married women or married women with single or married men was punished by stoning to death with extensive detail on the size of stones and to what level to bury the condemned person for execution. Under the new Penal Code, stoning is no longer mandatory but is still allowed as a punishment for adultery. In November 2012 the website "Melli-Mazhabi" reported that four women were stoned to death in Iran, although the

Tehran Forensic Medicine rejected those claims. Melli-Mazhabi's report has since been cited by notable NGOs. Otherwise, the last known case of a stoning death sentence actually being carried out was in March 2009, when Vali Azad was convicted of adultery in Gilan Province and executed by stoning. In April 2014, Iranian media reported that a court in Mazandaran Province (Northern Iran) has levied two death sentences on a 32-year-old man: once by stoning for adultery and once by hanging for rape.

Recommendations

- In the absence of outright abolition, eliminate the death penalty for all charges that are not considered the most serious crimes according to the international law.
- Eliminate stoning punishment and any direct or indirect reference to it from the Iranian penal law.
- Grant access to the UN Special Rapporteurs to investigate the human rights in Iran.
- Allow independent investigation by the relevant UN bodies on the allegations about the execution of the Ahwazi Arab prisoners.
- Eliminate discrimination against ethnic and religious minorities in law and practice.

ⁱ Abdorrahman Boroumand Foundation, "Expert Panel on Executions in Iran – 5th World Congress Against the Death Penalty in Madrid, June 13, 2013," accessed Mar. 7, 2014, http://www.iranrights.org/blog/expert-panel-on-executions-in-iran-5th-world-congress-against-the-death-penalty-in-madrid-june-13th-2013/.

ⁱⁱ United Nations, Situation of Human Rights in the Islamic Republic of Iran: Report of the Secretary-General, U.N. Doc. A/68/377, Sept. 10, 2013, ¶ 14.; see also Iran Human Rights and Together Against the Death Penalty, Annual Report on the Death Penalty in Iran – 2013 (forthcoming) (on file with authors), 15-18.

iii Personal Communication from Abdorrahman Boroumand Foundation to Tony Beasley, Dec. 11, 2013 (on file with authors).

iv Id.; Anti-Narcotics Law, Art. 5, 9 (1997).

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xviii Id., Art. 147, (2013); Human Rights Watch, Codifying Repression: An Assessment of Iran's New Penal Code (Human Rights Watch, 2012), 21-22. The ages of 9 and 15 years is according to the lunar calendar.

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