



## **Iran's Compliance with the Convention on the Rights of Persons with Disabilities: The Death Penalty**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

**The Abdorrahman Boroumand Foundation**

and

**The World Coalition Against the Death Penalty**

for the 17th Session of the Committee on the Rights of Persons with Disabilities  
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**The Advocates for Human Rights** (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

**The Abdorrahman Boroumand Foundation** (the Foundation) is a non-governmental non-profit organization dedicated to the promotion of human rights and democracy in Iran. The Foundation is an independent organization with no political affiliation. It is named in memory of Dr Abdorrahman Boroumand, an Iranian lawyer and pro-democracy activist who was assassinated in Paris on April 18, 1991. The Foundation believes that promoting human rights awareness through education and the dissemination of information is a necessary prerequisite for the establishment of a stable democracy in Iran. The Foundation is committed to the values enshrined in the Universal Declaration of Human Rights of 1948 and in other internationally recognized human rights instruments. Taking as a starting point the fundamental equality of all human beings, the Foundation seeks to ensure that human rights in Iran are promoted and protected without discrimination, whether it be on the basis of one's gender, race, religion, ethnicity, or national origin. Guided by the belief that unremedied human rights violations are a major obstacle to the establishment of a stable democracy, the Foundation is committed to the right of all victims of human rights abuses to justice and public recognition.

**The World Coalition Against the Death Penalty** (the World Coalition), an alliance of more than 150 NGOs, bar associations, local authorities and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

## EXECUTIVE SUMMARY

1. Iran's criminal justice system violates the rights of individuals with psycho-social and physical disabilities in several ways. First, under Iranian law, individuals convicted of committing certain crimes against victims with psycho-social disabilities receive lighter punishments than individuals who commit crimes against victims without such disabilities. Second, Iranian law discriminates against perpetrators of crimes who have psycho-social disabilities by imposing arbitrary standards to determine "insanity." Third, the criminal justice system fails to provide accommodations for defendants with psycho-social or intellectual disabilities, thereby denying them their right to a fair trial. Fourth, detention facilities fail to provide accommodations for detainees with physical and psycho-social disabilities, violating their right to health and to liberty and security of the person. Fifth, in some provinces judges regularly subject individuals to punishment by amputation.

### **Iran fails to uphold its obligations under the Convention on the Rights of Persons with Disabilities**

#### **I. The Iranian Criminal Code discriminates against individuals with psycho-social disabilities who are victims of crimes, violating the right to equality and non-discrimination (art. 5), the right to life (art. 10), and the right to equal recognition before the law (art. 12).**

2. Iranian law includes facially discriminatory provisions that reduce accountability for people who commit crimes against persons with psycho-social disabilities.<sup>1</sup> The Islamic Penal Code authorizes the punishment of *qisas* (retaliation) if the perpetrator and the victim are "of equal sound mind."<sup>2</sup> Under Article 301 of the Code, *qisas* is authorized if certain preconditions are met and "if the victim is of sound mind."<sup>3</sup> If the victim is not, then the perpetrator receives a lesser punishment under Article 305, including the payment of blood money and, at the discretion of the judge, a brief prison term.<sup>4</sup>
3. **Suggested recommendations:**
  - Revise the Penal Code to eliminate the death penalty, or in the alternative, to eliminate *qisas* for the crime of murder and similar crimes that are eligible for the death penalty as *qisas*, regardless of whether the victim is a person with a psycho-social disability, and replace *qisas* in such cases with a punishment that is fair, proportionate, and respects international human rights standards.
  - Revise the Penal Code to eliminate provisions allowing for lesser punishment if the victim is a person with a disability.

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<sup>1</sup> Correspondence with Abdorrahman Boroumand Foundation, 3 February 2017, on file with The Advocates for Human Rights [hereinafter ABF 3 February 2017 correspondence].

