



'PROVEN WITH(OUT) CERTAINTY'

How Judges Sentence
Defendants to Death for
Drug Offences in Iran



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**Abdorrahman
Boroumand Center** | For Human
Rights
In Iran



MONASH
University

**ELEOS
JUSTICE**

About this Note¹

Despite the reduction in the number of executions for drug offences during 2018-2020, a sudden increase in executions was recorded during 2021-2023: at least 131 known executions were recorded for drug offences in 2021, 253 executions in 2022, and 82 executions during the first 3 months² of 2023 (Table). However, information concerning the death penalty in Iran is notoriously difficult to obtain because of the secrecy surrounding the country's criminal justice process. This note provides a rare glimpse into the application of capital drug laws in the Islamic Republic of Iran. It exposes the idiosyncratic practices of the judiciary and its decision-making, using cases concerning the death penalty for drug offences—its imposition prohibited long under international standards.³ These judgments repeatedly use the language of 'certainty' in convicting the accused. In reality, to those familiar with basic fair trial standards, they raise serious concerns about miscarriages of justice that could potentially result in the erosion of legitimacy of the criminal 'justice' system in Iran.

**Table: Number of known executions in Iran:
executions for drug offences and total number of executions**

| YEAR | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---------------|------|------|-------|------|------|------|------|------|------|------|
| DRUG OFFENCES | 303 | 480 | 681 | 338 | 222 | 27 | 28 | 24 | 131 | 253 |
| TOTAL | 780 | 953 | 1,055 | 562 | 510 | 262 | 258 | 248 | 317 | 576 |

Source: Abdorrahman Boroumand Center for Human Rights in Iran

¹ This note was prepared in collaboration with the Abdorrahman Boroumand Centre for Human Rights in Iran and Eleos Justice, Faculty of Law, Monash University, Australia.

² January 1 to March 15, 2023.

³ General comment no. 36 on Article 6, the Right to Life, UN Human Rights Committee (2018). Available from: <https://www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life>.

Data

This note analyses 10 judgments⁴ handed down in Iran during 2014-2020, involving 19 defendants of whom 16 were sentenced to death for drug offences (see Appendix 1).⁵ The majority of judgments (8 out of 10) were handled by the 'Revolutionary Court'; these courts often occur behind closed doors presided over by clerics. At the time of writing, all defendants who had been sentenced to death in these cases had been executed. We do not claim that these judgments are representative of capital drug offences in Iran. First, the total number of executions or death sentences for drug offences (or for other any capital offence) is not made public in Iran, meaning that we rely on estimates gathered by non-governmental organisations like Abdorrahman Boroumand Center for Human Rights in Iran (ABC). Second, using published estimates, our data—10 judgments—present a tiny proportion of the large number of known executions for drug offences mentioned above. Third, our data are not collected systematically because judgments in Iran are not publicly available, which means there are obstacles and risks associated with securing them. All these factors rule out any form of representative sampling of cases. Despite these shortcomings, the judgments provide a rare insight into the judicial decision-making on capital drug cases in Iran.

Applying the Relevant Law: Ignorance or Wilful Avoidance?

One of the key responsibilities of the judiciary—if not the most obvious and basic duty—is to apply the relevant law. In 1975, Iran ratified the International Covenant on Civil and Political Rights (ICCPR), choosing to be bound by its obligations under domestic law. The ICCPR limits the application of the death penalty to the 'most serious crimes',⁶ understood as intentional killing.⁷ In none of the judgments was reference made to the ICCPR's 'most serious crimes' criterion. Assuming that judges in Iran are aware of the country's international obligations, no attempts were made to justify the clear discrepancy between domestic law and Iran's obligations under international law. It is common practice for judges and governments in other countries to engage with international jurisprudence. For example, in India⁸ and Pakistan⁹, the Supreme Court has cited cases from other jurisdictions and treaties, demonstrating their wide knowledge of domestic and international jurisprudence. More broadly, the right to a fair trial is also guaranteed under Article 14 of the ICCPR. Indeed, during the second Universal Periodic Review in 2014, the government of Iran accepted a recommendation to 'take measures to ensure due process and fair

⁴ Judgments, on file with Abdorrahman Boroumand Center for Human Rights in Iran (ABC), were translated into English by ABC and shared with Eleos Justice, Faculty of Law, Monash University. We received approval from the Monash University Human Research Ethics Committee (Project ID: 35771) to prepare this note. Eleos Justice received funding from the Australian Department of Foreign Affairs and Trade, and ABC received funding from the Open Society Foundations through the South Asia and Middle East Network against the death penalty.

