

I. Scope of This Report and Background

1. This submission describes Iran's international human rights obligations with regard to its use of the death penalty. This submission concludes that numerous facets in the administration of the death penalty in Iran constitute cruel, inhumane and/or degrading treatment and violates the right to life and other human rights, and recommends that steps be taken to alleviate such conditions. These steps include both reducing the maximum possible sentence from death to one that is fair, proportionate, and respects international human rights standards, imposing a moratorium on all death sentences and executions, ensuring access to counsel throughout the judicial process, and other recommendations.¹
2. Iran is one of only 58 countries remaining in the world retaining the use of the death penalty to punish ordinary crimes.² In 2009, Iran ranked second for number of executions, behind only China, and first for executions per capita in the world.³ Because of the secrecy and lack of transparency for many executions, the exact numbers of executions vary across sources.⁴ The following statistics have been gathered from reputable sources but should be regarded as estimates, due to the lack of government transparency surrounding executions.
3. The numbers of executions in Iran have been increasing in recent years. In 2012, human rights groups confirmed a minimum of between 572 and 580 executions occurred.⁵ The U.N. Secretary-General noted that official reports document 314 executions but that the number of executions could "exceed 600" in 2012.⁶ In 2013, compilations of both official and unofficial sources indicate that anywhere between 326 and 737 executions took place.⁷ For example, the UN Special Rapporteur on the situation of human rights in Iran and the Special Rapporteur on summary executions estimate that 625 executions were carried out that year.⁸ In 2014, human rights groups report that at least 37 to 44 executions have taken place within January 2014,⁹ with that number increasing to an official 73 executions and estimated 142 actual executions for January and February 2014 combined.¹⁰
4. Part of the reason for the range in numbers is that third party reports of execution numbers differ substantially from official government reports. For example, Iran Human Rights (IHR) estimates that although 687 executions were carried out in 2013, the Government of Iran has officially announced only 388 of these.¹¹ This pattern of official under-reporting is nothing new; Abdorrahman Boroumand Foundation (ABF) estimates that actual and official numbers of executions, respectively, for 2012 stand at 574/356; for 2013, 737/411, and as of late February for 2014, 166/83.¹²
5. At the outset, Iran's policy and practice regarding the death penalty itself violates several basic human rights standards. Capital punishment, itself, violates the right to life, liberty, and security of person, as well as numerous other human rights, including the rights to due process, equal protection, liberty and security of person, presumption of innocence, and freedom from discrimination and cruel, inhuman, or degrading treatment or punishment.¹³
6. The number of crimes carrying the possibility of execution in Iran is among the highest in the world. According to data compiled by ABF, there are currently more than 80 discrete offenses in Iran for which punishment can include the death penalty.¹⁴ Crimes, such as

1 | Joint Submission by Abdorrahman Boroumand Foundation, The Advocates for Human Rights, Association for Human Rights in Kurdistan of Iran-Geneva, Iran Human Rights, and World Coalition against the Death Penalty.

“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]), *fisad-fil-arz* (corruption on earth) and human trafficking” are capital offenses.¹⁵ Some of these offenses, such as murder, are punishable by death in many other countries.¹⁶ The majority of others, such as adultery, theft, drug offenses, and fraud, are disconcertingly unique to Iran in their classification as capital crimes.¹⁷ This report will summarize the role of Iran’s application of Sharia¹⁸ in shaping its penal policy, examine the types of crimes punishable by death, and summarize the methods of execution most frequently employed by Iran.

7. In 2013, Iran adopted a new Penal Code.¹⁹ The new law was published in the Official Gazette on May 27, 2013, entered into force on June 12, 2013,²⁰ and has been approved for implementation for five years.²¹ The new Penal Code retains the death penalty for nearly all offenses as in the former Penal Code and even expands its scope, giving judges authority to order death in additional cases based on Sharia law.²² It does, however, reduce the number of death-eligible crimes for which juvenile offenders may be executed.²³
8. During its last Universal Periodic Review, Iran accepted the recommendation of Kazakhstan to “consider the abolition of juvenile execution.”²⁴ 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.”²⁵ Yet, as this report indicates, Iran continues to execute juvenile offenders despite accepting these recommendations.²⁶

II. Domestic Legal Framework

9. As mentioned above, Iran’s penal code provides that more than 80 different types of crimes are punishable by death. In practice, only a handful of these offenses, such as murder, drug trafficking, and rape, account for the vast majority of executions, with drug offenses topping the list. The development of Iran’s penal policy and use of the death penalty can be tied to the Iranian Revolution of 1979 and the installment of an Islamic-based government. Criminal punishments in Iran are divided into five types, in accordance with the Islamic Penal Code (“IPC”).²⁷ They are *hodood*²⁸, *qesas*²⁹, *diyeh*, *ta’zirat*, and deterrent punishments. *Hodood* punishments are those for which the type, amount and quality is prescribed by Sharia.³⁰ *Qesas*, which translates to “retaliation,” is the punishment to which the criminal shall be sentenced and is equal to his/her crime.³¹ A family member of the offended may and does sometimes carry out the execution.³² In the case of murder, therefore, the punishment is considered *qesas* as retribution for life. *Diyeh* punishment is monetary compensation, prescribed by Sharia, for the crime.³³ *Ta’zirat* is “chastisement” or punishment, not prescribed by Sharia but instead left to the discretion of judges, and includes imprisonment, fine and lashes. Most frequently, the death penalty is applied under the *hodood* section, and it is used under the *qesas* section in cases of murder.³⁴

a. The Iranian Court System

10. The Iranian Constitution purports to espouse a fair judicial process for the accused. For example, Article 20 states that “[a]ll citizens of the country, both men and women, equally

enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.” Further, Article 35 relates to the right to counsel, stating that “[b]oth parties to a lawsuit have the right in all courts of law to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel.” The law’s language, however, does not explicitly include the investigation stage; in addition, the law also qualifies this right by adding “in conformity with Islamic criteria,” thus granting the judge discretion over this matter.³⁵ Article 37 relates to the presumption of innocence, stating that “no one is to be held guilty of a charge unless his or her guilt has been established by a competent court.” These rights are severely marginalized, however, by the fact that all of Iran’s state institutions are subject to veto by the Supreme Leader and his religiously enshrined and absolute authority. Commentators have observed as recently as 2008 that Ayatollah Ali Khamenei “supervises the executive, legislative and judicial branches and other key institutions” through a “system of advisory councils.”³⁶ This includes the Guardian Council, which is “composed of six theologians appointed by the Supreme Leader and six jurists nominated by the judiciary” and has the power to “veto bills passed by the Parliament if it views them as being inconsistent with the Constitution and Sharia law.”³⁷ In addition, Islamic Revolutionary Courts, which are considered special tribunals operating separately from the justice departments that are supposed to oversee them, deal with narcotics smuggling and many other offenses and thus issue the largest number of death penalties.³⁸

b. The Death Penalty for Moharebeh

11. The crime of Moharebeh, or “waging war [against God],” is a death-eligible offense in Iran.³⁹ While the meaning and historical background of Moharebeh’s origins in the Iran Penal Code are intricate and too complex for this report, early official statements reveal the state’s intent to apply this concept to those who war against the state and equated rebellion against the Islamic Republic and Imam Khomeini to rebellion against God. The Prosecutor General and the Chairman of the Islamic Republic Assembly of Experts each stated, respectively:

If they are arrested, we will not [put them in jail so that they can] eat and sleep and feed off of the public treasury. They will be prosecuted on the streets. Whoever picks up a Molotov cocktail and confronts the Islamic Republic [on the street] will be prosecuted right then and there. When they’ve been arrested and taken to the Prosecutor’s Office, they have been tried, and their sentence is execution.... I also direct and order all municipal public prosecutors to adopt this same approach, or they will be punished themselves.⁴⁰

[I]f a number of monafeqin rise up against the Revolution, the Imam [Khomeini], and the Islamic government, they must be punished, and killing them and chaining them up is justice par excellence.⁴¹

12. Article 279 of the new Penal Code retains the crime of “waging war [against God],” defined as drawing arms to take life or property, commit rape, or terrorize people.⁴² Robbery and smuggling while using guns also constitute an act of Moharebeh.⁴³ In addition, Article 287 creates the new offense of “armed rebellion” for members of a group that opposes the Islamic

Republic's ideals and use arms.⁴⁴ Those members who actually use the arms may be subject to the death penalty.⁴⁵

13. The new Penal Code has expanded the offense "spreading corruption," and it now carries a mandatory death sentence for "crimes against the security of the State, spreading lies, operating or managing centers of corruption or prostitution, damaging the economy of the country, destruction and terror, insecurity and damages to public and private property and people, use of toxic and other dangerous substances."⁴⁶ Article 286 does not define the terms "crime" nor "extensive," and therefore grants judges broader discretion in their interpretation of this provision.⁴⁷ The use of self-defense does not constitute Moharebeh.⁴⁸ The new Penal Code has eliminated the presumption of innocence for acts of Moharebeh, corruption on earth, theft, and 'untrue accusation of fornication or sodomy.'⁴⁹ Official statements by government officials demonstrate the state's commitment to using the death penalty against "corruptors [on earth]."
14. Moharebeh carries four different punishments, including crucifixion for three days, amputation, banishment, and death.⁵⁰ The judge has discretion to determine which of the four punishments will be applied,⁵¹ but officials often choose the death penalty, especially for political dissidence.⁵² In 2013, 29 executions for crimes of moharebeh and corruption on earth took place.⁵³
15. Moharebeh has been increasingly used to target family members of these combatants, non-violent political dissidents, and ethnic minorities such as Kurds, Arabs, and the Baluch.⁵⁴ Essentially, the Iranian authorities have expanded the scope of Moharebeh in practice, from warring against God to warring against the government, which includes acts such as "organising offences," "efforts to deconstruct the system," "arson and rioting," and "rising against righteousness."⁵⁵ The targeting of ethnic minorities has continued unabated, as well, and one 2012 report listing prisoners executed for Moharebeh that year included four Ahwazi Arabs, six Kurds, and five Baluch.⁵⁶ Recently, 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."⁵⁷

c. The Death Penalty for Murder

16. 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 "retaliation." The state effectively steps into the shoes of the heirs of the victim in administering punishment, and because the victim was murdered, the retaliation can itself be execution.

17. Importantly, not all murderers are treated equally under the IPC, and in fact 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 5.⁵⁸ Thus, the penal code provides that the killing of a non-Muslim by a Muslim, regardless of the circumstances of the killing, may result in *qesas* for the non-Muslim, while the killing of a non-Muslim by a Muslim, again regardless of the circumstances of the killing, would result in *ta'zirat* for the Muslim; therefore, the death penalty could be applied against one convicted murderer but not the other based only on the religion of the victim. Also, jurisdictions allow the payment of *diyah* (blood money) to the family in order to pardon the perpetrator of the crime, which means that the decision to execute a murderer is essentially vested on the victim's family in these cases.⁵⁹
18. Family members of the offended (murdered) may carry out the executions.⁶⁰ Instead of placing responsibility for punishment with the government, 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.⁶¹
19. Murder is one of the top three charges punished by death in Iran. As of December 22, 2013, murder was the second most common offense for which the death penalty was actually imposed in 2013. It is estimated that at least 106 executions for murder took place in 2013.⁶²

