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Execution of tortured youth highlights cruelty of Iran's *qesas* system

The execution on 24 November 2021 of Arman Abdolali, a 25-year-old man sentenced to death for a crime that took place when he was a child, exposes the cruelty of Iran's criminal justice system that facilitates the arbitrary deprivation of the right to life, perpetuates the cycle of violence and perversely seeks to place the responsibility for state-sanctioned killings of human beings on those who have lost their next of kin to murder, Amnesty International said today.

The death penalty, including under the application of the principle of *qesas* (retribution-in-kind), is a violation of the right to life and the ultimate cruel, inhuman and degrading punishment in all cases without exception, regardless of the nature of the crime and the characteristics of the offender and is a particularly grave breach of international law when used against someone who was a child at the time of the crime.

Amnesty International urges the Office of the UN High Commissioner for Human Rights, the Office of the UN Secretary General, UN Special Procedures, UN human rights treaty bodies, UN member states and the EU to escalate their engagement with the Iranian authorities urging them to commute the death sentences of all those on death row for crimes that took place when they were below the age 18 and to amend Article 91 of the 2013 Islamic Penal Code to abolish the use of the death penalty for anyone convicted of committing crimes as a child in all circumstances and without any discretion for judges to impose the death penalty, with a view to the eventual abolition of the death penalty in all cases.

Unfair trial and sentencing

Arman Abdolali was first sentenced to death in December 2015 after being convicted of murder in a grossly unfair trial, in which the court relied on torture-tainted "confessions", in connection with the disappearance of his girlfriend in 2014. He was 17 years old at the time. His girlfriend's body was never found.

In its verdict, Branch 4 of Criminal Court One of Tehran Province ruled that the way the murder was committed without leaving any trace indicated that Arman Abdolali had attained "full maturity", and, therefore, merited the death penalty. This was based on Article 91 of the 2013 Islamic Penal Code, which grants courts the discretion to replace the death penalty with an alternative sentence in cases of murder and some other capital crimes if they believe there are doubts about the individual's "maturity" at the time of the crime. In finding Arman Abdolali "mature" and deserving of the death penalty, the court also relied on the opinion of a Children and Adolescent Court Advisor who had stated that Arman Abdolali understood the "abhorrent" nature of the crime. Arman Abdolali's conviction and sentence were upheld by the Supreme Court in July 2016.

The trial and appeal verdicts both noted Arman Abdolali's allegations that he was held in prolonged solitary confinement for 76 days and repeatedly beaten to "confess", but no investigation was ordered and the "confessions" were admitted by the court, which described them as "unequivocal". Customary international law, which binds Iran legally, prohibits the admission of statements obtained by torture in any legal proceedings (except against those suspected of torturing).

In December 2019, the Iranian authorities transferred Arman Abdolali to solitary confinement, as is their custom ahead of scheduled executions, but postponed the execution following an international outcry, moving him back to the general ward. Iran's Supreme Court subsequently granted him a retrial in February 2020 noting that the Children and Adolescent Court Advisor involved at the original trial had withdrawn her initial opinion, acknowledging issuing it without meeting Arman Abdolali in person or studying his casefile. The retrial, which took place before Branch 5 of Criminal Court One of Tehran Province, largely focused on Arman Abdolali's "maturity" at the time of the crime. In September 2020, the retrial court ruled that it was not possible to determine Arman Abdolali's "maturity" so many years after the crime had taken place and ruled that in the absence of any evidence to the contrary, he is to be deemed "fully mature" and bear full criminal responsibility. In February 2021, the Supreme Court upheld this verdict.

The court rulings in Arman Abdolali's case highlight the flawed nature of Iran's child justice system, which considers that in cases of murder and certain other capital crimes, boys aged above 15 lunar years and girls aged above nine lunar years are as culpable as adults and therefore merit the death penalty.

The re-sentencing to death of Arman Abdolali underscored yet again the fundamentally flawed nature of Article 91 that gives judges the discretion to impose the death penalty on those were under the age of 18 at the time of the crime. Under international law, no such discretion must ever be given under any circumstances. Amnesty International has repeatedly called on the Iranian authorities, including parliamentarians, to amend Article 91 of the 2013 Islamic Penal Code to completely abolish the use of the death penalty for crimes committed by people below the age of 18 in all circumstances and without any discretion for judges, in line with international law.

