

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	660
Land:	Iran
Kilde:	ACCORD
Titel:	Query response on Iran: Death Penalty: Which crimes are punishable by death according to legislation and for which crimes is the death penalty implemented in practice
Udgivet:	30. september 2016
Optaget på baggrundsmaterialet:	22. december 2016

[EN](#) | [DE](#)

- Source:
ACCORD - Austrian Centre for Country of Origin and Asylum Research and Documentation
- Title:
Query response on Iran: Death penalty: Which crimes are punishable by death according to legislation and for which crimes is the death penalty implemented in practice? [a-9861-1]
- Publication date:
30 September 2016
- ecoi.net summary: Query response on Iran: Crimes punishable by death sentence [ID 331409]
- Countries:
Iran

Recommended citation:

ACCORD - Austrian Centre for Country of Origin and Asylum Research and Documentation: Query response on Iran: Death penalty: Which crimes are punishable by death according to legislation and for which crimes is the death penalty implemented in practice? [a-9861-1], 30 September 2016 (available at ecoi.net) http://www.ecoi.net/local_link/331409/459234_en.html (accessed 15 December 2016)



Query response on Iran: Death penalty: Which crimes are punishable by death according to legislation and for which crimes is the death penalty implemented in practice? [a-9861-1]

30 September

This response was prepared after researching publicly accessible information currently available to ACCORD as well as information provided by experts within time constraints and in accordance with ACCORD's methodological standards and the *Common EU Guidelines for processing Country of Origin Information (COI)*.

This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status, asylum or other form of international protection.

Please read in full all documents referred to.

Non-English language information is summarised in English. Original language quotations are provided for reference.

Legislation regarding death penalty

The second Book of the Islamic Penal Code of 2013 describes several forms of so-called „hadd crimes“ [Plural: Hudud, forms of punishment mandated by Islamic Shariah law, note by ACCORD], some of which are punishable by death. The following excerpts are taken from a translation undertaken by the Iran Human Rights Documentation Center (IHRDC), a human rights NGO based in the United States.

Article 136 (Islamic Penal Code, Part One, Chapter 6 lays out the punishment for repeated hadd-offences:

“Article 136 - Where anyone commits the same offense punishable by *hadd* three times, and each time the *hadd* punishment is executed upon him/her, the *hadd* punishment on the fourth occasion shall be the death penalty.” (IHRDC, 8 April 2014)

According to Part Two of the second Book of the Islamic Penal Code, offences such as Zina (sexual intercourse of a man and woman who are not married), Livat (sexual intercourse between men), Sabb-e nabi (Swearing at the prophet), repeated theft, Moharebeh (enmity against God), Baqy and Efsad-e-fe-arz (Rebellion and Corruption on Earth) fall under the category of Hadd-crimes and are punishable by death:

“Article 224- In the following cases the hadd punishment for zina is the death penalty: (a) Zina with blood relatives who are prohibited to marry. (b) Zina with a step-mother; in which case, the man who committed zina shall be sentenced to the death penalty. (c) Zina of a non-Muslim man with a Muslim woman; in which case, the man who committed zina shall be sentenced to the death penalty. (d) Zina committed by coercion or force [i.e. rape]; in which case, the man who committed zina by coercion or force shall be sentenced to the death penalty.

Article 225- The hadd punishment for zina of a man and a woman who meet the conditions of *ihsan* shall be stoning to death. Where the execution of stoning is not possible, upon proposal of the court of final judgment and approval of the Head of Judiciary, if the offense is proved by testimony of witnesses, the man and a woman who have committed zina and meet the conditions of *ihsan* shall be sentenced to the death penalty [hanging]; otherwise, each one of them shall be given one hundred lashes.

Article 226- *Ihsan* shall be established for both men and women according to the following:

(a) *Ihsan* of a man is defined as a status that a man is married to a permanent and pubescent wife and has had vaginal intercourse with her whilst he has been sane and pubescent and can have vaginal intercourse with her whenever he so wishes.