⁵ The Iranian Anti-Drug Law 1988 was amended in 2017, increasing the minimum amounts of illegal drugs that would subject producers and distributors to capital punishment. The Drug Reform Bill Version was approved by Majles on October 4, 2017 and Guardian Council on October 18, 2017 (Final Version). An English summary is available at [Abdorrahman Boroumand Center: Drug Reform Bill Version Approved by Majles on October 4, 2017 and Guardian Council on October 18, 2017 \(Final Version\) \(iranrights.org\)](https://iranrights.org/en/drug-reform-bill-version-approved-by-majles-on-october-4-2017-and-guardian-council-on-october-18-2017-final-version/).

⁶ Article 6 (2) of the ICCPR states that '[i]n countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes'.

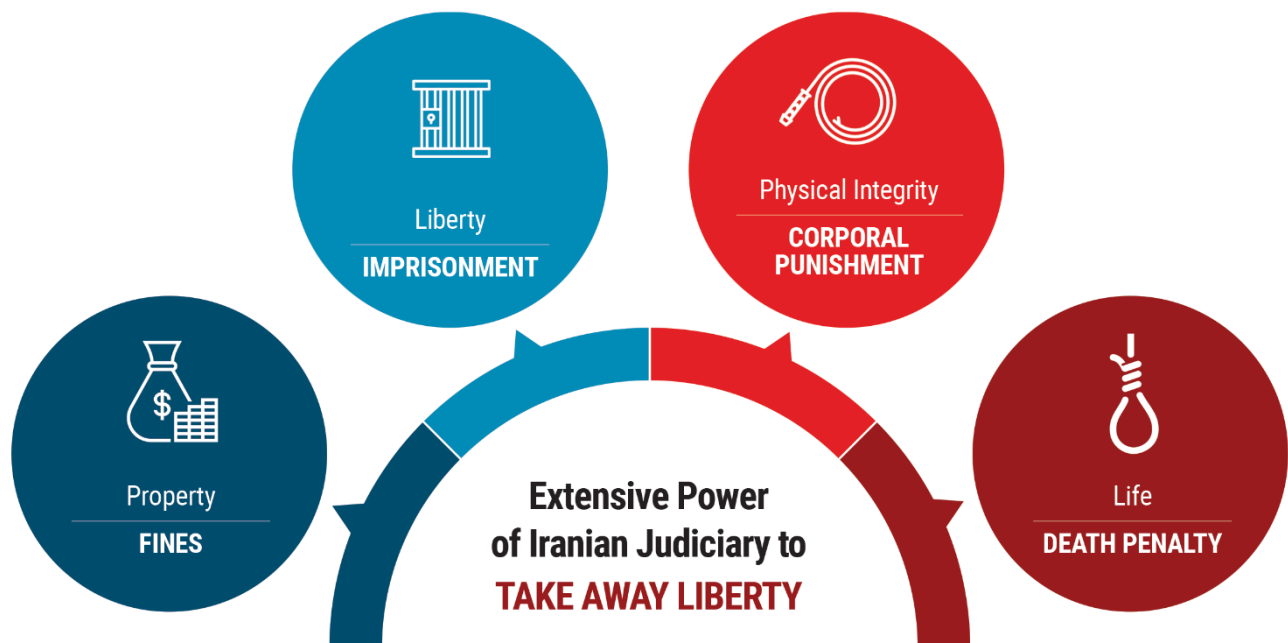
⁷ General comment no. 36 on Article 6, the Right to Life, the UN Human Rights Committee (2018). Available from: <https://www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life>. 'Crimes not resulting directly and intentionally in death, such as ... drug and sexual offences, although serious in nature, can never serve as the basis, within the framework of article 6, for the imposition of the death penalty.'

⁸ E.g., <https://www.ourlegalworld.com/shatrughan-chauhan-anr-vs-union-of-india-ors-case-analysis/>

⁹ E.g., https://www.supremecourt.gov.pk/downloads_judgments/c.r.p.420_2016.pdf

trial, particularly in any process that would lead to the application of the death penalty'.¹⁰ As this note demonstrates, however, judicial practices in Iran based on these judgments do not appear to be guided by respect for due process.