d. The Death Penalty for Drug-Related Offenses

20. The death penalty is available in Iran for several drug-related crimes, as set forth by the Law for Amendment of the Anti-Narcotics Law & Annexation of Other Articles to It. According to Iranian officials, thousands of people are sentenced to death every year. Between 1995 and 2005, the Government of Iran executed approximately 5,000 people for drug trafficking.⁶³
21. Possession of sufficient amounts of drugs, calculated in the aggregate for repeat offenders, can result in a sentence of death even for small amounts.⁶⁴ Specifically, anybody who cultivates poppies or cannabis for the purpose of producing narcotics drugs shall be sentenced, in addition to his crop being destroyed, to the death penalty for the fourth such offense.⁶⁵ In 2012, at least six people were executed for possessing less than 500 grams of drugs.⁶⁶ Mehr News Agency reported on May 15, 2012 that one individual was executed in Zanjan Province Central Prison for possession of 49 grams of crystal meth.⁶⁷ On April 28, 2013, Fars News Agency reported that Qasem B. was executed in Varamin for carrying 400 grams of crystal meth.⁶⁸
22. Drug trafficking is also a capital offense. The following offenses are also punishable by death are: (1) smuggling more than 5 kilograms of opium or cannabis into Iran; (2) buying, keeping, carrying, or hiding more than 5 kilos of the same drugs; and (3) smuggling into Iran, dealing, producing, distributing, and exporting more than 30 grams of heroin, morphine, cocaine or their derivatives.⁶⁹ In 2011 and 2012, drug-related charges counted respectively

for 81% and 76% of all cases where death penalty is imposed.⁷⁰ Articles 4 and 8 of Iran's Anti-Narcotics Law renders the death penalty mandatory under the Revolutionary Courts.⁷¹

23. In 2013, drug trafficking was the most common offense for which the death penalty was actually imposed,⁷² with drug offenses accounting for more than 300 executions.⁷³ The UN Secretary-General's report cites to an interview by Mohammad Javad Larijani, the Secretary-General for the High Council for Human Rights, who admitted that although drug trafficking constitutes 74% of executions, drug trafficking should not be treated as a serious crime.⁷⁴
24. Prior to the adoption of the new Penal Code, Iran was the only country that punished consumption of alcohol by death, provided it was the third occasion and the accused receives a *hadd* punishment on each of the prior offenses.⁷⁵ There were no reported executions for consumption of alcohol in 2013.⁷⁶ Under the new Penal Code, the crime of drinking or ingesting certain liquids and beer is punishable by 80 lashes.⁷⁷ If, however, a repeat offender commits the *hodood* offense of drinking alcohol, upon the fourth offense, that person shall be sentenced to death.⁷⁸

e. The Death Penalty for Homosexuality

25. Iran is one of the few countries in the world that proscribes the death penalty as a punishment for homosexuality. Articles 233 to 241 of the new penal code address *lavat*, or sodomy, and *tafkhez*, or other non-sodomy, homosexual acts. The new Penal Code retains the death penalty for sodomy, but its application is now determined by which adult was "active" and "passive," depending also on whether or not one or both participants are Muslim.⁷⁹ The punishment for *lavat* is either execution or 100 lashes: for the sodomized subject (the "passive" person), the punishment is always execution; where the sodomized subject is Muslim and the sodomizer (the "active" person) is non-Muslim, the non-Muslim sodomizer will be executed.⁸⁰
26. Additionally, sexual contact without penetration, referred to as *tafkhez*, is also death-eligible depending on the religion of the participants. If the "active" participant is non-Muslim, and the "passive" participant is Muslim, the non-Muslim participant is subject to execution.⁸¹
27. Lesbianism, referred to as *musaheqeh*, was formerly punishable by death on the fourth offense.⁸² Although the new Penal Code makes no specific reference to *musaheqeh* and the death penalty, it still appears that Article 136 punishing repeat offenders imposes the death penalty on those offenses punishable by *hodood* that are committed four times; Articles 221 to 288 list a number of *hodood* acts, including lesbianism.⁸³
28. On September 4, 2011, three men were executed in the Karoun Prison of Ahwaz and had been convicted of *lavat* (sodomy).⁸⁴ Their death sentences were based on the paragraphs 108 and 110 of the former Penal Code. As of December 22, 2013, there were no reported executions as punishment for homosexuality in 2013.

f. The Death Penalty for Adultery

29. 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 unequivocally punished by stoning to death with extensive detail on the size of stones and to what level to bury the condemned person for execution.⁸⁵ Under the new Penal Code, stoning is no longer mandatory but is still allowed as a punishment for adultery.⁸⁶ Stoning violates the prohibition against torture and cruel, inhuman or degrading treatment or punishment and is disproportionate to the nature of the crime of adultery.⁸⁷
30. Adultery, or sexual intercourse between a man and woman who are not married to each other, is punishable by death or lashing.⁸⁸ An adulterating party who is married is subject to stoning, and an adulterating party who is unmarried is subject to lashing.⁸⁹ If the adultery is committed as sexual intercourse with a relative, his father's wife, between a non-Muslim male and a Muslim female, or as rape, the punishment is death.⁹⁰ Article 225 of the new Iran Penal Code states that "if the possibility of carrying out the [stoning] verdict does not exist," then the sentencing judge may order another form of execution.⁹¹
31. Certain factors reduce the sentence of death to lashing for adultery. A person's admission of adultery committed less than four times reduces the sentence of death to 31 to 74 lashes.⁹² If one of the parties to the adultery is unmarried, that person is subject to lashing.⁹³ Also, if the female adulterating party is not of legal age, her punishment is 100 lashes.⁹⁴ Given that the age of criminal responsibility for females is nine years of age, however, this still exposes females age ten years or older to the death penalty.⁹⁵
32. At least seven cases of death by stoning have been reported in Iran between 2006 and 2009.⁹⁶ 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.⁹⁷ 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.⁹⁸
33. Administering the death penalty for adultery is but one severe example of Iran's violation of Article 6 of the ICCPR, which provides that, for countries that 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."⁹⁹ The Human Rights Committee, in a general comment on Article 6 of the ICCPR, stated further that "the expression 'most serious crimes' must be read restrictively to mean that the death penalty should be a quite exceptional measure."¹⁰⁰

