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## Human Rights Council

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### Human rights situations that require the Council's attention

## **Written statement\* submitted by International Harm Reduction Association (IHRA), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 February 2020]

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\* Issued as received, in the language(s) of submission only.

## Death penalty and other violations of fundamental rights in the context of drug control in the Islamic Republic of Iran

Harm Reduction International welcomes the report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. We also applaud the sustained focus by the Rapporteur on the use of capital punishment in the country.

Harm Reduction international has been tracking the use of the **death penalty for drug offences** in Iran since 2007. In 2018, we welcomed a significant decrease in drug-related executions, as a result of the 2017 reform to the Anti-Narcotics Law. Specifically, known drug-related executions fell from 221 in 2017 to 23 in 2018. This translated in a 50% drop in total executions in the country, and contributed to a substantial decrease globally. Regrettably, this trend appears to have reversed last year. While 2019 has not seen a return to 2017 figures, the number of persons known to have been executed for drug offences has risen to 36.1 This raises concerns about the willingness of Iran to progressively reduce the use of the death penalty, in line with its international obligations; and a potential return to a systematic resort to executions as a tool of drug control.

We also echo preoccupation expressed by local and international civil society – such as Iran Human Rights and the Abdorrahman Boroumand Centre on Human Rights in Iran – regarding the **death sentences review and commutation process** that has followed the 2017 amendment to the Anti-Narcotics Law. Rights groups have criticised such process as opaque and tainted by insufficient resources, as well as by allegations of corruption.<sup>2</sup> Also concerning are the alternative punishments imposed as a result of this process, with many death sentences commuted to prison sentences as long as 30 years, and hefty financial penalties which weigh not only on those convicted but also on their families.<sup>3</sup> In light of this intensification in the use of capital punishment for drugs, we echo the concerns expressed in 2019 by this Rapporteur, regarding systemic fair trial violations in capital cases in general, and capital drug cases specifically.

Among others, we highlight:

- A systemic **lack of transparency and fair trial guarantees** characterising processes at the Islamic Revolutionary Courts, which jurisdiction extends to drug crimes;<sup>4</sup>
- A failure to ensure that capital drug defendants have **effective legal counsel** at all stages of the proceedings. Many defendants accused of drug-related offences have reported not having access to a lawyer throughout their detention and trials, or only meeting their court-appointed lawyer during trial.<sup>5</sup> Article 48 of the Code of Criminal Procedure provides for the right to legal counsel from the start of detention, but stipulates that defendants accused of certain capital crimes may be denied access to an independent lawyer of their own choosing during the investigation phase – a period which may last for months.<sup>6</sup> Moreover, several defendants that have been able to hire their own lawyers report that this was prohibited from defending them during the trial and only given permission to submit a written defence.<sup>7</sup> Finally, the Abdorrahman Boroumand Centre for Human Rights in Iran denounced that experienced lawyers sometimes avoid criminal cases because of the physical and mental stress these entail, in turn caused by the fact that “authorities conducting pre-trial

1 Based on a Harm Reduction International dataset on death sentences and executions for drug offences. On file with authors and available upon request.

2 Ensemble Contre la Peine de Mort and Iran Human Rights (2019), *Annual report on the death penalty in Iran 2018*.

3 Abdorrahman Boroumand Centre and Harm Reduction International (28 March 2019), *Joint stakeholder submission to the Working Group for The Universal Periodic Review, Third cycle*, pp 6-7.

4 Javid-Tehrani, Behrouz (February 2017), “Fair trials for the accused in drug-related offences”, in *Iran Human Rights Review: Due Process*, Tahirih Danesh and Mahmood Amiri-Moghaddam (eds), The Foreign Policy Centre: London, p.45.

5 Ibid., p.44.

6 Abdorrahman Boroumand Centre and Harm Reduction International, *Joint stakeholder submission to the Working Group for The Universal Periodic Review, Third cycle*, 28 March 2019, p 4.