Unavailable Judgments



ABC's fieldwork has shown that, at least in the last decade, defendants do not always have access by default to their own judgment. However, a copy of one's judgment is necessary if convicted individuals wish to appeal against their conviction or sentence, a right granted to drug offenders sentenced to death from 2015 with the reform of the Code of Criminal Procedure. Indeed, the ICCPR guarantees the right to appeal,¹¹ requiring a convicted person 'to have, within a reasonable time, access to duly reasoned written judgments', and failing to do so is considered to be in violation of the right to appeal.¹² In addition, the ICCPR also requires the judgment to be public.¹³ Judgments are key public records that can be used to understand trends and patterns of judicial decision-making and serve to keep the judiciary in check. Unlike other jurisdictions where the right to public judgment is operationalised through public databases (e.g., Lexis, Westlaw), judgments are not made publicly available in Iran. Given the extensive power granted to the Iranian judiciary to take away liberty (imprisonment), property (fines), physical integrity (corporal punishment) and life (death penalty), the record of how and why these defendants were punished demands transparency.

¹⁰ United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran (Addendum)*, UN Doc A/HRC/28/12/Add.1 (2 March 2015) paras. 138-213. However, Iran rejected most recommendations pertaining to the use of the death penalty.

¹¹ Article 14 (5) of the ICCPR states '[e]veryone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law'.

¹² Office of the High Commissioner for Human Rights *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers* (United Nations, 2003) 307.

¹³ Article 14 (1) of the ICCPR states that 'any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children'.

Duly Unreasoned Judgments

If defendants or their families manage to obtain a copy of the judgment, they are likely to be disappointed by its content as an official record of the trial. The judgments reviewed in this note totally lack the necessary details required to enable the defendants and their legal representatives to understand the reasons behind the judgment and, if necessary, to prepare for an appeal. For example, in the case of Mohsen Nasiri Mojreh, the Karaj Islamic Revolutionary Court handed down a 400-word judgment with one short paragraph providing details about the defendant and the offence for which he was charged, immediately followed by the decision to sentence the defendant to death (Appendix 2):

The Court,

Having taken into consideration the report [of the relevant authorities], the discovered narcotic drugs, the Defendant's admission that said drugs had been left with him for safekeeping and that he had no knowledge of that it was crystal meth, the Defendant's statements and admissions at various stages of the proceedings and his defence attorney's brief in his defence, and the totality of the contents of the case file; Finds that the charge against the Defendants has been proven with certainty; And pursuant to Article 8, Paragraph 6, of the Law Amending the Law for Combatting Narcotic Drugs, sentences the Defendant to death.

The judgment ends with three sentences indicating that the decision was issued in the presence of all concerned (though it is unclear who they are) and provides instructions on the expropriation of property derived from the crime.

There is no further discussion of the facts of the case. Readers are left wondering about the circumstances surrounding the arrest and detention of the defendant; how the evidence was obtained, including how the drugs were 'discovered'; whether the defendant was assisted by counsel including when he made his 'admissions at various stages of the proceedings'; what defence or mitigating circumstances were presented concerning the defendant by the legal representative; how the court weighed all the evidence presented against the applicable laws, including the elements that must be satisfied to convict an individual under Article 8, Paragraph 6, of the Law Amending the Law for Combatting Narcotic Drugs; and how the court decided that the death penalty was the appropriate sentence for possessing 4.4 kilograms of crystal meth. While the judge in this case appears to be satisfied with considering the 'totality' of the case and declares that the charge against the defendant has been 'proven with certainty', we were left with a sense of bewilderment. The judgment is nothing more than a very brief summary of the case, raising more questions than answers. It ends abruptly with the judge's unwavering conviction about the defendant's guilt, which only amplifies the lack of certainty about the various aspects of the case.

The above case is in no way an outlier (Appendix 3). The other judgments reviewed are similarly lacking in detail. In the case of Rahim Mohammadpur, the judgment makes a reference to his 'unjustifiable and ineffective statements', but no explanation is given to explain how the judge reached the conclusion concerning the credibility of the defendant's statements. If one is to be persuaded by such a judgment, then the reader must be placing blind trust in the judges themselves, not in their reasoned judgments.