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

## **II. The Iranian Criminal Code discriminates against perpetrators of crimes who have psycho-social disabilities, violating their right to life (art. 10) and access to justice (art. 13).**

4. The Iranian Government continues to execute individuals with disabilities. In Paragraph 13 of the List of Issues, the Committee requested that the Iranian Government provide information about persons with disabilities who have been sentenced to death and on the measures taken towards abolishing the death penalty. The Iranian Government did not provide the requested information.<sup>5</sup>
5. Information about the death penalty in Iran is not readily available; nonetheless, credible reports identify several individuals with physical and/or psycho-social disabilities who have been sentenced to death and executed since 2009, including Mehdi Ranjkeksh (executed in 2016), Hadi Hosseini (executed in 2015), Abdolreza Gharabat (executed in 2011), and Ma'sumeh Qal'ehchehi (executed in 2009). This report provides further information about these cases below.
6. Iranian law contains vague criteria for determining whether an individual may be held criminally responsible for his or her actions, and those criteria fail to account for the realities of psycho-social disabilities.<sup>6</sup> The Iranian Penal Code does not define mental disability or “insanity,” but Article 149 of the Islamic Penal Code states that “[i]f the offender was suffering from a mental disorder at the time of committing of an offense in a way that she/he had no willpower or faculty of discernment, she/he shall be regarded as insane and has no criminal responsibility.”<sup>7</sup>
7. Many individuals in Iran’s penal system have psycho-social disabilities.<sup>8</sup> A study of offenders convicted of murder in Tehran between 2001 and 2002 found that 87% of offenders had some kind of psycho-social disability.<sup>9</sup>
8. Iranian law allows judges to ignore a defendant’s psycho-social disability in adjudicating guilt, despite the availability of expert opinions. Under Iranian law, a judge must seek the opinion of a forensic pathologist in order to diagnose a defendant who is alleged to have a mental disability.<sup>10</sup> Yet the judge has no obligation to accept the pathologist’s opinion, and “a judge with no medical background whatsoever can act contrary to the opinions of forensic pathologists when delivering his ruling.”<sup>11</sup>
9. The case of Ma'sumeh Qal'ehchehi demonstrates Iranian courts’ failure to take into account a defendant’s psycho-social disability when ascertaining the defendant’s criminal intent.<sup>12</sup>

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<sup>5</sup> Committee on the Rights of Persons with Disabilities, List of issues in relation to the initial report of the Islamic Republic of Iran, Replies of the Islamic Republic of Iran to the list of issues, 13 January 2017, UN Doc. CRPD/C/IRN/Q/1/Add.1, ¶¶ 64–65.

<sup>6</sup> ABF 3 February 2017 correspondence

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid. (citing Mohammad Ali Imam, Hadi, Maryam Jalilvand, and Mansour Salehi: *Prevalence of Mental Disorders*, Quarterly Journal of Social Welfare, Fifth Year, Edition 20).

<sup>10</sup> ABF 3 February 2017 correspondence.

<sup>11</sup> Ibid.

<sup>12</sup> Correspondence with Abdorrahman Boroumand Foundation, 13 February 2017, on file with The Advocates for Human Rights [hereinafter ABF 13 February 2017 correspondence].

Ms. Qal-ehchehi was executed in 2009 for killing her husband.<sup>13</sup> Ms. Qal'ehchehi's defense attorney presented evidence that she had psychosis, as well as seizures and shortness of breath.<sup>14</sup> A court forensics report confirmed her seizures and psychosis, but concluded that those conditions did not "override her will."<sup>15</sup> She confessed to the unintended killing of her husband, explaining that he had grabbed her from behind and, due to shock, she could not breathe and felt suffocated.<sup>16</sup> When he did not release her, she grabbed for the nearest thing, which happened to be a sharpening stone, and the blow to his head with the stone killed him.<sup>17</sup> The Head of Judiciary in the district where she was tried objected to the death sentence and stated that her acts amounted to manslaughter, but Branch 20 of the Supreme Court confirmed the initial ruling and upheld her death sentence.<sup>18</sup> Local judicial authorities and prison officials tried to stop the execution, but it was nonetheless carried out.<sup>19</sup>

#### 10. Suggested recommendations:

- Ensure that any legal definitions of psycho-social disability or "insanity" have a well-founded basis in medical and scientific research and literature, and ensure that experts in the field of psycho-social disability assess and determine a criminal defendant's status under those definitions, in consultation with the defendant and any health care providers identified by the defendant.
- Instruct all judges to accept the opinion of any qualified forensic pathologist opining on the subject of a defendant's psycho-social disability unless another qualified expert presents a differing opinion.
- Consider revising the Penal Code to recognize that psycho-social disabilities have varying degrees of severity and may be relevant to ascertaining the degree of criminal intent.

