

Legal Research Series

***The Death Penalty for Drug Crimes in Iran:
Analysis of Iran's International Human Rights Obligations***

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Executive Summary

This legal research analysis belongs to a series of studies on human rights in Iran authored by the Human Rights in Iran Unit. The Human Rights in Iran Unit in the School of Law at the University of Essex focuses on the Islamic Republic of Iran's compliance with international human rights law. Each study tackles a distinct topic to measure international obligations against domestic law and practice and to identify underlying or systemic problems. The Unit seeks to provide an accessible account of the breadth and complexity of violations in Iran from the standpoint of international law, which may serve scholars, practitioners and anyone concerned with human rights in Iran.

This study considers the Islamic Republic of Iran's compliance with its obligations under international human rights treaties with respect to the death penalty for drug crimes. The relevant treaties to which Iran is a State party are the International Covenant on Civil and Political Rights (ICCPR), which includes the right to life under Article 6, and the Convention on the Rights of the Child (CRC), which includes the right to life under Article 37.

Iran has the greatest *per capita* executions worldwide of which the majority are carried out for drug crimes. The beginning of 2014 saw a surge in the use of the death penalty in Iran with 21 executions officially acknowledged by the Iranian authorities, as well as 19 additional executions reported through reliable sources. More officially acknowledged executions took place in one week of January 2014, than during the whole month of January 2013. The majority of these were for alleged drug crimes. The death penalty is prescribed for a wide range of drug-related crimes, including simple possession, and it is mandatory in many instances. In practice, the death sentence is often carried out without a fair trial and without any serious opportunity for appeal or clemency.

The Islamic Republic of Iran has been subject to significant criticism from a human rights perspective for its use of the death penalty to punish drug crimes. To date, the United Nations, NGOs and civil society, as well as the media have primarily focused on the concern that drug crimes do not meet the required threshold of 'most serious crimes,' which under international law may be punishable through the deprivation of life, and that prosecution falls short of fair trial requirements. The detailed legal research and analysis of this study concludes that at least six legal bases exist for the violation by Iranian law of Article 6 of the ICCPR. The analysis reveals that Iran's death penalty for drug crimes is contrary to international law in a more fundamental manner than usually understood, due to the compound and cumulative effect of the relevant violations, and the nature of the death penalty as a serious and irreversible punishment.

The analysis demonstrates that the death penalty for drug crimes in Iran violates a number of key legal requirements of Article 6 of the ICCPR:

1. **Lawfulness, non-arbitrariness** – Iran's use of executions by hanging to death in public places is contrary to the prohibition against arbitrariness, which extends to inappropriateness and unjustness.

2. **Mandatory death penalty** – Iran’s mandatory capital punishment for drug crimes is contrary to the right to life, as it does not permit consideration of whether this exceptional form of punishment is appropriate in the specific circumstances of each offender’s case.
3. **‘Most serious crimes’** – The very wide range of Iranian drug crimes subject to the death penalty, including simple possession beyond certain levels, does not meet the threshold under international law of constituting the ‘most serious crimes.’
4. **‘Conformity’ requirement** – Iranian law and practice relating to public executions and inhuman and degrading punishment, as well as fair trial guarantees during a state of emergency, appear to be contrary to the requirement that the death penalty is non-derogable and consistent with other provisions of the ICCPR.
5. **Fair trial guarantees** —The cases in which persons are executed for drug crimes may often violate a wide range of fair trial guarantees connected to the right to life, such as access to a court, a proper legal defence, an independent judiciary, the right of appeal, as well as an absence of coerced confessions.
6. **Clemency** – While Iranian law provides an opportunity for clemency (i.e. the right to seek pardon or commutation of the sentence), those persons convicted of drug crimes are usually executed within a timeframe that is considered too short to effectively provide for that right.
7. **Non-retroactivity** – Recent amendments to the Iranian drugs legislation may have introduced the possibility of applying the death penalty for a crime or sentence to which such punishment did not apply at the time of the actual offence, and this violates the principle of non-retroactivity under the right to life.
8. **Exception for persons under the age of 18 years** – Juveniles under the age of 18 years convicted of drug crimes may be subjected to execution, as they have been recently for other crimes, which is in violation of obligations under the ICCPR and UN Convention on the Rights of the Child (CRC).

In light of these violations of international human rights law, this legal analysis concludes that the death penalty for drug crimes in the Islamic Republic is not in compliance with Iran’s obligations under the ICCPR and also the CRC. It is necessary for Iran to resolve these violations and fulfil the legal requirements of its treaty obligations. These findings are consistent with the basis for calls for Iran to adopt a moratorium on the death penalty especially for drug crimes, expressed through recommendations in Iran’s Universal Periodic Review before the UN Human Rights Council and by relevant Special Rapporteurs for human rights, and more generally by the UN General Assembly.