However, the judges in Iran, at least in law, must abide by Articles 374 and 375 of the Code of Criminal Procedure. Judgments should be: 1) well-reasoned and explicitly refer to the relevant articles of law, 2) mention the type of judgment (in person or in absentia), and 3) mention potential retrial and appeal options and period.¹⁴ As noted above, judges have failed to provide a well-reasoned judgment. All ten of the judgments do, however, refer to the laws and the specific articles applicable to the case. However, none of them elaborate on the content of the law, the elements of the offence alleged to be committed, and how all these elements have been proven to be present in the case. Furthermore, 6 out of 10 judgments include the following sentence: 'This Decision was issued in the presence of [all or some of the individuals] concerned [at the trial stage, or who submitted briefs]' but in the remaining four cases,¹⁵ the judgments do not mention whether the decision was issued in the presence of defendants or in absentia. Finally, none of the 10 judgments provide any information on potential retrial or appeal options.

The lack of detail provided in Iranian judgments is also evident when comparing them to judgments from other countries. Like Iran, Malaysia retains the death penalty for drug offences; however, unlike Iran, Malaysian judgments provide the factual and legal reasoning for their decisions and many are reported in a public database. For example, a typical judgment for drug trafficking in Malaysia will explain: the charge; the facts of the case; the defendant's plea; an explanation of the relevant law and the elements that need to be satisfied to secure a conviction; a summary of the prosecution and defence; the application of the law to the facts of the case; and sentencing, including any mitigating and aggravating circumstances if charged with a discretionary capital offence.¹⁶

More broadly, the Supreme Court of India noted in *Das vs. State of Bihar* that a decision 'not accompanied by reasons and not proceeding on conscious consideration of an issue cannot be deemed to be a law declared to have a binding effect'.¹⁷ In *Joint Commissioner of Income Tax vs Saheli Leasing*, the Supreme Court of India also laid down guidelines, stating that judgment should only include facts that are germane to the case and that have a relevance to the applicable law and facts, and that *ratio decidendi* should be clearly spelt out; that all essential details should be mentioned; and that the final judgment should have sustained chronology and should have flow and perfect sequence of events.¹⁸ Similarly, the *Revised Rules of Criminal Procedure* in the Philippines explicitly states that judgments 'shall contain clearly and distinctly a statement of the facts and the law upon which it is based'.¹⁹ In sum, the level of details considered necessary for a written judgment under international standards and observed in countries around the world differ significantly to judicial practice in Iran.

¹⁴ Norwegian Country of Origin Information centre (Laninfo), the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) and the State Secretariat for Migration (SEM) (2011) 'Iran: Criminal procedures and documents' (see page 76). Available from: <https://landinfo.no/wp-content/uploads/2021/12/Iran-report-criminal-procedures-and-documents-122021-4.pdf>

¹⁵ The four cases are: Khaleq Khezzadeh Raheem Zeyn (Supreme Court decision); A. S. (Supreme Court decision); Majid Parmasi and Mikael Shahbazi; and Mussa Shateranlu, Alireza Madadpur, et al.,

¹⁶ E.g. <https://advance.lexis.com/document?cid=bafab1e0-f316-4d46-91c9-3c9b19a049ee&pddocfullpath=%2Fshared%2Fdocument%2Fcases-my%2Fum%3AcontentItem%3A5XGT-MTX1-JXNB-6227-00000-00&pdsourcgroupingtype=&pdicsfeatureid=1521734&pdcontentcomponentid=235221&pdmfid=1201008&pdurlapi=true>

¹⁷ Supreme Court of India, Arnit Das vs State of Bihar (9 May 2000)

Indian Kanoon (Web Page) < Arnit Das vs State Of Bihar on 9 May, 2000 (indiankanoon.org)>

¹⁸ Supreme Court of India, Joint Commissioner of Income Tax, Surat vs Saheli Leasing & Industries Ltd (7 May 2010) para 6, 7, Indian Kanoon (Web Page) < Jt.Commr.Of Income Tax,Surat vs Saheli Leasing & Industries Ltd on 7 May, 2010 (indiankanoon.org)>

¹⁹ Republic of the Philippines, Revised Rules of Criminal Procedure as Amended (Rule 120 Rules of Court) (December 01, 2000) Rule 120. Further, the Rules provide: 'section 2. Contents of the judgment—If the judgment is of conviction, it shall state (1) the legal qualification of the offence constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offence, whether as principal, accomplice, or accessory; (3) the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any'.