### **III. The Iranian criminal justice system fails to accommodate defendants who have psycho-social or intellectual disabilities, violating the right to equal recognition before the law (art. 12), placing them at risk of torture and cruel, inhuman, and degrading treatment (art. 15), and impairing access to justice (art. 13).**

11. The Committee in paragraph 16 of the List of Issues requested "information about the measures in place to provide procedural and reasonable accommodation . . . for persons with disabilities in judicial proceedings." The Iranian Government's response identified three provisions in the new Code of Criminal Procedure allowing an interrogator to accommodate the "illness" of a witness, but those accommodations are limited to the interrogator traveling to the subject of the investigation when the subject of the investigation is physically

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

incapable of appearing before the investigator.<sup>20</sup> None of these provisions would accommodate a psycho-social or intellectual, rather than physical, disability.

12. Iranian law does not call for any special procedures or other measures to accommodate defendants in criminal cases who have psycho-social or intellectual disabilities.<sup>21</sup> In the interrogation process, for example, a suspect with a psycho-social disability is entitled to a court-appointed attorney only if the suspect's "insanity arises during the course of investigation."<sup>22</sup> Moreover, judges who try such cases are not specialized and do not have any training in making such accommodations.<sup>23</sup>
13. The Committee in paragraph 18 of the List of Issues requested that the Iranian Government "provide information about the measures taken to prevent and prohibit the detention of persons on the basis of impairment." In response, the Iranian Government several provisions in the Criminal Procedure Code that call for special court procedures and delay of sentencing if the defendant is ill or "afflicted with insanity."<sup>24</sup> These accommodations, however, are not uniform, as described in the following paragraphs.
14. Under Iranian law, if a defendant becomes "insane" after the alleged criminal act but before the court delivers a final verdict, the effect of that "insanity" is determined by the type of crime, rather than the defendant's condition.<sup>25</sup> For example, if the alleged crime falls under *ta'ziri* (discretionary punishments) and *hudud* (fixed punishments) crimes that are not of a private nature, the court suspends the proceedings until the defendant has regained the capacity to participate in proceedings.<sup>26</sup> But the law does not allow for any such accommodation if the defendant is charged with a *qisas* offense or certain *hudud* crimes, or if the case is of a private nature.<sup>27</sup> In such cases, including cases involving murder charges, the proceedings continue and the court does not accommodate the defendant's psycho-social disability.<sup>28</sup> As a result, individuals with psycho-social disabilities that manifest themselves during trial proceedings are at heightened risk of being sentenced to death.<sup>29</sup>
15. Iranian law makes a similar distinction at the time a sentence is carried out.<sup>30</sup> If the defendant is found guilty of a *ta-ziri* offense, and then experiences a psycho-social disability with effects that amount to "insanity," the court suspends the sentence under Article 503 of the Criminal Procedure Code until the defendant's condition no longer renders the defendant "insane."<sup>31</sup> But if the crime falls in the category of *had* (fixed punishment) or *qisas*, the sentence is carried out regardless of the defendant's psycho-social disability or how it

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<sup>20</sup> Committee on the Rights of Persons with Disabilities, List of issues in relation to the initial report of the Islamic Republic of Iran, Replies of the Islamic Republic of Iran to the list of issues, 13 January 2017, UN Doc. CRPD/C/IRN/Q/1/Add.1, ¶ 81 [hereinafter Replies of the Islamic Republic of Iran to the list of issues].

<sup>21</sup> ABF 3 February 2017 correspondence.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Replies of the Islamic Republic of Iran to the list of issues, ¶¶ 89–94.

<sup>25</sup> ABF 3 February 2017 correspondence.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

manifests itself at the time of punishment.<sup>32</sup> For example, if a court finds a defendant guilty of murder or *moharebeh* (waging war against God), and then the defendant's psycho-social disability manifests itself so as to render the defendant "insane" under Iranian law, the judicial system will carry out the death penalty *regardless* of the defendant's psycho-social disability or how it is manifesting itself at the time of punishment.<sup>33</sup>