(b) *Ihsan* of a woman is defined as a status that a woman who is married to her permanent and pubescent husband and the husband has had vaginal intercourse with her whilst she was sane and pubescent and she is able to have vaginal intercourse with her husband.

Article 227- The parties to a marriage shall not meet the conditions of *ihsan* [mentioned in article 226] during periods such as travel, imprisonment, menstruation, lochia, any illness that prevents sexual intercourse, or any illness that puts the other party at risk such as AIDS and syphilis. [...]

Article 233- Livat is defined as penetration of a man's sex organ (penis), up to the point of circumcision, into another male person's anus.

Article 234- The hadd punishment for livat shall be the death penalty for the insertive/active party if he has committed livat by using force, coercion, or in cases where he meets the conditions for *ihsan*; otherwise, he shall be sentenced to one hundred lashes. The hadd punishment for the receptive/passive party, in any case (whether or not he meets the conditions for *ihsan*) shall be the death penalty.

Note 1- If the insertive/active party is a non-Muslim and the receptive/passive party is a Muslim, the hadd punishment for the insertive/active party shall be the death penalty. [...]

Article 262- Anyone who swears at or commits qazf [false accusation of sexual offences, note by ACCORD] against the Great Prophet [of Islam] (peace be upon him) or any of the Great Prophets, shall be considered as Sāb ul-nabi [a person who swears at the Prophet], and shall be sentenced to the death penalty.

Note- Commission of qazf against, or swearing at, the [twelve] Shi'ite Imams (peace be upon them) or the Holy Fatima (peace be upon her) shall be regarded as Sab-e nabi.

Article 263- When the accused of a sabb-e nabi (swearing at the Prophet) claims that his/her statements have been under coercion or mistake, or in a state of drunkenness, or anger or slip of the tongue, or without paying attention to the meaning of the words, or quoting someone else, then s/he shall not be considered as Sāb ul-nabi [a person who swears at the Prophet].

Note- When a sabb-e nabi (swearing at the Prophet) is committed in the state of drunkenness, or anger or quoting someone else, if it is considered to be an insult, the offender shall be sentenced to a ta'zir punishment of up to seventy-four lashes. [...]

Article 278- The hadd punishment for theft is as follows:

- (a) On the first occasion, amputation of the full length of four fingers of the right hand of the thief in such a manner that the thumb and palm of the hand remain.
- (b) On the second occasion, amputation of the left foot from the end of the knob [on the foot] in such a manner that half of the sole and part of the place of anointing [during ablution] remain.
- (c) On the third occasion, life imprisonment.
- (d) On the fourth occasion, the death penalty even though the theft is committed in prison.

Article 279- Moharebeh is defined as drawing a weapon on the life, property or chastity of people or to cause terror as it creates the atmosphere of insecurity. When a person draws a weapon on one or several specific persons because of personal enmities and his act is not against the public, and also a person who draws a weapon on people, but, due to inability does not cause insecurity, shall not be considered as a mohareb [i.e. a person who commits moharebeh].

Article 280- Any person or group that resorts to weapons in order to fight with moharebs shall not be considered as a mohareb.

Article 281- Robbers, thieves, or smugglers who resort to weapons and disrupt public security or the security of roads, shall be considered as a mohareb.

Article 282- The hadd punishment for moharebeh is one of the following four punishments:

- (a) The death penalty (hanging)

(b) Crucifixion

(c) Amputation of right hand and left foot

(d) Banishment

Article 283- The judge has the discretion of choosing one of the four punishments prescribed in article 282. [...]