g. The Death Penalty for Other Non-Violent Offenses

34. Other non-violent offenses are also eligible for the death penalty in Iran. Insulting the prophet, or any of his successors, is punishable by execution under two articles of the new Penal Code.¹⁰¹ Sharia Law allows the death penalty for apostasy, and the Constitution grants judges authority to impose such a sentence.¹⁰² Theft committed for the fourth time is punishable by execution, as well.¹⁰³

h. The Death Penalty as Applied to Juvenile Offenders

35. The new 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 old 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”).¹⁰⁴ 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.¹⁰⁵ The accompanying legislative note allows, but does not mandate, the judge to seek an expert forensic opinion or other source, to make that determination.¹⁰⁶ Article 88 provides that children who commit “discretionary crimes,” such as drug possession or trafficking, are not eligible for capital punishment.¹⁰⁷
36. Iran executes more juvenile offenders than any other country in the world, with between 42 and 47 reported death sentences carried out between 1999 and March of 2009 of juvenile offenders.¹⁰⁸ In practice, the Government of Iran typically holds juvenile offenders on death row until they reach or surpass 18 years before executing them.¹⁰⁹ Reports indicate that between five and nine executions of juvenile offenders took place in 2013.¹¹⁰ For example, the 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 17.¹¹¹ 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 14.¹¹²

i. Methods of Execution

37. Judges in Iran, to a large extent, retain authority to determine the method of execution where the death penalty is imposed.¹¹³ The most common means of execution is hanging.¹¹⁴ As discussed earlier, stoning to death is another method specifically provided by the Iran Penal Code, although its status as an official means of punishment is unclear. Execution by beheading or being thrown from a cliff has also happened, usually as punishment for rape or homosexual acts.¹¹⁵ When the death penalty is imposed, General Comment 20 of the Human Rights Committee requires it be carried out in a manner to cause “*the least possible physical and mental suffering.*”¹¹⁶ Stoning, beheading, and being thrown from the cliff all plainly run afoul of this requirement.
38. While most hangings are now reportedly carried out within prisons, many are still public. There were least 60 reported cases of public hangings in 2012,¹¹⁶ and the Report of the Secretary-General notes that at least 63 public executions in 2013.¹¹⁷ Public executions themselves, and specifically as carried out in Iran, have been deplored by the Human Rights Committee and constitute inhuman and degrading treatment.¹¹⁸ Furthermore, children have been witness to these public executions and in September 2013, an eight-year-old boy died while staging an execution during playtime.¹¹⁹
39. 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.¹²⁰ While judges attempted to subject him again to hanging a second time, Justice Minister Mostafa Pour-Mohammadi stated he would not be subject to execution again, following widespread outcry.¹²¹

III. The Judicial Process in Iran and Access to Justice in Death Penalty Cases

40. Under Iranian law, all defendants facing the death penalty must be represented by a lawyer both at trial and on appeal.¹²² Despite the Constitutional provisions cited above, defendants in Iran do not have access to an attorney during detention, interrogation and preliminary investigations.¹²³ Moreover, defendants charged with crimes of Moharebeh cannot meet with their lawyers in private, even at the trial stage.¹²⁴ In addition, drug trafficking offenses are tried before the Revolutionary Courts, and “the only lawyers allowed to defend the accused are those named by these courts, which of course may include some lawyers who are less likely to challenge the authority of the court.”¹²⁵ Further, key evidence against accused individuals has, at times, come in the form of televised “confessions” given while no attorney is present and before the trial even begins. For example, Iranian state television broadcast the “documentary” *Terror Club* in 2012, in which seven men and five women each “confessed” to murdering Iranian nuclear scientists on camera.¹²⁶ The lack of access to attorneys in the judicial process violates Article 11 of the UDHR, which states that anyone charged with a criminal offense must be presumed innocent until and unless proven guilty under the law. This presumption is plainly ignored in the criminal trial process, where, as reported, attorneys are disallowed access to the accused during detention, interrogation, and/or at trial.
41. It has also been frequently reported that not only are “confessions” routinely coerced through torture, but that prisoners are often beaten while in custody for seemingly no reason at all.¹²⁷ The official Jam-e-Jam newspaper described a man who was found innocent 48 hours prior to the execution. According to the report, the man explained, “Six years ago, when I was charged for the murder, I was beaten so much that I thought if I don’t confess to the murder, I will die as a result of the beating.”¹²⁸ In one example, Ramin Ya’qubi was arrested by police in July of 2011 and forced to remain in detention because he could not afford bail. The day after his arrest, agents of the Criminal Investigations Office beat Ya’qubi prior to his appearance before the judge.¹²⁹ The judge ordered that Ya’qubi remain in detention for one week, and the next morning, his health rapidly deteriorating, he was transferred to a hospital where he died.¹³⁰ Further, a study conducted of 50 detained individuals from January 2009 onward found that all 50 individuals were subjected to torture and kept incommunicado, and most of the time, the torture was aimed at obtaining a confession against the detainee.¹³¹ Nearly half of the individuals in the study were actually forced to sign confessions, and only six out of the 50 individuals actually had charges brought up in front of a judge, all following their coerced confessions.¹³²
42. Article 32 of the Anti-Narcotics Law does not grant the right to an appeal to those sentenced to death based on drug charges. The authority to appeal a death sentence in such cases falls to the Attorney General or Supreme Court head, the latter of whom remains typically removed. Given that the Attorney General is the prosecutor who sought the punishment in the first place, the likelihood of such an intervention from either body is low.¹³³