7 Javid-Tehrani, Behrouz (February 2017), “Fair trials for the accused in drug-related offences”, in *Iran Human Rights Review: Due Process*, Tahirih Danesh and Mahmood Amiri-Moghaddam (eds), The Foreign Policy Centre: London, p. 45.

investigations have a negative perception of defense lawyers and, despite the recent amendments to criminal procedure, continue to disregard the defendant's right to legal representation.”<sup>8</sup>

- **Widespread torture and ill-treatment, and reliance on forced confessions as evidence.** Rights groups report that almost all prisoners who are arrested for drug offences are kept in solitary confinement and are subjected to torture during the investigation phase, while they are being denied access to a lawyer.<sup>9</sup> According to testimonies received by Iran Human Rights, people facing the death penalty for drug offences are routinely “tortured in various ways and beaten with wooden sticks, hoses and cables, hung by their hands from the ceiling for hours while being beaten, [or have] spent weeks in solitary confinement with handcuffs and shackles.”<sup>10</sup> In many cases, the ‘confessions’ elicited during detention have been the only evidence submitted to judges to base their verdicts upon.<sup>11</sup> Iran’s laws on investigating allegations of torture remain deeply flawed, with no procedures envisaged for the automatic investigation into allegations of torture and ill-treatment when they are brought to the attention of authorities.<sup>12</sup>
- **Denial of the right to appeal.** Individuals sentenced to death for drug offences have only been granted the right to appeal in Iran in 2015. Despite this welcome reform, several people convicted prior to November 2015 have since been executed without having been able to exercise their right to appeal.<sup>13</sup> Further, appeals can only be done in writing - meaning that the defendant and their lawyers cannot be present at the appeal.<sup>14</sup>

While the death penalty remains one of the most egregious violations of fundamental rights committed by Iran in the context of drug control, it is far from the only one. Among others, we wish to draw attention on:

1) **Corporal punishment** by flogging of people who use drugs, prescribed by Article 19 of the Anti-Narcotics Law; this violates the absolute prohibition of torture and other cruel, inhuman and degrading treatment of punishment, which forms part of customary international law;

2) **Compulsory drug detention and treatment** in private centres (or ‘camps’), based on Articles 15 and 16 of the Anti-Narcotics Law. Despite substantial obstacles in accessing and gathering information on the centres, local civil society has been able to report widespread violence and abuse, lack of health professionals overseeing the operations, inhumane conditions of detention, and imposition of non-evidence based forms of treatment, not rarely amounting to ill-treatment.<sup>15</sup> In 2014, an official from the State Welfare Organization reported that 39 individuals had died in rehabilitation camps during the previous year, mostly during the first few days of detention, when prisoners are forced to ‘detoxify’ without medical support.<sup>16</sup> Compulsory drug treatment has been found by human rights bodies to be contrary to the prohibition of torture and ill-treatment, the right to liberty and security, and the right to health.<sup>17</sup>

In light of the above, we respectfully invite the Special Rapporteur to:

- Continue prioritising the death penalty as a central human rights issue in Iran, and address the problematic aspects of the sentence review process activated by the 2017 reform to the Anti-Narcotics Law;

<sup>8</sup> Abdorrahman Boroumand Center for Human Rights in Iran (2019), *Children, Yet Convicted as Adults*, Abdorrahman Boroumand Center: Washington, p. 29

<sup>9</sup> Ensemble Contre la Peine de Mort and Iran Human Rights (2019), *Annual report on the death penalty in Iran 2018*, p. 18.

<sup>10</sup> Javid-Tehrani, Behrouz (February 2017), “Fair trials for the accused in drug-related offences”, in *Iran Human Rights Review: Due Process*, Tahirih Danesh and Mahmood Amiri-Moghaddam (eds), The Foreign Policy Centre: London, p.45

<sup>11</sup> Danesh Tahiri and Amiry-Moghaddam, Mahmood, (February 2017), “Introduction: Due Process and Rule of Law”, in *Iran Human Rights Review: Due Process*, Tahirih Danesh and Mahmood Amiri-Moghaddam (eds), The Foreign Policy Centre: London, p. 10

<sup>12</sup> Abdorrahman Boroumand Centre and Harm Reduction International, Joint stakeholder submission to the Working Group for The Universal Periodic Review, Third cycle, 28 March 2019, p. 4.

<sup>13</sup> Ibid.

<sup>14</sup> Amnesty International (2016), *Flawed Reforms: Iran's new code of criminal procedure*, Amnesty International: London.

<sup>15</sup> ABC UPR submission

<sup>16</sup> ISNA, “Death of 39 people in rehabilitation camps in the past year”, January 3, 2014, available at: <https://bit.ly/2JJhmkL>.

<sup>17</sup> source

- Seek information on the death row population in Iran, disaggregated by age, gender, crime, and nationality; and
  - Dedicate a thematic report to human rights violations committed in the context of drug control, including the criminalisation (and ensuing arrest, detention, and endemic stigmatisation) of people who use drugs, corporal punishment of people who use drugs, and the secretive phenomenon of drug treatment centres or 'camps'.
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