16. Some defendants with psycho-social disabilities face torture or cruel, inhuman or degrading treatment during the interrogation and investigation stage of judicial proceedings. For example, the family of Hadi Hosseini reported that Mr. Hosseini experienced "mental issues and abnormal behavior," and that he reported that his interrogators had severely tortured him, including by burning his genitals.<sup>34</sup> He spent over 15 months in solitary confinement, and, according to information collected by the Abdorrahman Boroumand Foundation, he was denied the right to an attorney during interrogation and "was continually subjected to physical and psychological torture during his detention."<sup>35</sup>
17. Atefeh Sahaleh Rajabi, a juvenile offender believed to have an intellectual disability, was denied access to counsel and access to her relatives during trial proceedings in 2004.<sup>36</sup> Over the course of two years, starting when she was 14 and 15, she was arrested at least three times for having sex outside of marriage.<sup>37</sup> Each time, she received a punishment of 100 lashes.<sup>38</sup> According to her father, her identity papers confirmed that she was sixteen years old at the time of her last arrest.<sup>39</sup> Her co-defendant, an unnamed man, was reportedly sentenced to 100 lashes on each occasion and then released.<sup>40</sup> According to news reports and statements by her father's attorney, she was denied access to an attorney during her detention and interrogation.<sup>41</sup> She was allowed to see her father just once for 10 minutes during the three months detention during which she was tried and executed.<sup>42</sup> During trial, Ms. Sahaleh Rajabi became angry after the judge criticized her clothing and reprimanded her.<sup>43</sup> She then took off part of her clothing in protest.<sup>44</sup> Reports of trial proceedings do not mention that an attorney was present during trial to represent her.<sup>45</sup> According to her father, she requested that the judge have her examined by a doctor to assess her capacity.<sup>46</sup> Further, a journalist investigating her case reported having seen a letter signed by 44 residents of her home town, testifying to the fact that she was mentally disabled and not in control of her emotions and actions. Regardless, she was found guilty based on her "confession" and various unsigned

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<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> ABF 13 February 2017 correspondence.

<sup>35</sup> Abdorrahman Boroumand Foundation's Omid Memorial, *One Person's Story: Hadi Hosseini*, last visited 13 February 2017, <http://www.iranrights.org/memorial/story/-7625/hadi-hosseini>.

<sup>36</sup> Abdorrahman Boroumand Foundation's Omid Memorial, *One Person's Story: Atefeh Sahaleh Rajabi*, last visited 27 February 2017, <http://www.iranrights.org/memorial/story/-3134/atefeh-sahaleh-rajabi>.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

letters from neighbors about her sexual activity.<sup>47</sup> She was executed by public hanging three months after she was found guilty of the fourth offense.<sup>48</sup>

18. Trial proceedings are often conducted in secret, including in cases involving defendants with severe psycho-social disabilities, making it difficult for human rights organizations to monitor the fairness of proceedings.<sup>49</sup> In the case of Mr. Hosseini, described in the previous paragraph, court proceedings took place in a closed session, and there is no information to indicate whether a court-appointed attorney was present at trial.<sup>50</sup> Contrary to ordinary procedures, his trial took place outside his place of residence and arrest.<sup>51</sup> Mr. Hosseini and his co-defendants were denied the right to retain their own attorney for six years after their initial arrest, and when they finally obtained an attorney, officials prohibited the attorney from reading the case file on the pretext that it was confidential.<sup>52</sup> Officials ultimately forced the attorney to resign by threatening him.<sup>53</sup>
19. In at least one case, an individual appears to have been charged, tried, sentenced, and executed for expressing opinions which may have been rooted in his psycho-social impairment.<sup>54</sup> The defendant, veteran of the Revolutionary Guards named Abdolreza Gharabat, spoke of “his connection with the Occult Imam” and expressed his dissatisfaction with the Khamenei regime.<sup>55</sup> He also claimed he was God.<sup>56</sup> He was charged with apostasy and “encouraging corruption.”<sup>57</sup> According to reports compiled by the Abdorrahman Boroumand Foundation, “it seems that he was only prosecuted for expressing his beliefs and having followers.”<sup>58</sup> Those reports also note that “[n]o information is available on his trial. The media was not allowed to cover this case.”<sup>59</sup> According to a prisoner who was detained in the same prison at the same time, Mr. Gharabat “was really mentally unwell and believed that after his execution, the world would come to an end.”<sup>60</sup>

## 20. Suggested recommendations:

- In light of the absence of any procedural safeguards to ensure that defendants with psycho-social or intellectual disabilities receive a fair trial, immediately suspend imposition and execution of death sentences against such defendants.
- Categorically prohibit the execution of individuals for offenses committed while under the age of 18.