Article 286- Any person, who extensively commits felony against the bodily entity of people, offenses against internal or international security of the state, spreading lies, disruption of the economic system of the state, arson and destruction of properties, distribution of poisonous and bacterial and dangerous materials, and establishment of, or aiding and abetting in, places of corruption and prostitution, [on a scale] that causes severe disruption in the public order of the state and insecurity, or causes harsh damage to the bodily entity of people or public or private properties, or causes distribution of corruption and prostitution on a large scale, shall be considered as mofsed-e-fel-arz [corrupt on earth] and shall be sentenced to death. Note- When, considering all the evidence and circumstances, the court does not establish the intention to cause extensive disruption in the public order, or creating insecurity, or causing vast damage or spreading corruption and prostitution in a large scale, or the knowledge of effectiveness of the acts committed, provided that the offense committed is not punishable under the title of a different offense, it shall sentence the offender to a ta'zir imprisonment of the fifth or sixth degree, considering the harmful consequences of the offense.

Article 287- Any group that wages armed rebellion against the state of the Islamic Republic of Iran, shall be regarded as moharebs, and if they use [their] weapon, its members shall be sentenced to the death penalty.” (IHRDC, 8 April 2014)

The Iran Human Rights Review (IHRR), a publication of the Foreign Policy Centre, a UK-based, independent, progressive foreign affairs think tank, states in September 2014 that, in addition to hadd-crimes laid out in the Islamic Penal Code, the Anti-Narcotics Law of the Islamic Republic of Iran stipulates several offences which can lead to a death sentence:

“The 2011 amendments to Iran’s Anti-Narcotics Law set out 17 drug related offenses punishable by death, including by introducing new crimes aimed at addressing the burgeoning growth of synthetic, non-medical psychotropic drugs. The law, however, removed the right to an effective appeal by making lower court decisions subject only to a review – or confirmation – by the Prosecutor General or the Supreme Court.” (IHRR, September 2014)

IHRR further provides the following information about the provisions of the Islamic Penal Code regarding murder:

“Punishment for the act of intentional or unintentional murder in the amended IPC remain defined, as previously, in terms of personal dispute usually between two parties and punished by a retributive act - a life for a life - or a cash fine paid by the family of the person convicted to the family of the victim. The execution of the person (s) convicted is entirely in the hands of the family of the person killed. [...]

Iran's interpretation of Islamic law and its resulting codified law aims to absolve the state of the responsibility of the punishment - a judicial killing. It only provides the locus of the resolution of the dispute between two parties. It has also provided, through the provision of paying blood money, for the freeing of a person sentenced for having murdered someone." (IHRR, September 2014)

The US Department of State (USDOS) in its country report on human rights practices in Iran of April 2016 (reporting period: 2015) briefly lays out the legal provisions of the death penalty according to Iranian law and its application in 2015:

"The law provides for the death penalty for murder, as well as 'attempts against the security of the state,' 'outrage against high-ranking officials,' 'enmity towards God' ('moharebeh'), 'corruption on earth' ('fisd fil-arz'), rape, adultery, drug possession and trafficking, recidivist alcohol use, consensual same-sex sexual activity, and 'insults against the memory of Imam Khomeini and against the supreme leader of the Islamic Republic.' Prosecutors frequently used 'enmity towards God' as a criminal charge against political dissidents and journalists, accusing them of struggling against the precepts of Islam and against the state that upholds those precepts. On February 20 [2015], the government executed six Iranian Kurds, including political activists Ali and Habib Afshari, for 'enmity towards God' and 'corruption on earth,' and did not permit their families to bury them or hold funerals. Saman Naseem, arrested but not executed with the group, was 17 at the time and appealed his death sentence. The law does not stipulate the death penalty for apostasy or heresy, but courts handed down capital punishments for similar charges. In August a court sentenced Mohammad Ali Taheri, spiritual leader of the Islamic offshoot group Irfan e Halghe, to death for 'corruption on earth,' after he had served most of his previous five-year sentence for 'insulting the sanctities.' On December 21 [2015], the Supreme Court annulled the death penalty sentence and returned the case to the lower court for retrial. Authorities have imprisoned Taheri since 2011, and he remained in prison at year's end pending new action by the lower court. In his October 27 [2015] report to the UN General Assembly, Ahmed Shaheed, the UN special rapporteur on the situation of human rights in the Islamic Republic of Iran, reported that the penal code retained the death penalty for consensual same-sex sexual activity although authorities reportedly had not carried out any executions during the year. Authorities carried out many executions in public; according to UN Secretary-General Ban Ki-moon, observers confirmed at least 33 of the more than 900 executions during the year as conducted publicly. NGO reports suggested that the actual figure was significantly higher." (USDOS, 13 April 2016, Section 1a)

