

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

Ref.: AL IRN 5/2022
(Please use this reference in your reply)

13 April 2022

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 42/22, 44/5 and 46/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **scheduled execution of 52 individuals on the basis of drug-related charges in Shiraz Central Prison in the period March to 2 April 2022**. By mid-March, it was reported that at least 16 of the individuals had been executed. At the time of the writing of this communication, it is unconfirmed whether all the executions have taken place.

Concerns at increase in the imposition of the death penalty for drug-related charges have been raised by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran in his most recent report to the Human Rights Council in March 2022 (A/HRC/49/50), and in several communications by Special Procedures mandate holders, including most recently on 22 February 2021 (ref. no IRN 6/2021) and on 29 January 2021 (ref. no IRN 5/2021). We thank your Excellency's Government for the responses received on 28 April 2021 and on 19 February 2021, respectively, but regret that these responses did not address the concerns raised about the imposition of the death penalty on the basis of drug-related charges.

According to the information received:

In the beginning of March 2022, it was reported that 52 individuals convicted to death on drug-related charges had been transferred from Pirbano Prison to Shiraz Central Prison for execution. The executions were reportedly ordered to be implemented by the beginning of the month of Ramadan (2 April 2022).

Between 4 and 16 March, at least 16 of the 52 individuals were confirmed executed, including at least two Afghan nationals, one woman and unconfirmed reports of a 17 year old boy. The vast majority of those convicted on drug related charges are individuals living in poverty and individuals belonging to minority communities.

It has been reported that prison staff in Shiraz Central Prison were on security alert and that staff and prisoners were controlled to prevent information about the executions from reaching the public. The Judiciary announced the executions of three individuals, and specified that the executions were drug related but without mentioning identities, location or date of execution.

The majority of those executed were convicted behind closed doors in Revolution Courts, with multiple violations of their due process rights reported, including changes in charges due to unknown reasons, long periods of pre-trial detention without access to lawyer, requests for bribes to reduce the sentencing and disregard of exonerating evidence. It has also been reported that the prisoners held in Shiraz Central Prison are held in poor prison conditions, and that drugs circulate freely in the prison.

These executions take place in the context of a general increase in the number of executions on the basis of drug related charges observed since 2021, following a period of decrease in such executions in the period 2018-2020. In October 2017, the Guardian Council approved a bill amending the Anti-Narcotics law, which came into force in November 2017. The law amended the punishment for some drug offences that prior to that carried the death penalty or life imprisonment, to imprisonment for maximum 30 years. The amendment provided for retroactive applicability, which entails that all people currently on death row for drug-related offences which are no longer punishable by the death penalty should see their sentence commuted.

In 2021, over 80 executions out of a total of over 300 executions were for drug-related charges, compared to 25 out of over 260 executions in 2020.

We express serious concern at the transfer of 52 individuals, convicted to death on the basis of drug-related charges, to Shiraz Central Prison in March 2022 in preparation for their executions to take place by 2 April 2022. We are gravely concerned that by 16 March, at least 16 of these individuals had already been executed and that the fate of the remaining individuals is unclear. We remind your Excellency's Government that for States that retain the death penalty, such form of punishment can only be imposed as exceptional matter, only for "the most serious crimes" and in full respect of fair trial and due process rights. We underline that the Human Rights Committee has interpreted "most serious crimes" as intentional murder and that the imposition of the death penalty for drug related charges would be in contravention of the right to life under article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 25 June 1975. In this regard, we would also like to recall the Study of the Working Group on Arbitrary Detention "Arbitrary detention relating to drug policies"¹ stating that imposing the death penalty for drug-related offences is incompatible with international standards on the use of the death penalty. We express further concerns at the reports of due process violations and that the processes have taken place behind closed doors at Revolution Courts that, if confirmed, would be in contravention to the right to liberty and security of person and the right to a fair trial under articles 9 and 14 of the Covenant. We are alarmed at the reported attempts of the authorities to keep information about these executions to reach the public. In this regard, we also recall that paragraph 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty (Safeguards), provides that capital punishment may only be carried out pursuant to legal procedures which give all possible safeguards to ensure a fair trial. Only full respect for the most stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution.

¹ A/HRC/47/40, para. 41.

While we welcome the amendments to the Anti-Narcotics Law in 2017, we regret to observe the reversal in the reduction in the number of death sentences on the basis of drug related charges and the increase in executions observed on this basis since 2021. We remind your Excellency's Government that the General Assembly has consistently called upon all States to establish a moratorium on executions with a view to abolishing the death penalty since its resolution 62/149 of 18 December 2007 (para.7) and most recently, in its resolution 73/175 of 17 December 2018 (para. 7), called upon all States to respect the above Safeguards. We recall that all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life (see Human Rights Committee, General comment no. 6). This means that, conversely, a resumption or sudden increase of executions leads to less protection of the right to life (see Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/69/265), as guaranteed by Article 6 of the ICCPR. We stress that when executions have been suspended for an extended period of time, it is unlikely that their resumption may be justified by objective reasons.