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<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Abdorrahman Boroumand Foundation’s Omid Memorial, *One Person’s Story: Abdolreza Gharabat*, last visited 13 February 2017, <http://www.iranrights.org/memorial/story/-7482/abdolreza-gharabat>.

<sup>50</sup> *One Person’s Story: Hadi Hosseini*, *supra* note 35.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> *One Person’s Story: Abdolreza Gharabat*, *supra* note 49.

<sup>55</sup> Ibid.

<sup>56</sup> ABF 13 February 2017 correspondence.

<sup>57</sup> *One Person’s Story: Abdolreza Gharabat*, *supra* note 49.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Correspondence with Abdorrahman Boroumand Foundation, 9 February 2017, on file with The Advocates for Human Rights [hereinafter ABF 9 February 2017 correspondence].

- Ensure that any suspect who may have a psycho-social or intellectual disability is offered a court-appointed attorney, ensure that any such suspect receives clear and timely notice of this right, and require that any interrogation cease until such an attorney is present.
- Provide training to police inspectors and judges to ensure that they interact with individuals with psycho-social and intellectual disabilities in a manner that promotes the individual's fullest possible participation in the judicial process and to ensure that they provide those individuals with any support and assistance needed in order to participate in and assist with their defense.
- To the extent that Iranian law and practice take into account a defendant's psycho-social or intellectual disability during criminal proceedings and at the time of punishment, ensure that the judicial system provides such accommodations regardless of the crime with which the defendant is charged.
- Eliminate the death penalty for murder and *moharebeh* (waging war against God) in all cases.
- Consult with non-governmental organizations comprised of individuals with psycho-social and intellectual disabilities and their advocates to make additional accommodations for individuals with psycho-social and intellectual disabilities in the criminal justice system and to ensure that such accommodations are carried out system-wide.

**IV. Detention facilities fail to accommodate individuals who have physical and psycho-social disabilities, violating the right to liberty and security of the person (art. 14), the right to freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15), and the right to health (art. 25).**

21. In paragraph 19 of the List of Issues, the Committee requested information “about the number of persons with disabilities in detention and about provisions on reasonable accommodation.” In its response, the Iranian Government provided no numbers, but identified certain accommodations for individuals with *physical* disabilities living in detention facilities.<sup>61</sup> In paragraph 21 of the List of Issues, the Committee requested information “on the occurrence of practice of torture and ill-treatment of persons with disabilities and protection mechanisms, including independent monitoring, with a particular focus on psychiatric institutions or any other detention facilities.” In its response, the Iranian Government ignored the issues of torture and cruel, inhuman, and degrading treatment and punishment in criminal detention facilities, instead focusing on “rehabilitation and care centers.”<sup>62</sup> As demonstrated in the following paragraphs, detainees with physical and psycho-social disabilities often do not receive accommodations in detention facilities, and they are sometimes subjected to torture or cruel, inhuman, or degrading treatment.
22. Many individuals with psycho-social disabilities languish in Iran's prisons.<sup>63</sup> According to Iranian law, judicial authorities should transfer a person with a psycho-social disability to a

<sup>61</sup> Replies of the Islamic Republic of Iran to the list of issues, ¶ 95.

<sup>62</sup> *Id.*, ¶ 97.

<sup>63</sup> ABF 3 February 2017 correspondence.

healthcare center, but such transfers do not typically happen in practice<sup>64</sup> These transfers do not happen for several reasons: prison staff lack training to identify detainees with psycho-social disabilities and to interact with those detainees so as to accommodate those disabilities; prison staff are not aware of the legal requirements; and the Prisons Organization and the health insurance providers do not want to bear the cost of hospitalization.<sup>65</sup> Prisons do not have treatment facilities for inmates with psycho-social disabilities; prisoners affected by serious psycho-social disorders are often simply held in “wards for the insane,” the primary purpose of which may be segregation rather than treatment.<sup>66</sup> As a result their disabilities often become more severe during incarceration.<sup>67</sup> According to information received by the Abdorrahman Boroumand Foundation, detainees with severe psycho-social disabilities are often kept in segregated facilities.<sup>68</sup> Prison officials reportedly administer heavy tranquilizers to these detainees to avoid disturbance, and do not necessarily give them their prescribed medication needed to treat their disabilities.<sup>69</sup>