Under international law, the prohibition on the use of the death penalty against people who were children at the time of the crime is absolute, which means it must never be subject to claims of "maturity" or "understanding the crime".

This absolute prohibition is provided in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, both of which Iran has ratified and with which it is legally obliged to comply. It is also recognized as a peremptory norm of customary international law (*jus cogens*), which means it is accepted and recognized by the international community of states as a norm which is binding on all states and from which no derogation is permitted.

Execution carried out in secretive circumstances

The Iranian authorities executed Arman Abdolali in Raja'i Shahr prison in Karaj near Tehran, without advance notice to his family and lawyer and did not allow them a final family visit. This is in contravention even of Iranian law, which requires the authorities to inform lawyers of the scheduled execution of their clients 48 hours in advance.

According to information obtained by Amnesty International, an official called Arman Abdolali's family at around 1am on 24 November 2021, telling them to immediately come to Raja'i Shahr prison, without providing any further information. Arman Abdolali's family members say that when they arrived at the prison, officials told them that his name was not on the list of those scheduled for execution at dawn on 24 November 2021. However, several hours later, the authorities executed Arman Abdolali.

The secretive circumstances surrounding the execution of Arman Abdolali are consistent with an alarming pattern of the Iranian authorities carrying out executions of persons convicted of crimes that took place when they were children in secret or at short notice to minimize the chances of public and private interventions to save their lives. On 2 August 2021, the Iranian authorities executed in secret another young man who was also a child at the time of his arrest, Sajad Sanjari, after keeping him on death row for nearly a decade.¹

Prolonged mental torture

Prior to carrying out the execution of Arman Abdolali on 24 November 2021, the Iranian authorities had scheduled his execution at least seven times and postponed it each time following international outcries and public campaigning. The last five times took place in a period of less than six weeks between 13 October and 21 November 2021; on each occasion, the authorities transferred Arman Abdolali to solitary confinement ahead of his scheduled execution and then returned him to the general ward. Amnesty International understands that on a number of these occasions, he had a "final" visit with his relatives.

Given the intense anxiety and fear that these back-and-forth transfers, often accompanied by "final" farewells, occasioned, and that these repeated acts of cruelty were deliberate and part of the process of his punishment, Amnesty International believes that the severe mental anguish inflicted upon Arman Abdolali in his final weeks of life amounts to torture under international law, a crime for which those who ordered and committed it must be held accountable.

This finding should not be construed as a call for quicker execution processes. Rather, it must lead to a fundamental overhaul of Iran's criminal justice system, including its reliance on *qesas* (retribution-in-kind), which was a key driver of the mental torture perpetrated against Arman Abdolali.

Why Iran's *qesas* system is unjust, cruel and inhuman

Under Iran's laws, *qesas* is a theory of equivalent retaliation which involves subjecting those convicted of murder to the same fate as that suffered by the victim of murder - that is death. The law grants this power to the family of the murder

¹ Amnesty International, "Iran: Secret execution of young man arrested at 15 a cruel assault on child rights", 4 August 2021, [amnesty.org/en/latest/news/2021/08/iran-secret-execution-of-young-man-arrested-at-15-a-cruel-assault-on-child-rights/](https://www.amnesty.org/en/latest/news/2021/08/iran-secret-execution-of-young-man-arrested-at-15-a-cruel-assault-on-child-rights/)

victim who may demand and carry out the killing of the defendant or grant pardon in exchange for “blood money” (*diyah*). As such, *qesas* involves the family of the murder victim in the pre-mediated state-sanctioned killing of human beings, brutalizing and dehumanizing them in the process and devaluing over time the worth that society places upon human life.

At the stage of sentencing, the principle of *qesas* entails a mandatory death penalty for homicide, removing the ability of courts to consider relevant evidence and potentially mitigating circumstances such as history of abuse and trauma when issuing a sentence.

Under Iranian law, there are two components to the sentencing regime for the crime of murder. First, in every murder case, the family of the murder victim is entitled to request that a death sentence is imposed and carried out under the principle of *qesas*. This is referred to as the private component of the sentencing regime. Second, if the family of the victim opts to forgo the death penalty, the state can sentence the defendant to between three and 10 years in prison. This is known as the public aspect of the sentencing regime. This bifurcated regime has effectively forced victims’ families who may be against the use of the death penalty to face the painful prospect of seeing those responsible for the death of their loved ones being released from prison in several years, which they may consider wholly disproportionate to the gravity of the crime.