For which crimes is the death penalty implemented in practice?

The Foreign and Commonwealth Office (FCO), the United Kingdom's department responsible for foreign affairs, mentions the number of reported executions in 2015 and the first half of 2016, stating that most of these executions were carried out based on charges related to drug-offences:

„Iran's use of the death penalty continues to be a serious concern. There were an estimated 966 executions in 2015, the highest number of executions in over 10 years, and there have been 170 recorded executions in the first six months of 2016. Iran continues to pursue the death penalty for juvenile offenders, in direct contradiction of the Convention on the Rights of the Child, to which Iran is a signatory. Iran also routinely uses the death penalty for crimes not

internationally recognised as ‘most serious’ for which the death penalty can be used, for example drugs-related offences. In January 2016, a bill was put before the Majles (Parliament) that, if passed, would mean the use of the death penalty only for violent drug-related crimes. This bill is still being debated. There is some evidence to suggest a recent reduction in the number of drug-related executions (76 since 1 January 2016, compared with 255 for the same period in 2015). This is a promising development and has been welcomed by human rights organisations around the world. According to the report issued by the UN Special Rapporteur in March 2016, approximately 65% of executions in Iran in 2015 were for drug-related offences; so if the proposed bill is approved, the number of executions in Iran could be significantly reduced.” (FCO, 21 July 2016)

Inter Press Service (IPS), a global non-profit, non-governmental news agency focusing on issues of development, globalisation, human rights and the environment, reports in August 2016 on Iran’s execution of juvenile offenders:

„As Iran currently executes the highest number of juvenile offenders in the world, hundreds of Iranian minors helplessly watch their childhoods pass them by as they await their fatal ends behind bars. Shockingly, rights groups have reported that Iran has executed at least 230 people since the beginning of 2016. Whilst the majority of countries worldwide are fighting for the eradication of capital punishment against adults, Iran continues to sentence girls as young as 9 and boys aged 15 to death. According to a recent report issued by Amnesty International, at least 160 young Iranians currently await execution. [...]

The death penalty for minors in Iran is invoked by what are considered to be ‘Hodud crimes’. ‘Hodud’ refers to offenses which have fixed definitions and punishments under Islamic law. For example, those engaged in the practices of alcohol consumption, adultery, and same-sex fornication will, in most cases, face the grave consequence of death. Iran’s brutal stance on the death penalty was brought to the fore this August as Human Rights Watch reported on the mass execution of 20 felons in Iran’s Rajai Shahr prison on August 2nd. Whilst a score of ‘criminals’ were put to death this month, Alireza Tajiki, managed to narrowly escape his final execution date of August 3rd [2016]. Alireza, now 19, was sentenced to death at the tender age of 15, following a trial that did not meet international standards of justice by any means. Thankfully, the young Iranian evaded execution due to the support of a lawyer. However, the postponement is only temporary. Alireza, who has been convicted of rape and murder, is one of the hundreds of young Iranians to be sent to the gallows for what Iran considers to be ‘the most serious’ of crimes. Hassan Afshar, arrested at 17 and convicted of ‘forced male to male intercourse’ did not share the same luck as Alireza. On July 18 [2016], Amnesty International reported the hanging of Hassan by Iranian authorities. He had no access to a lawyer. Drug-related crimes are also amongst the host of ‘atrocities’ to be deemed punishable by death. Janat Mir, a young Afghani residing in Iran was arrested for drug offenses after his friend’s house was raided by local police. Similar to the vast majority of young people in his grave situation, he could not avail of legal protection or consular services. He is said to have been 14 or 15-years-old when he was mercilessly executed in 2014.” (IPS, 12 August 2016)