23. Detention conditions exacerbate the negative symptoms of psycho-social disabilities. The Iranian Prisons Organization (the official body in charge of prisons across Iran) in March 2016<sup>5</sup> published a paper on its website titled *Problems and Consequences of Holding Prisoners Affected by Mental Illness in Prisons*.<sup>70</sup> According to the report, detainees with psycho-social disabilities face “aggravation of their mental problems due to prison personnel’s lack of awareness and inability to identify symptoms and handle prisoners appropriately or send prisoners to treatment facilities in a timely manner.”<sup>71</sup>
24. In some cases, detainees with psycho-social disabilities are denied family visits. For example, Mr. Gharabat, discussed above, had served in the Revolutionary Guards and later experienced severe psychological distress, including Post-Traumatic Stress Disorder.<sup>72</sup> His family reported that after he was arrested in 2007, prison officials rarely allowed his family to visit him, and his family learned of his 2011 execution only through the media.<sup>73</sup> The family of another detainee reported managing to have a visitation with him before his execution only with difficulty, and reported that the visitation took place in a cage.<sup>74</sup> Mr. Hosseini, described in the preceding section, was denied the right to visit and contact with his family for over two years of pre-trial detention and interrogation.<sup>75</sup>
25. Iran’s prison regulations include provisions for ensuring that detainees who require care and treatment for disabilities receive such care and treatment, but prisons do not consistently follow these regulations.<sup>76</sup> Prison regulations require the prison clinic to evaluate all new

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<sup>64</sup> Ibid.

<sup>65</sup> Correspondence with Abdorrahman Boroumand Foundation, 15 February 2017, on file with The Advocates for Human Rights [hereinafter ABF 15 February 2017 correspondence].

<sup>66</sup> Ibid.

<sup>67</sup> ABF 3 February 2017 correspondence.

<sup>68</sup> Skype conversation with Abdorrahman Boroumand Foundation, 14 February 2017, notes on file with The Advocates for Human Rights [hereinafter ABF 14 February 2017 Skype conversation].

<sup>69</sup> Ibid.

<sup>70</sup> ABF 15 February 2017 correspondence.

<sup>71</sup> Ibid.

<sup>72</sup> *One Person’s Story: Abdolreza Gharabat*, *supra* note 49.

<sup>73</sup> Ibid.

<sup>74</sup> ABF 13 February 2017 correspondence.

<sup>75</sup> *One Person’s Story: Hadi Hosseini*, *supra* note 35.

<sup>76</sup> ABF 9 February 2017 correspondence.

detainees' health and to write reports on their findings.<sup>77</sup> They also establish a clear reporting protocol under which the head of a prison clinic must keep judicial authorities informed of the condition of any detainee with a psycho-social disability.<sup>78</sup> Prison regulations also set forth procedures for distributing medication to detainees.<sup>79</sup>

26. The 2004 case of Mr. Mohammad Rajabi Sani illustrates that detention facilities and courts do not follow these regulations, endangering the lives of detainees with psycho-social disabilities. First, detention facilities require a court order before they will allow detainees access to their prescribed medication.<sup>80</sup> Mr. Rajabi Sani died as a result of being denied access to prescribed medications for his neurological and psychological disabilities for nearly two months in pretrial detention.<sup>81</sup> Mr. Rajabi Sani was a veteran with a 35% neurological and psychiatric disability covered by the Islamic Revolutionary Veterans Foundation.<sup>82</sup> He experienced psychotic breaks and had been hospitalized several times as a result of his psycho-social disabilities.<sup>83</sup> He took more than 25 pills per day to treat his disability.<sup>84</sup> Mr. Rajabi Sani allegedly smashed the windows of two cars during the course of an altercation with two neighbors who had mocked Mr. Rajabi Sani's disability.<sup>85</sup> He was taken into custody and interrogated without the presence of an attorney.<sup>86</sup> On the day of the interrogation, Mr. Rajabi Sani's wife informed the magistrate (investigative judge) that her husband suffered from psychological breakdowns and would face difficulty if he were unable to take his medicine.<sup>87</sup> The magistrate ignored this information, despite several subsequent warnings from Mr. Rajabi Sani's family.<sup>88</sup> Mr. Rajabi Sani's wife showed the magistrate Mr. Rajabi Sani's medical records and a letter from the Veterans Foundation stating that Mr. Rajabi Sani would have a breakdown and require hospitalization if he did not have access to his medication.<sup>89</sup> The magistrate threatened to arrest the wife and added, "He must stay in prison to learn his lesson."<sup>90</sup> The magistrate also told her that a forensic medical expert must approve the medications.<sup>91</sup>
27. After being transferred from the police station detention center to prison, his health deteriorated.<sup>92</sup> Six days after he was transferred to prison, his wife visited him and observed that his hands were trembling and his speech was unclear.<sup>93</sup> According to his wife, "I asked him if he took his pills and he replied, 'No, they don't give me any pills here and I want to see the prison's physician.'"<sup>94</sup> Mr. Rajabi Sani's wife warned prison officials several times