IV. Death Row Conditions

43. Prisoners on death row in Iran reportedly endure inhumane conditions and torture. The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran noted in his 2013 report that Bandar Abbas, Evin, Karoun, Mahabad, and Rajai Sharh prisons are heavily overcrowded, do not provide adequate nutrition or sanitation facilities, and lack sufficient medical care.¹³⁴ Another report described Iran's prison conditions as "harsh and life threatening," leading some prisoners to reportedly commit suicide or go on hunger strikes.¹³⁵ There are also reports of mistreatment, torture, rape, and harsh prison conditions such as poor ventilation, sensory deprivation, and exposure to extreme temperatures.¹³⁶ The Iranian Government has denied prison access to independent monitors, including UN bodies.¹³⁷
44. The case of Iranian Ali Mahin Torabi is illustrative of the dire prison conditions in Iran. Torabi was accused of murder at age 16 years and given the death sentence as *qesas* retribution.¹³⁸ Torabi was transferred to Rajae-Shahr prison in Karaj, tortured, and kept in a cell with two other inmates that measured only 5 x 5 meters in area.¹³⁹ Torabi's family was only allowed to visit him once every 45 days for only 20 minutes at a time.¹⁴⁰ Torabi was further subject to the psychological duress of not knowing when his death sentence would be carried out, stating that the prison carried out executions every Tuesday, and so "[e]very Tuesday, I was thinking it would be my last."¹⁴¹ Being denied advance notice of the time and date of an execution itself constitutes an inhuman and degrading practice.¹⁴²
45. The length of time between imposition of the death penalty and execution is reported to vary widely, as criminals sometimes spend many years on death row while appeals and investigations are carried out. For example, Ali Mahin Torabi, whose ordeal is recounted in more detail above, was on death row for seven years before a human rights attorney obtained a judicial review of the initial murder verdict.¹⁴³ Long delays in execution can cause constant anxiety of one's own death, part of the broader concept of "Death Row Phenomenon," which the Human Rights Committee has held to be a possible breach of Article 7 of the ICCPR.¹⁴⁴

V. Recommendations

46. Iran is one of the most serious offenders of human rights standards with respect to its imposition of the death penalty. The recommendations are numerous far beyond the bounds of this report. The priority recommendations are that:
- a. Iran abolish of the death penalty altogether or impose a moratorium;
 - b. in the absence of outright abolition, that Iran restrict the use of the death penalty to the "most serious" crimes, such as murder, and promptly remove punishment by death for crimes such as adultery, homosexuality, and drug trafficking;
 - c. Iran apply equal standards to all those who face the death sentence and not differentiate sentences based solely on gender or religious affiliation;
 - d. Iran eliminate the application of the death penalty to juveniles under 18 years of age;

- e. Iran provide access to counsel throughout all phases of criminal investigation, trial, and appeal and give unrestricted access to the file and any evidence against the accused;
- f. Iran end its practice of obtaining coerced confessions for use in proving the guilt of the accused in capital offenses; and
- g. Iran provide clean, safe, and adequate prison conditions that comply with international standards for death row inmates.
- h. Iran ensure the best interests of children are taken into account in criminal proceedings concerning their parents, specifically in considering whether to sentence the parent to death and with particular concern for mothers of young children.

¹ U.N. Standard Minimum Rules for the Treatment of Prisoners, adopted Aug. 30, 1955, by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I, E.S.C. res. 663C, 24 U.N. ESCOR Supp. (No. 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. res. 2076, 62 U.N. ESCOR Supp. (No. 1) at 35, U.N. Doc. E/5988 (1977).

² Amnesty International, “Abolitionist and Retentionist Countries,” accessed Mar. 5, 2013, <http://www.amnesty.org/en/death-penalty/abolitionist-and-retentionist-countries>.

³ International Federation for Human Rights, *Iran: Death Penalty* (International Federation for Human Rights, 2009), 4. Also available online at http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf.

⁴ Iran Human Rights estimates that at least 299 secret executions took place in 2013. Iran Human Rights and Together Against the Death Penalty, *Annual Report on the Death Penalty in Iran – 2013* (forthcoming) (on file with authors), 31.

⁵ According to Iran Human Rights, 580 executions occurred in 2012; according to Abdorrahman Boroumand Foundation, 572 executions occurred. Iran Human Rights and Together Against the Death Penalty, *Annual Report on the Death Penalty in Iran: 2012* (2013), 2, <http://iranhr.net/2013/04/annual-report-on-the-death-penalty-in-iran-2012/>.

⁶ 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, ¶ 15.