The UN Office of the High Commissioner for Human Rights (OHCHR) in August 2016 publishes a comment made by the UN Special Rapporteur on the situation of human rights in Iran, in which

he accuses Iran's execution of 12 people on drug-related charges as being in contravention of international law:

„The Special Rapporteur on the situation of human rights in Iran, Ahmed Shaheed, has expressed outrage at the execution on 27 August [2016] of 12 people, including Alireza Madadpour, on drug-related charges. Mr. Shaheed had appealed publicly on 26 August [2016] to the Iranian authorities not to go ahead with the planned executions at Karaj Central Prison. ‘The execution of individuals for drug-related offences is simply illegal,’ Mr. Shaheed said, noting that international law only allows the imposition of the death penalty for the ‘most serious crimes’, where there is intentional killing, and after a fair trial that respects the most stringent due process guarantees. None of these conditions were respected, at least in the case of Mr. Madadpour. ‘Combatting drug trafficking, a serious concern in Iran, does not justify the use of the death penalty in drug-related cases,’ the Special Rapporteur stressed. ‘The execution of Mr. Madadpour and 11 others shows the Iranian authorities’ complete disregard of its obligations under international human rights law and especially of international fair trial standards and due process guarantees,’ Mr. Shaheed added. The United Nations expert renewed his call on the Government of Iran to end all executions and to immediately institute a moratorium on the death penalty.“ (OHCHR, 29 August 2016)

The International Campaign for Human Rights in Iran (ICHRI), an independent non-profit-organization founded 2008 and based in New York, which advocates human rights in Iran, reports in September 2016 on executions carried out in Iran in the previous month. Most of the executions are said to be carried out as a punishment for drug-related offences, a few seem to target political dissidents:

„In less than a month, between August 2 and August 27, 2016, at least 37 prisoners were executed in Iran. Shortly afterwards, the head of the Iranian Judiciary's Human Rights Council, Mohammad Javad Larijani, claimed Iran was doing members of the international community a favor by executing drug traffickers. Many, though not all, of the victims were convicted of drug-related crimes, which do not meet international standards regarding the possible application of capital punishment only for the ‘most serious crimes.’ [...]

In addition, the UN has noted serious concerns regarding the denial of due process in Iran, including cases in which capital punishment has been carried out. On August 2 [2016] Iran executed at least 20 Kurdish Sunni prisoners at Rajaee Shahr Prison in the city of Karaj. Many of these men were convicted of moharebeh (enmity against God) for their alleged membership in a radical Sunni Islamic group. Despite claims by Prosecutor General Mohammad Javad Montazeri that due process was carried out, family members of the victims and sources close to the cases said many of the executed prisoners were blocked from using lawyers of their choice and were quickly prosecuted in secret trials based on charges brought by the security establishment and confessions obtained under torture. On August 9 five Kurdish prisoners were executed in Urmia Central Prison while 12 were executed in Karaj Prison. All of the prisoners except Mohammad Abdollahi were executed for narcotic-related charges. Abdollahi was charged with moharebeh for his alleged membership in a Kurdish political party; he insisted that he had obtained a membership card from the group so he could legally work to support his family.“ (ICHRI, 8 September 2016)

ICHRI in a further article of September 2016 details the case of a 20-year-old sentenced to death following charges of insulting the prophet:

“Sina Dehghan was just 19-years-old when the Revolutionary Guards told him, while they were interrogating him, that if he confessed to the charge of ‘insulting’ the Prophet Mohammad and signed a letter of repentance, he would be set free. Now he’s on death row while being represented by an appointed public defender and his only hope is an acquittal by Iran’s highest court. ‘Sina was like an innocent child. He agreed to confess to everything they wanted and accepted all the charges. But then they sentenced him to death,’ an informed source told the International Campaign for Human Rights in Iran. ‘The case was sent to the Supreme Court three months ago and now his family’s only hope is an acquittal.’ According to the source, last year Sina Dehghan while was serving in the military at the age of 19, he started a campaign on the social network, LINE, where [apparently] anti-Islam and anti-Quran content was posted. Now 20 years old, Dehghan was arrested on October 21, 2015 at a military barracks in Tehran, by the Revolutionary Guards and sentenced to death for ‘insulting the Prophet’ and 16 months in prison for ‘insulting the supreme leader’ by Branch 1 of the Criminal Court in Arak. He and his co-defendants, Sahar Eliasi and Mohammad Nouri, were accused of posting anti-Islamic content on social media. Eliasi’s seven-year prison sentence was reduced to three years on appeal. But the Appeals Court upheld the death sentences against Dehghan and Nouri and now both men are awaiting a final ruling by the Supreme Court.” (ICHRI, 14 September 2016)

For more details on the death penalty and its application in Iran, please also consult the ACCORD COI-Compilation on Iran of July 2015, section 7.6 (pages 192-200):

- ACCORD - Austrian Centre for Country of Origin and Asylum Research and Documentation: Iran: Political Opposition Groups, Security Forces, Selected Human Rights Issues, Rule of Law, July 2015 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/file_upload/4543_1436510544_accord-iran-coi-compilation-july-2015.pdf

References: (all links accessed 30 September 2016)

- ACCORD - Austrian Centre for Country of Origin and Asylum Research and Documentation: Iran: Political Opposition Groups, Security Forces, Selected Human Rights Issues, Rule of Law, July 2015 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/file_upload/4543_1436510544_accord-iran-coi-compilation-july-2015.pdf
- FCO - UK Foreign and Commonwealth Office: Human Rights and Democracy Report 2015 - Human Rights Priority Country update report: January to June 2016 - Iran, 21 July 2016 (available at [ecoi.net](http://www.ecoi.net))
http://www.ecoi.net/local_link/329318/456801_en.html
- ICHRI – International Campaign for Human Rights in Iran: Head of Iranian Judiciary’s Human Rights Council Defends Wave of Executions, 8 September 2016

<https://www.iranhumanrights.org/2016/09/javad-larijani-demands-applause-amidstsurge-in-executions/>

- ICHRI – International Campaign for Human Rights in Iran: Twenty-Year Old On Death Row After “Confessing” on Promise of Freedom, 14 September 2016
<https://www.iranhumanrights.org/2016/09/sina-dehghan-death-sentence-for-sabb-al-nabi/>
- IHRDC: Iran Human Rights Documentation Center: English Translation of Books I & II of the New Islamic Penal Code, 8. April 2014
<http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html#41>
- IHRR - Iran Human Rights Review: Iran’s 2013 ‘Islamic Penal Code’ – one year on, September 2014
http://www.ihr.org/ihr/article/justice-en_irans-2013-islamic-penal-code-one-year-on/
- IPS - Inter Press Service - News Agency: Children at the Gallows, 12 August 2016
http://www.ipsnews.net/2016/08/iran-children-at-the-gallows/?utm_source=rss&utm_medium=rss&utm_campaign=iran-children-at-the-gallows
- OHCHR - UN Office of the High Commissioner for Human Rights: United Nations rights expert condemns Iran’s ‘illegal’ execution of 12 people on drug-related charges, 29 August 2016 (available at ecoi.net)
http://www.ecoi.net/local_link/329416/456915_en.html
- USDOS - US Department of State: Country Report on Human Rights Practices 2015 - Iran, 13 April 2016 (available at ecoi.net)
http://www.ecoi.net/local_link/322452/448227_en.html