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<sup>77</sup> Ibid. (citing Article 111 of the Prison Regulations).

<sup>78</sup> Ibid. (citing Article 41 of the Prison Regulations).

<sup>79</sup> Ibid. (citing Article 112 of the Prison Regulations).

<sup>80</sup> ABF 9 February 2017 correspondence.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

<sup>92</sup> Ibid.

<sup>93</sup> Ibid.

<sup>94</sup> Ibid.

regarding her husband's psychological health and his daily need for medication.<sup>95</sup> But prison officials refused to dispense the medicine without a judge's order.<sup>96</sup>

28. Mr. Rajabi Sani's condition deteriorated in prison, and his conduct prompted several prisoners to beat him up.<sup>97</sup> His health again deteriorated and he fell into a coma.<sup>98</sup> Prison authorities transferred him to a hospital while he was in critical condition, and he died in the hospital 19 days later.<sup>99</sup> According to his son, Mr. Rajabi Sani's face was nearly unrecognizable, and a physician told him that Mr. Rajabi Sani's hands were bandaged from burns.<sup>100</sup>
29. After an investigation, the Minister of Justice denied that prison officials withheld Mr. Rajabi Sani's access to medication.<sup>101</sup> The Minister of Justice reported in an Iranian newspaper, "It is not correct that they did not give him his medication. After entering prison, each prisoner is asked if he is ill. [Mr. Rajabi Sani] did not mention anything about his illness and use of medication [at this time]. He mentioned it three days later."<sup>102</sup>
30. In another case, a detainee was executed after complaining that the prison where he was detained did not provide him with medication or medical services to address his physical and psycho-social disabilities.<sup>103</sup> News of the execution of Mr. Mehdi Ranjkesh was published in early January 2016.<sup>104</sup> The day before his execution, a short video clip of Mr. Ranjkesh was sent out of prison.<sup>105</sup> In the video, Mr. Ranjkesh made reference to his physical and mental disabilities and protested the lack of medication and medical services in prison.<sup>106</sup> He was executed for allegedly transporting narcotics.<sup>107</sup>
31. Mr. Hosseini, described in the previous section, experienced mental issues in detention and did not receive any particular care or attention from prison authorities, despite the fact that other detainees stated that his behavior made them fearful that he could become violent at any time.<sup>108</sup> As described in the preceding section, he was also subjected to severe torture during his detention. Mr. Hosseini was executed in March 2015.<sup>109</sup>

**32. Suggested recommendations:**

- Ensure that all pretrial detention and prison facilities provide timely and appropriate professional medical and psychological support to detainees who have psycho-social and/or physical disabilities.

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<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> ABF 13 February 2017 correspondence.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

- Mandate that any incarcerated person who has a prescription for medication have timely access to that medication without the need for a court order or the opinion of a forensic medical expert.
- Consistent with the spirit of the recommendations in the March 2016 paper published by the Iranian Prisons Organization, the official body in charge of prisons across Iran:
  - Mandate training for prison staff and judges to increase their awareness of psychology and psycho-social disabilities;
  - Address the shortage of qualified staff with expertise in psychology and psychiatry in prison facilities countrywide;
  - Mandate that all judicial authorities offer prisoners with psycho-social disabilities the opportunity to receive treatment at qualified treatment facilities;
  - Ensure that mental health services in detention facilities meet the standards established by the Ministry of Health;
  - Conduct research to quantify the dimensions of mental health in prison populations, with the goal of understanding trends in psycho-social disabilities, including the worsening or triggering of conditions during time spent in the criminal justice system and in incarceration; and
  - Take into account the needs of detainees who have psycho-social disabilities in policymaking regarding mental health issues broadly.
- Consistent with the recommendations of Iranian experts, mandate that detainees with psycho-social disabilities have generous access to visits by family and other loved ones so that they may receive psychological support from these individuals.
- Prohibit the segregation of detainees with psycho-social disabilities unless the detainee requests such segregation or unless the detainee poses a serious danger to other detainees.