⁷ Iran Human Rights Documentation Center, “IHRDC Chart of Executions by the Islamic Republic of Iran – 2013,” accessed Mar. 5, 2014, <http://www.iranhrdc.org/english/publications/1000000225-ihrc-chart-of-executions-by-the-islamic-republic-of-iran-2013.html> (hereinafter “IHRDC Execution Chart (2013)”) (numbers are as of December 22, 2013); Personal Communication from Abdorrahman Boroumand Foundation to The Advocates for Human Rights, Feb. 28, 2014 (on file with authors) (citing 326 official reported executions). See also: Personal Communication from Abdorrahman Boroumand Foundation, Feb. 28, 2014 (on file with authors) (identifying 737 executions); Death Penalty Worldwide, Northwestern Law Center for International Human Rights, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Iran> (hereinafter Death Penalty Worldwide) (citations omitted) (citing up to 727 executions, 334 of which were officially reported); Iran Human Rights and Together Against the Death Penalty, *Annual Report on the Death Penalty in Iran – 2013* (forthcoming) (on file with authors), 3 (citing 388 official reported executions and at least 687 actual executions in 2013). The Death Penalty Worldwide database was created by the Center for International Human Rights at Northwestern University School of Law in partnership with the World Coalition Against the Death Penalty.

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¹¹ Iran Human Rights Official webpage: <http://iranhr.net/>; Communication from Iran Human Rights to The Advocates for Human Rights, Feb. 3, 2014 (on file with authors).

¹² Personal Communication from Abdorrahman Boroumand Foundation to The Advocates for Human Rights, Feb. 28, 2014 (on file with authors).

¹³ United Nations General Assembly, International Covenant on Civil and Political Rights, 1966, Art. 6, 7, 9, 10, 14; United Nations General Assembly, Universal Declaration of Human Rights, 1948, Art. 5, 11; United Nations Human Rights Committee, CCPR General Comment No. 6: The Right to Life, 1982; United Nations Human Rights Committee, CCPR General Comment No. 13: Equality Before the Courts and the Right to A Fair Trial and Public Hearing by an Independent Court Established by Law, 1984; United Nations Human Rights Committee, CCPR General Comment No. 6: The Right to Life, 1982; Human Rights Committee, CCPR General Comment No. 6: The Right to Life, 1982; United Nations Human Rights Committee, CCPR General Comment No. 8: Right to liberty and security of persons, 1982; United Nations Human Rights Committee, CCPR General Comment No. 8: Right to liberty and security of persons, 1982.

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¹⁵ 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.

¹⁶ Personal Communication from Abdorrahman Boroumand Foundation to Tony Beasley, Dec. 11, 2013 (on file with authors).

¹⁷ *Id.*; Anti-Narcotics Law, Art. 5, 9 (1997).

¹⁸ “Sharia” is an English term most commonly identified with Islamic law, and this report will use it in reference to the original Arabic word شريعة.

¹⁹ For purposes of this shadow report, the authors have relied on unofficial translations of the Iran Penal Code found here: <http://rc.majlis.ir/fa/law/show/845048>.

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²¹ Public Relations Research Center of the Iranian Parliament, “Penal Code was promulgated to implement full,” accessed Feb. 24, 2014, <http://rc.majlis.ir/fa/news/show/845002>.

²² 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; International Federation for Human Rights, *Background information and Recommendations for the UNGA Resolution on Human Rights in the Islamic Republic of Iran* (2013), 2; Death Penalty Worldwide (citing Islamic Penal Code of the Islamic Republic of Iran of 1991, art. 220, as amended on April 27, 2013).

²³ 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.

²⁴ *Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran*, (Mar. 15, 2010), U.N. Doc. A/HRC/14/12, Section II.90.40.

²⁵ *Id.*, Section II.90.39.

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²⁷ All references herein to the Islamic Penal Code will be to (1) the English translation of Books One and Two, dated April 4, 2013 and undertaken by the Iran Human Rights Documentation Center (<http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/3200-islamic-penal-code-of-the-islamic-republic-of-iran-book-one-and-book-two.html> - 2), which includes all amendments up to January 2012; (2) the English translation of Books Three and Four undertaken by the Iranian Law Network (http://www.iran-law.com/IMG/pdf/Iran_Criminal_Code_in_English.pdf); and (3) the English translation of Book Five, dated July 18, 2013, also undertaken by the Iran Human Rights Documentation Center (<http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html> - .UrdptPRDtZY).

²⁸ Also spelled *hodud*, *hudud*, or *hadd*, these are punishments whose type and scope have been determined by Sharia Law and cannot be commuted or pardoned.

²⁹ Also spelled *qisas*.

³⁰ Iran Penal Code (2013), Art. 15.

³¹ *Id.*, Art. 16 (refers to Book 3 for sentencing). The new Penal Code retains exemptions for the following acts and persons: father and paternal grandfather of the victim (Art. 301); murder of a person who committed a death-eligible *hodood* offense (Art. 302); murder of a rapist (Art. 302); a husband who murders his wife and her lover committing adultery (Art. 302); muslims, members of recognized religions, “protected persons” who kill members of unrecognized religions or “non-protected persons” (Art. 310) (as described by Iran Human Rights and Together Against the Death Penalty, *Annual Report on the Death Penalty in Iran – 2013* (forthcoming) (on file with authors), 17.

³² See e.g., Iran Human Rights, “Two Prisoners Executed Publicly in Northern Iran,” accessed Mar. 7, 2014, <http://iranhr.net/2013/10/two-prisoners-executed-publicly-in-northern-iran/>.

³³ Iran Penal Code (2013), Art. 17.

³⁴ International Federation for Human Rights, *Iran: Death Penalty* (2009), 10. Also available online at http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf.

³⁵ Personal Communication from Abdorrahman Boroumand Foundation to The Advocates for Human Rights, March 3, 2014 (on file with authors).

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³⁸ United States Institute of Peace, “The Islamic Judiciary,” accessed Mar. 7, 2014, <http://iranprimer.usip.org/resource/islamic-judiciary>.