Post-sentencing, the procedures of *qesas* have given rise to violations of the absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment. According to Amnesty International’s long-term research and monitoring, these have included arbitrarily exposing convicted prisoners, including children and those convicted of crimes committed when they were children, to lengthy periods of uncertainty and agony on death row, in some cases exceeding a decade, often not in order to allow for proceedings such as appeals or requests for clemency but because the family of the murder victim has been hesitant to seek the implementation of the death penalty, but has at the same time wished to avoid facilitating the release of the convicted prisoner from prison after several years. Other concerns have included last-minute pardons granted by the family of the deceased after the placement of the noose around the prisoner’s neck and moments before the execution is about to be carried out, and repeated scheduling of executions followed by last-minute postponements, as illustrated by the case of Arman Abdolali, arising from a mixture of factors including fluctuations in the emotional and mental state of the family of the murder victim as well as international interventions and public campaigning.

When the Iranian authorities postpone executions in response to international interventions and public campaigning, they typically try to mediate between the family of the deceased and the family of the convicted prisoner to secure pardon in exchange for “blood money” (*diyah*). However, depending on the extent to which the family of the deceased may or may not insist on the application of the death penalty as well as the ability or willingness of the prisoner sentenced to death and their family to satisfy the conditions of pardon proposed by the family of the murder victim – which have included, in many cases known to Amnesty International, extortionate financial demands, relinquishment of property, involuntary relocation to a different city, forced admission of guilt, and/or renouncement of all claims of innocence and allegations of torture – the authorities may decide to extend or terminate their involvement in the mediation process. Sometimes, when the family of the deceased vehemently insist on the implementation of the death penalty, the authorities may schedule the execution, but when they are faced with domestic and/or international outcries, they may be prompted to postpone the execution again and initiate further mediative efforts.

In their public statements and replies to the UN, the Iranian authorities have consistently presented such last-minute postponements and mediative efforts as a positive example of promoting forgiveness, without considering the severity of the mental pain and suffering that they inflict on convicted prisoners sentenced to death and their families in the context of *qesas*.

The principle of *qesas*, as practised in Iran, also violates guarantees of due process under international law, including by depriving those convicted of murder of their right to seek pardon or commutation from the State as enshrined in article 6(4) of the International Covenant on Civil and Political Rights (ICCPR). While article 6 does not prescribe a procedure for seeking pardon or commutation and States have some discretion, the UN Human Rights Committee, the body which interprets and oversees the implementation of the treaty provisions, has stated that the conditions for attainment of pardon or commutation should be effective and not unnecessarily burdensome or discriminatory in nature or applied in an arbitrary manner. The procedures also should not afford the families of crime victims a preponderant role in determining whether the death sentence should be carried out.²

In this regard, while acknowledging the potential impact of private pardon negotiations in saving lives, the UN Special Rapporteur on the situation of human rights in Iran has stressed that “the Government should not delegate its

² UN Human Rights Committee, General Comment no. 36: The Right to Life (Art. 6), 3 September 2019, UN Doc. CCPR/C/GC/36, para. 47.

responsibility to protect the right to life to the victim's next of kin."³ The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has further stated: "Where the *diyah* pardon is available, it must be supplemented by a separate, public system for seeking an official pardon or commutation."⁴

The practice of "blood money" (*diyah*) also raises concerns with respect to discrimination on the basis of wealth, social origin or property in the sense that "a wealthy offender can effectively buy freedom in a way which is not open to poor offenders".⁵

Misleading official narratives

In death penalty cases involving persons convicted of crimes committed when they were children and based on *qesas*, including the case of Arman Abdolali, the Iranian authorities have frequently misled the public and the international community by publicly claiming that the final decision on carrying out or halting the execution is out of their hands and that all they can do is to mediate and encourage the family of the victim to grant pardon in exchange for "blood money" (*diyah*).⁶

Amnesty International emphasizes that these official claims are dishonest and reflect a fundamental lack of respect for children's rights by the Iranian authorities.