In this connection, we would like to stress the fact that the anxiety created by the threat of death and the other circumstances surrounding an execution, inflicts great psychological pressure and trauma on persons sentenced to death. Therefore, a prolonged stay on death row may amount to a violation of the prohibition of torture enshrined in article 7 of the ICCPR.

We call on your Excellency's Government to immediately halt the executions of individuals convicted on drug-related charges, in compliance with international human rights law, which prohibits the use of the death penalty for drug-related offenses. These executions, on the facts available to us, would constitute a violation of applicable international human rights standards and would thus constitute arbitrary executions. We also urge your Excellency's Government to take steps to further reform its legislation and policies related to drug crimes, and address drug-related crimes through comprehensive means, including addressing the underlying reasons for such crimes. In this regard, we note that studies and data on drug trafficking suggests that the death penalty does not deter drug offences. The most effective manner of addressing drug-related offences is through strengthening the rule of law and ensuring an effective justice system in accordance with international standards.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide information about the transfer of 52 individuals to Shiraz Central Prison in March and detailed information about the order that their execution should be implemented by 2 April 2022.
2. Please provide detailed information about the number of executions that took place in Shiraz Central Prison between 1 March 2022 and 2 April 2022, including name; age; nationality; type of charge and date of

execution.

3. Please provide the court decisions related to the above-mentioned cases, including by the Revolution Courts. Please also provide information about the justification for changes in charges, long periods of pre-trial detention without access to lawyer and disregard of exonerating evidence.
4. Please provide detailed information on how the imposition of the death penalty for drug offenses is consistent with the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty that indicate that capital punishment may be imposed only for the most serious crimes.
5. Please provide information about the total number of individuals executed on drug related charges so far in 2022.
6. Please provide information about any changes in law or policy leading to an increase in the number of executions for drug-related offences, which reverses the positive trend observed following the amendment of the Anti-Narcotics law in 2017.
7. Please provide information on any efforts envisaged to remove the death penalty in Iran for drug related offences and/or to reduce the scope of application of the death penalty.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

Miriam Estrada-Castillo
Chair Rapporteur of the Working Group on Arbitrary Detention

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Javaid Rehman
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we refer to the right of every individual to life and security, as set forth in articles 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975.

According to article 6(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 ICCPR.

The Human Rights Committee in General Comment 36 has stated that the term “the most serious crimes” must be read restrictively and appertain only to crimes of extreme gravity involving intentional killing. “Crimes not resulting directly and intentionally in death, including drug offences, although serious in nature, “can never serve as the basis within the framework of article 6, for the imposition of the death penalty.” (CCPR/C/GC/36, para.35).

In the same General Comment, the Human Rights Committee notes that violation of fair trial guarantees provided for in article 14 of the ICCPR in proceedings that result in the imposition of the death penalty would render the sentence arbitrary in nature and in violation of article 6 (CCPR/C/GC/36, para. 41). We would like to highlight that paragraph 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty (Safeguards), provides that capital punishment may only be carried out pursuant to legal procedures which give all possible safeguards to ensure a fair trial. Furthermore, paragraphs 7 and 8 establish that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that capital punishment shall not be carried out pending any appeal or other recourse or evaluation procedure or other proceeding relating to pardon or commutation of the sentence.

We would like to call your attention to an emerging international customary norm prohibiting the death penalty as a form of cruel, inhuman, or degrading punishment and therefore a violation of article 7 of the ICCPR. The cruelty of the death penalty goes beyond the execution itself. The concept of the “death row phenomenon” explains that prisoners on death row may experience severe mental trauma and physical deterioration, which may cross into the territory of degrading, cruel or inhuman treatment or punishment, or even torture.

We would further like to emphasize that the death penalty cannot be reconciled with the full respect for the right to life, and that abolition is both desirable and necessary for the enhancement of human dignity and progressive development of human rights (Human Rights Committee, General comment No. 36 (2018) on the right to life, CCPR/C/GC/36, para. 50).

With regard to the alleged violations of due process and of fair trial guarantees, including the imposed limitations in the access of legal assistance and representation, including at the investigation stage, and allegations of forced confessions extracted by use of torture, we would like to recall article 14 of the ICCPR, which enshrines the principle of equality before competent, independent and

impartial courts and tribunals and a set of procedural guarantees that must be made available to all persons charged with a criminal offence, including the presumption of innocence, the right of accused persons to have access to, and communicate with, a counsel of their own choosing and the provision of adequate time and facilities for the preparation of their defence.

In its General Comment No. 32 (2007), the Human Rights Committee explained that the right to communicate with counsel enshrined in article 14 (3) (b) requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. He/she should also be able “to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter” (CCPR/C/GC/32, para. 34). The content of these rights is spelled out in greater details in the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990.

Furthermore, the Human Rights Committee stated in General Comment No. 20 that it “is important for the discouragement of violations under article 7 [of the ICCPR] that the law must prohibit the use of admissibility in judicial proceedings of statements or confessions obtained through torture or other prohibited treatment.” The Human Rights Committee further asserted in General Comment No. 32 that “as article 7 is also non-derogable in its entirety, no statements or confessions or, in principle, other evidence obtained in violation of this provision may be invoked as evidence in any proceedings covered by article 14”.