**V. In some provinces, judges continue to sentence individuals to punishment by amputation, in violation of the right of all individuals to be free from torture or cruel, inhuman, or degrading treatment or punishment (art. 15).**

33. The Committee in paragraph 22 requested information about “the steps made towards abolishing criminal sentences, which cause impairments.” In response, the Iranian Government asserted that “[p]unishments for canonical offenses inflict no harms which would lead to disabilities and the punishments which lead to a form of impairment are rare. Moreover, the Judges are encouraged to apply alternative punishments in their decisions.”<sup>110</sup>
34. The Iranian Government is secretive about the number of amputations administered as punishment, but civil society has obtained information about the practice in some jurisdictions. In the town of Arak, one judge regularly sentences individuals accused of theft

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<sup>110</sup> Replies of the Islamic Republic of Iran to the list of issues, ¶ 98.

to punishment by amputation.<sup>111</sup> The Abdorrahman Boroumand Foundation has information, including documents concerning two individuals and the names of four others in a town in central Iran, establishing that these individuals have been sentenced and are awaiting amputation.<sup>112</sup> In one case, a man from a very poor family in Arak was caught stealing and was sentenced to amputation of several fingers.<sup>113</sup> He also needed to reimburse the victims for the items he had stolen.<sup>114</sup> Upon his release from prison, however, he was unable to find work because his impairment made it obvious to potential employers that he had been punished for theft.<sup>115</sup> In order to earn a living, he again began stealing items, and the same judge then sentenced him to the partial amputation of his foot.<sup>116</sup> The individual now walks with a severe limp and suffers severe back pain.<sup>117</sup> The website of the Abdorrahman Boroumand Foundation includes numerous reports of amputations and chemical blindings administered as judicial punishments in several provinces over the last decade,<sup>118</sup> including most recently the amputations of four fingers of two individuals in December 2016,<sup>119</sup> the chemical blinding of both of the eyes of one individual in November 2016,<sup>120</sup> finger amputations in May 2016 and June 2015,<sup>121</sup> and the amputation of one hand and one foot of two individuals in August 2015.<sup>122</sup>

### 35. Suggested recommendation:

- Immediately and categorically prohibit the use of amputations and blinding as judicial punishments, and provide compensation to the victims of these punishments.

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<sup>111</sup> ABF 14 February 2017 Skype conversation

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid.

<sup>115</sup> Ibid.

<sup>116</sup> Ibid.

<sup>117</sup> Ibid.

<sup>118</sup> Human Rights & Democracy for Iran, *Cruel, Inhuman and Degrading Punishments: Amputation and Eye-Gouging*, last visited 14 February 2017, <http://iranrights.org/library/collection/142/amputation-and-eye-gouging>.

<sup>119</sup> Human Rights & Democracy for Iran, *Hand Amputation in Orumieh: Four Fingers of the Right Hand of Two Individuals Were Amputated for Alleged Robbery*, 26 December 2016, <http://iranrights.org/library/document/3105>.

<sup>120</sup> Human Rights & Democracy for Iran, *Eye Gouging in Tehran: A Man's Two Eyes Were Gouged for Allegedly Sprinkling Quicklime into a Girl's Eyes*, 8 November 2016, <http://iranrights.org/library/document/3061>.

<sup>121</sup> Human Rights & Democracy for Iran, *Hand Amputation in Mashhad: Fingers of an Individual Were Amputated for Alleged Robbery*, 10 May 2016, <http://iranrights.org/library/document/2983>; Human Rights & Democracy for Iran, *Hand Amputation in Mashhad: Fingers of Two Individuals Were Amputated for Alleged Robbery*, 29 June 2015, <http://iranrights.org/library/document/2792>.

<sup>122</sup> Human Rights & Democracy for Iran, *Mashhad: Right Hands and Left Feet of Two Individuals Were Amputated for Alleged Robbery*, 4 August 2015, <http://iranrights.org/library/document/2814>.