Unclear Factors in Death Penalty Sentencing

While they lack detail, judgments in Iran follow a particular pattern. All 10 judgments analysed in this note start with demographic information about the defendant, though it remains unclear whether such information is relevant to sentencing and if so in what way. For example, in the case of Mohsen Nasiri Mojreh, the judgment states:

Regarding the charges brought against Mr. Mohsen Nasiri Mojreh, son of Nezamali, born in 1985-86, Identification Number 74 issued from [the town of] Khalkhall, single, literate, profession: sale of apparel, Shi'a Moslem, without a criminal record, national of Iran, from Khalkhal, residing at the Karaj Penitentiary, of possession of 4.4 kilograms (approximately 10 pounds) of crystal meth.

Of course, age is important to make sure that the courts are not sentencing anyone to death who was below the age of 18 at the time of the offence,²⁰ though not all judgments refer to the date when the defendant was arrested. One could also imagine that the defendants' marital and employment status tells us something about their social capital and the impact that the sentence of death could have beyond the defendant. However, in none of the judgments analysed do judges refer to the defendants' economic or family circumstances. As for the defendants' criminal record, in the case of Rahim Mohammadpur, his previous criminal record for an 'alcoholic beverage-related' crime was 'taken into consideration' but the judgment does not make clear how this impacted the decision in determining his guilt or his sentence.

As for literacy, all defendants were 'literate' according to the judgments, though the judgments were unclear how this factor was interpreted and applied by the judges in sentencing. If literacy was a proxy for being competent to stand trial, it is a poor predictor of such competence, as proficient levels of literacy can co-exist with intellectual or psychosocial disability—factors that need to be considered when imposing the death penalty.²¹ The case of Darvish Monazami, sentenced to death for the purchase and possession of 5 kilograms of morphine, was the only case that explored the issue of the defendant's mental state (and the only case where the legal representative raised the issue). In this case, the judge dismisses the legal representative's argument that the defendant suffered from insanity:

And further dismissing the Defendant's attorney's defence as his statement to the effect that the Defendant suffered from insanity, given the honourable Medical Examiner's Office's Expert Commission that the Defendant was in good mental health [and in control of his faculties] and fully responsible for his actions, and also given that the Defendant's outward appearance and conduct at all stages of the proceedings did not show the slightest sign of lack of [competence and] mental health; Finds that the charges against the Defendant have been proven with certainty and without a doubt...

²⁰ The ICCPR Article 6(5) states that 'sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.'

²¹ Iran is a party to the Convention on the Rights of Persons with Disabilities. The UN Committee on the Rights of Persons with Disabilities has stated that the duty to refrain from imposing the death penalty on persons with intellectual or psychosocial disability is grounded on the disproportionate and discriminatory denial of fair trial guarantees and procedural accommodations to them.

The judgment refers to the involvement of a medical examiner; however, it fails to explain what the legal threshold is in Iran to stand trial and which categories of individuals (e.g. pregnant women) are exempt from the imposition of the death penalty. Furthermore, what is perhaps most worrying is the reference to 'Defendant's outward appearance and conduct', which is used as proof that the defendant was not suffering from insanity. While it is rare for judges in Iran to provide concrete reasons for their findings, in this case, the reasons provided make apparent their lack of scientific understanding of mental disorders. In sum, these judgments on capital drug offences fail to provide us with a set of principles on the factors that are relevant in determining the guilt of the defendant and the appropriate sentence.

From a Confession to Conviction

Confessions play a large role in securing convictions in judgments analysed (see Appendix 1 under 'Evidence'). For example, Majid Parmasi and Mikael Shahbazi were sentenced to death for the manufacture and possession of approximately 6.2 kilograms of crystal meth. They were convicted based on their multiple admissions and confessions and their presence at the location where the drugs were being manufactured. The judge sentences these defendants to death by focusing on their confessions during the investigation phase—and by disregarding the defendants' subsequent retraction:

In the preliminary investigations phase, the Defendants admitted and confessed to their activities regarding the manufacture of psychotropic drugs, and named other people as accomplices in the production of said drugs, even though said accomplices have not been identified and arrested thus far. In the subsequent phases of adjudication, however, including at trial, after they had come into contact with [and coached by] other criminals during their detention—criminals who are experienced in dealing with the judicial system—the Defendants denied manufacturing crystal meth and being in possession of the discovered psychotropic drugs, each claiming that the other one was the owner of said drugs, as is customary with drug traffickers.