³⁹ Iran Human Rights Review, *The death penalty in Iran: Fighting crime or an instrument to spread fear?* by Mahmood Amiry-Moghaddam and Tabassom Fanaian (2014) (citations omitted).

⁴⁰ Official Statement 8, Those municipal public prosecutors who are lenient toward corruptors [on earth] will be punished themselves, Prosecutor General of the Islamic Revolution, Hojjat ol-islam Mohsen Musavi Tabrizi, Sept. 18, 1981, *Jomhuri Eslami* (Sept. 21, 1981).

⁴¹ Official Statement 9, Killing rebellious hypocrites is justice par excellence, Chairman of the Islamic Republic Assembly of Experts, Ayatollah Ali Meshkini, Sept. 25, 1981, *Jomhuri Eslami* (Sept. 27, 1981).

⁴² Iran Penal Code (2013), Art. 279.

⁴³ *Id.*, Art. 281. Death Penalty Worldwide (citing UN Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, October 2013 report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, <http://shaheedoniran.org/english/dr-shaheeds-work/latest-reports/october-2013-report-of-the-special-rapporteur-on-the-situation-of-human-rights-in-the-islamic-republic-of-iran-2/> - sect3c, Oct. 22, 2013.).

⁴⁴ Iran Penal Code (2013), Art. 287.

⁴⁵ *Id.*; see also Human Rights Watch, *Codifying Repression: An Assessment of Iran’s New Penal Code* (Human Rights Watch, 2012), 39.

⁴⁶ Iran Penal Code (2013), Art. 286; 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. Death Penalty Worldwide (citing UN Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, October 2013 report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, <http://shaheedoniran.org/english/dr-shaheeds-work/latest-reports/october-2013-report-of-the-special-rapporteur-on-the-situation-of-human-rights-in-the-islamic-republic-of-iran-2/#sect3c>, Oct. 22, 2013.).

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⁴⁷ Iran Human Rights and Together Against the Death Penalty, *Annual Report on the Death Penalty in Iran – 2013* (forthcoming) (on file with authors), 17.

⁴⁸ Iran Penal Code (2013), Art. 280.

⁴⁹ *Id.*, Art. 121; see also International Federation for Human Rights, *Background information and Recommendations for the UNGA Resolution on Human Rights in the Islamic Republic of Iran* (2013).

Resolution on Human Rights in the Islamic Republic of Iran, FIDH, 2013, at 2.

⁵⁰ Iran Penal Code (2013), Art. 282.

⁵¹ *Id.*, Art. 283.

⁵² International Federation for Human Rights, “Iran: Political opponents face execution,” accessed Mar. 7, 2014, <http://www.refworld.org/docid/4b66e3a51a.html>.

⁵³ Iran Human Rights and Together Against the Death Penalty, *Annual Report on the Death Penalty in Iran – 2013* (2013) (forthcoming), 25.

⁵⁴ Iran Human Rights Review, *The Death Penalty in Iran: Fighting Crime or an Instrument to Spread Fear?* by Mahmood Amiry-Moghaddam and Tabassom Fanaian (Jan. 2014) (citations omitted); Iran Human Rights, *Annual Report on the Death Penalty in Iran-2012*, accessed April 2013, <http://iranhr.net/spip.php?article2740>; Death Penalty Worldwide (citing Intl. Campaign for Human Rights in Iran, “Iran Should Halt as Rate of Hangings Accelerates,” accessed Jan. 23, 2013, <http://www.iranhumanrights.org/2013/10/executions/>; Intl. Fed. For Human Rights, *Death Penalty in Iran: A State Terror Policy- Special Update for 11th World Day Against the Death Penalty*, Oct. 9, 2013; Sonya Angelica Diehn, *Arab Activists Face Execution on Iran’s Death Row*, Deutsche Welle, March 5, 2013, <http://www.dw.de/arab-activists-face-execution-on-irans-death-row/a-16728569>).

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⁵⁶ Ensemble Contre la Peine de Mort and Iran Human Rights, *Annual Report on the Death Penalty in Iran 2012*, 8-9, accessed March 10, 2014, http://www.abolition.fr/sites/default/files/rapport_iran_2012-gb-270313-mdb.pdf.

⁵⁷ *Two Ahwazi Activists, Hadi Rashedi and Hashem Shabani, Have Been Executed*, Iran Human Rights, Jan. 29, 2014, <http://iranhr.net/2014/01/two-ahwazi-activists-hadi-rashedi-and-hashem-shabani-have-been-executed/>.

⁵⁸ Iran Penal Code (2013). Chapter 17 of Book 5 governs Crimes against People and Children. For example, Article 612 states “Anyone who commits a murder and where there is no complainant, or there is a complainant but he has forgiven and withdrawn his application for qisas, or if qisas is not executed for any reason, if his act disrupts the public order and safety of the society or it is thought that it emboldens the offender or others [to commit murder again], the court shall sentence the offender to three to ten years’ imprisonment.”

⁵⁹ Amnesty International, *Children and the Death Penalty*, Feb. 13, 2013, accessed March 10, 2014,

<http://www.amnesty.org/en/library/asset/IOR41/003/2012/en/8e54928e-59bc-458e-bd17-f68352b47a4a/ior410032012en.html>; Death Penalty Worldwide (citing Project on Extra-Legal Executions in Iran,

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⁶⁰ See e.g., *Iranian Authorities React to IHR’s Report : The Man Who Carried Out the Public Execution Was 23 Years Old*, Iran Human Rights, May 28, 2011, <http://iranhr.net/2011/05/iranian-authorities-react-to-ihrs-report-the-man-who-carried-out-the-public-execution-was-23-years-old/>.