The fact stands that scores of individuals who were children when the crimes of which they were convicted took place have faced the gallows in Iran and been put to death because Iranian courts sentenced them to death in the first place, in flagrant violation of international law, and subsequently rejected repeated requests from them and their lawyers as well as the UN bodies and human rights groups to commute their death sentence. These decisions reflect the refusal of Iran's judiciary to respect established international principles of child justice, which require that all individuals under the age of 18 are treated as less mature and responsible than adults.

The Iranian authorities must be under no illusion that they can shield themselves from accountability for violating their obligations under international law by invoking the principle of *qesas*, which in fact, as outlined above, compounds rather than lessens the violations involved in the use of the death penalty.

An appalling track record

Since the adoption of a revised penal code in 2013, the Iranian authorities have executed at least 49 people who were under the age of 18 at the time of the crime. These include nine in 2013; 12 in 2014; four in 2015; two in 2016; four in 2017; eight in 2018; five in 2019, three in 2020 and two so far in 2021.

Amnesty International has identified, researched and monitored the cases of scores of people on death row similarly convicted of crimes that took place when they were children, and the organization engages in public campaigning as well as private and public advocacy work on their behalf.

In 2020, the Iranian authorities carried out at least 246 executions securing the shameful place of second top executioner worldwide.⁷

Recommendations

Amnesty International renews its call on the Iranian authorities to:

- Immediately halt the planned execution of all individuals who were below the age of 18 at the time of the crime of which they were convicted;

³ UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Report, 27 September 2018, UN Doc. A/73/398, para. 16.

⁴ UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Report, 5 September 2006, UN Doc. A/61/311, para. 61.

⁵ UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Report, 5 September 2006 (previously cited), para. 60.

⁶ Islamic Republic News Agency, "[The efforts of the center for dispute resolution to obtain pardon from Ghazaleh's family](#)", 16 October 2021; Tashim News Agency, "[Arman Abdolali's qesas sentence was implemented + pictures from the last mediation session](#)", 24 November 2021; Tabnak, "[All efforts to secure pardon proved unsuccessful](#)", 24 November 2021. See also UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Report, 16 July 2021, UN Doc. A/76/160, para. 62; UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Report, 30 January 2019, UN Doc. A/HRC/40/67 para. 52.

⁷ Amnesty International, *Death sentences and executions 2020* (Index: ACT 50/3760/2021), 21 April 2021, [amnesty.org/en/documents/act50/3760/2021/en/](https://www.amnesty.org/en/documents/act50/3760/2021/en/)

- Urgently amend Article 91 of the Islamic Penal Code to explicitly prohibit the use of the death penalty for crimes committed by persons below 18 years of age, in all circumstances and without any discretion for judges to impose the death penalty or life imprisonment without the possibility of release;
- Pending legislative amendments, urgently issue a circular requiring all judges to apply Article 91 in favour of all persons aged below 18 at the time of the crime, recognizing that individuals under the age 18 are always to be treated as less mature and responsible than adults,
- Ensure that all those on death row for crimes committed when aged below 18 are granted retrials, conducted in accordance with the principles of child justice and without recourse to the death penalty;
- Urgently revise Article 147 of the 2013 Islamic Penal Code to distinguish between the minimum age of criminal responsibility and the age from which an individual can be held culpable as an adult – which must be no lower than 18 years – without discrimination between girls and boys, and make the minimum age of criminal responsibility for girls the same as that for boys, which is currently set at 15 lunar years;
- Ensure that everyone sentenced to death, including under the principle of *qesas*, has the right to seek pardon or commutation of sentences from the State;
- Take all measures necessary to guarantee that all proceedings involving children and persons suspected of committing crimes when they were children meet international standards for fair trial, as laid down in Article 37 of the Convention on the Rights of the Child and Article 14 of the International Covenant on Civil and Political Rights;
- Repeal all legislation, including provisions of the Islamic Penal Code concerning *qesas*, which give rise to violations of the absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment;
- Ensure that all allegations of torture or other ill-treatment are investigated promptly, thoroughly and impartially and, where sufficient admissible evidence is found, that those suspected of such actions are tried in proceedings that adhere to international fair trial standards, without recourse to the death penalty; and
- Establish a moratorium on all executions for all crimes with a view to abolishing the death penalty and radically revise the criminal justice system so that it upholds international standards of fairness, is focused on rehabilitation and treats all prisoners humanely.