What is remarkable about this judgment is the way in which the retraction is dismissed without reservation. The judge asserts that the defendants were coached by other criminals who are experienced in dealing with the judicial system. However, defendants commonly confess to offences they had not committed, the most obvious reason being forced confessions through the use or the threat of torture. Article 38 of the Iranian Constitution forbids all forms of torture for the purpose of extracting confession or acquiring information.²² It considers 'any testimony, confession, or oath obtained under duress' as 'devoid of value and credence' and violation of this provision is punishable by law.²³ However, the UN Human Rights Committee, in its Concluding Observation on Iran, has expressed concern at reports of

²² Islamic Republic of Iran's Constitution of 1979 with Amendments through 1989, available at Constitute: https://www.constituteproject.org/constitution/Iran_1989.pdf.

²³ Ibid. Article 7 of the ICCPR prohibits subjecting individuals to torture or to cruel, inhuman or degrading treatment or punishment. Any statements or confessions or any other evidence obtained in violation of the rights against torture and or cruel, inhuman or degrading treatment should not be invoked as evidence in any proceedings.

widespread use of torture and cruel, inhuman or degrading treatment in detention facilities, and the use of coerced confessions as the primary evidence to obtain convictions in court.²⁴

ABC and other human rights groups have long documented a significant number of cases in which confessions were the only evidence securing a conviction. Many detainees have reported being tortured during interrogations to obtain a (false) confession. While the judgment of Reza Hosseini is silent on how the confession was obtained, information collected by ABC about this case strongly suggests that Hosseini was subject to torture.²⁵ Hosseini was arrested after he got into a verbal argument with police officers who had intended to arrest Hosseini's neighbour. In a published video statement, Hosseini's wife explained that the officers broke into the neighbour's apartment, took some boxes containing narcotics, and claimed that the discovered narcotics belonged to Hosseini. She also reported that he was interrogated and tortured for 70 days, during which he was denied visits. He was eventually transferred to Qezelhesar Prison but his family was not allowed to visit him for another 11 months. Hosseini was executed on 3 May 2016.²⁶

The judgments in the case of Majid Parmasi and Mikael Shahbazi make no reference to whether a legal representative was present when defendants made their original confession. The right to legal assistance²⁷ is linked with the right against self-incrimination. This is because forced confessions and other self-incriminating statements are often obtained in the absence of assistance of a counsel. All the judgments analysed in this note show that the defendants were represented by their own counsels (Appendix 1). However, this does not necessarily indicate at what stage of the proceedings the counsels have been present, and how effectively the counsels were able to assist the defendants. The Code of Criminal Procedure of the Islamic Republic of Iran, amended in 2015, provides that a defendant may be accompanied by a counsel during the investigation phase.²⁸ According to the law, the right to a legal counsel should be communicated to the defendant before the start of the investigation; failure to do so is punishable by law.²⁹ However, although a violation of these procedural safeguards is punishable by law, it does not invalidate the results of the investigation.³⁰ Indeed, we are not aware of any case where such failure led to anyone being punished. In other words, under law, if a defendant was not afforded counsel during the pretrial investigation, an official may be punished, but the prosecution is still allowed to proceed, and the results of the investigation can still be the basis of conviction.

²⁴ Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee Islamic Republic of Iran, UN Doc CCPR/C/IRN/O/3 (29 November 2011) para 14.

²⁵ <https://www.iranrights.org/memorial/story/-8578/reza-hosseini>

²⁶ Sa'id Baluchi, aged 49 and a father of five, was arrested for smuggling illicit drugs. Baluchi told his family that while being held in solitary confinement he was tortured and subjected to electric shocks. The police had been looking for a man who had been on the run for smuggling narcotics eight months earlier, and who happened to be from the same village as Baluchi. Baluchi 'confessed' that all the narcotics seized in the past eight months belonged to him. He was executed on 7 March 2015. Detailed case note available from:

<https://www.iranrights.org/memorial/story/-7669/said-baluchi>. See also the case of Mahmud Barati, available from: <https://www.iranrights.org/memorial/story/-7974/mahmud-barati>.

²⁷ Article 14 (3d) of the ICCPR.

²⁸ Article 190, Code of Criminal Procedure of the Islamic Republic of Iran. A summary and English translation of the 2015 amendment law is available at *Iran Human Rights Documentation Center* (Web Page, 2016)

<<https://iranhrdc.org/amendments-to-the-islamic-republic-of-irans-code-of-criminal-procedure-part-2/>>

²⁹ Similarly, a denial of the right to be accompanied by counsel, is punishable by law. In cases where a crime is punishable by death or life imprisonment, if a defendant does not present a counsel during the preliminary investigation, the procurator will select a court-appointed attorney for the defendant.