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⁶² Iran Human Rights Documentation Center, IHRDC Execution Chart 2013, accessed March 10, 2014, <http://www.iranhrdc.org/english/publications/1000000225-ihrdc-chart-of-executions-by-the-islamic-republic-of-iran-2013.html#Ux3j117QkvY>.

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⁶⁴ Death Penalty Worldwide.

⁶⁵ The Anti-Narcotics Law of the Islamic Republic of Iran (consolidated as of 1997), Art. 2 (1997). All references to the Anti Narcotic Drug Law of Iran will be to the English translation undertaken by the United Nations Office on Drugs and Crime available at: <http://www.refworld.org/docid/4c35b0a52.html> [hereinafter Anti-Narcotics Law of Iran (1997)].

⁶⁶ Abdorrahman Boroumand Foundation, *State Violence Against Individuals Suspected or Convicted of Ordinary Crimes in the Islamic Republic of Iran in 2012: Summary Report for the United Nations Human Rights Council*, Mar. 2013, 5, http://www.iranrights.org/attachments/library/doc_190.pdf

⁶⁷ *Id.*

⁶⁸ Personal Communication from Abdorrahman Boroumand Foundation to The Advocates for Human Rights, Mar. 3, 2014 (on file with authors).

⁶⁹ Anti-Narcotics Law of Iran (1997) Arts. 4-6, 8.

⁷⁰ *Annual Report on the Death Penalty in Iran-At Least 676 Executions in 2011*, Iran Human Rights, March 4, 2012, <http://iranhr.net/2012/03/annual-report-on-the-death-penalty-in-iran-at-least-676-executions-in-2011/>; Iran Human Rights, *Annual Report on the Death Penalty in Iran-2012*, available at: <http://iranhr.net/2013/04/annual-report-on-the-death-penalty-in-iran-2012/>.

⁷¹ Taimoor Aliassi, *Drug Addiction as a Human Right Issue in Iran: Advocacy and Mobilization of NGOs and Media in Kurdistan of Iran*, (dissertation 2013) 20-21, available at: http://www.cerahgeneve.ch/recherche/memoires/LawHumanitarianAction/Cerah_Dissertation_Taimoor_Aliassi_2013.pdf; Personal communication from Taimoor Aliassi to The Advocates for Human Rights, Feb. 26, 2014 (on file with authors).

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⁷⁴ *Situation of Human Rights in the Islamic Republic of Iran: Report of the Secretary-General*, ¶16, (Sept. 10, 2013), U.N. Doc. A/68/377 (Sept. 10, 2013).

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⁷⁶ Iran Human Rights Documentation Center, IHRDC Execution Chart 2013, accessed March 10, 2014, <http://www.iranhrdc.org/english/publications/1000000225-ihrdc-chart-of-executions-by-the-islamic-republic-of-iran-2013.html#.Ux3jI17QkvY>

⁷⁷ Iran Penal Code, Arts. 264, 265 (2013).

⁷⁸ *Id.*, Art. 136 (2013); Articles 221-288 define the hodood offenses, including drinking alcohol.

⁷⁹ *Id.*, Art. 233-234 (2013). Human Rights Watch, *Codifying Repression: An Assessment of Iran's New Penal Code*, 2012, 26.

⁸⁰ *Id.*, Art. 234 (2013).

⁸¹ *Id.*, Art. 236 (2013); Death Penalty Worldwide (citing Islamic Penal Code of the Islamic Republic of Iran of 1991, Art. 224 (1991), as amended on April 27, 2013; *Report of the Secretary-General on the Situation of Human Rights in Iran*, 9-10, (Oct. 4, 2013), U.N. Doc. A/68/503; Intl. Fed. For Human Rights, *Death Penalty in Iran: A State Terror Policy- Special Update for 11th World Day Against the Death Penalty*, Oct. 2013, 9.

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⁸³ *See* Iran Human Rights, *Annual Report on the Death Penalty in Iran – 2013* (forthcoming), 18. Other acts categorized as hodood include: fornication, adultery, sodomy, pimping, insulting the prophets, theft, consumption of alcohol, false accusations of sodomy or fornication, moharebeh, corruption on earth, and rebellion. *Id.*

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- ⁸⁹ *Id.*, Art. 225 (2013).
- ⁹⁰ *Id.*, Art. 224 (2013).
- ⁹¹ *Id.*, Art. 225 (2013).
- ⁹² *Id.*, Art. 232 (2013).
- ⁹³ *Id.*, Art. 225 (2013).
- ⁹⁴ *Id.*, Art. 228 (2013).
- ⁹⁵ *Id.*, Art. 147 (2013).
- ⁹⁶ *At Least Seven Implemented Stonings by the Iranian Authorities in the Past Four Years*, Iran Human Rights, Aug. 21, 2010, <http://iranhr.net/2010/08/at-least-seven-implemented-stonings-by-the-iranian-authorities-in-the-past-four-yeras-at-least-14-people-waiting-to-be-stoned-to-death-in-the-iranian-prisons/>.
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- ⁹⁹ UN General Assembly, International Covenant on Civil and Political Rights, 1966, Part III Article 6
- ¹⁰⁰ Human Rights Committee, General Comment 6, ¶ 7, (1982).
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- ¹⁰² Iran Constitution, Art. 167; Iran Human Rights, *Annual Report on the Death Penalty in Iran – 2013*, (forthcoming), 18.
- ¹⁰³ Iran Penal Code (2013), Art. 278. Theft committed for the third time is punishable by life imprisonment. *Id.*
- ¹⁰⁴ *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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- ¹¹¹ *Situation of human rights in the Islamic Republic of Iran: Report of the Secretary-General*, ¶17, U.N. Doc. A/68/377, (Sept. 10, 2013).
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