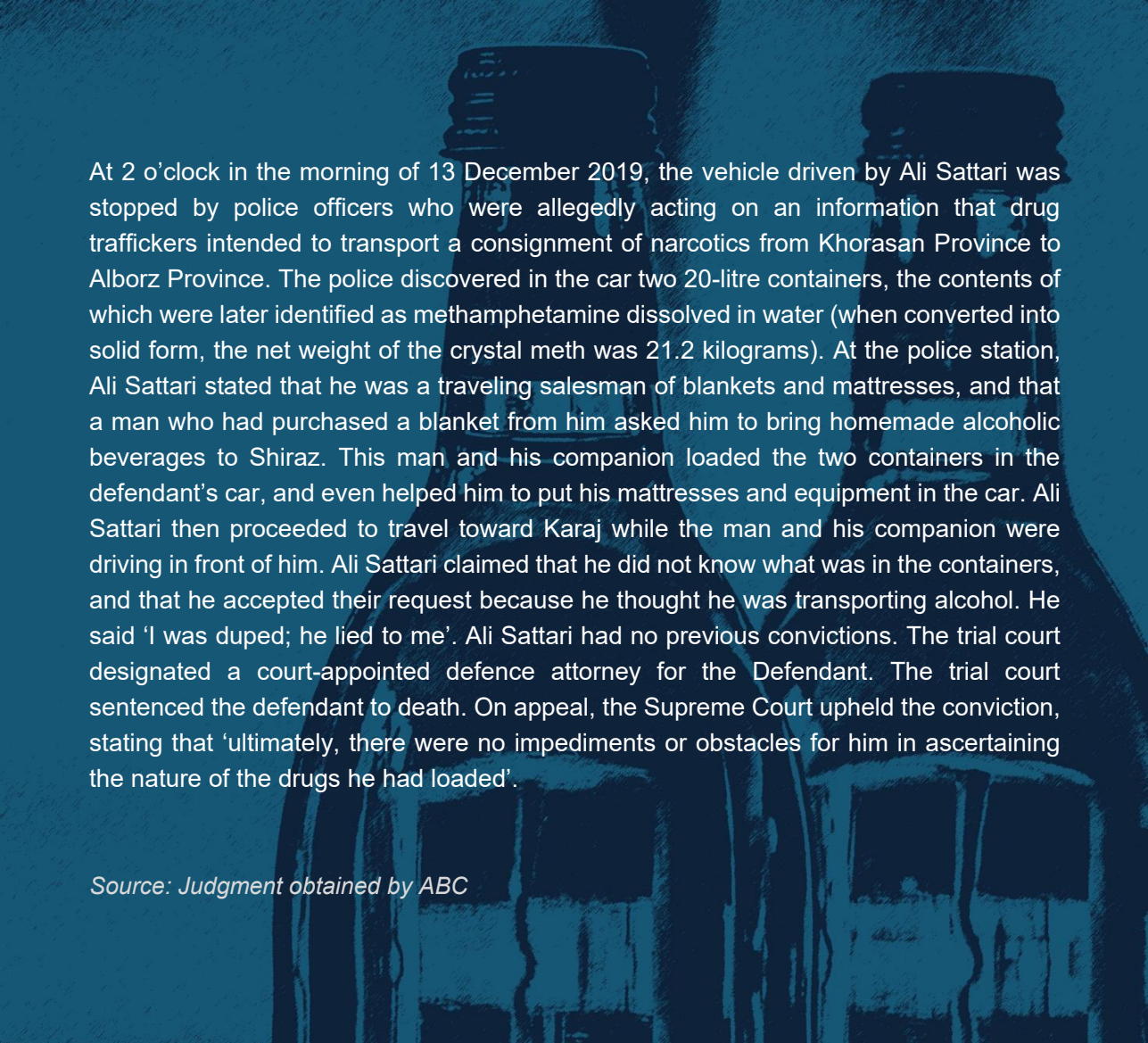
³⁰ 'Amendments to the Islamic Republic of Iran's Code of Criminal Procedure – Part 2' *Iran Human Rights Documentation Center* (Web Page, 2016)

<<https://iranhrdc.org/amendments-to-the-islamic-republic-of-irans-code-of-criminal-procedure-part-2/>>

Presumption of Guilt

Under Iranian law, the right to the presumption of innocence is also guaranteed under Article 37 of the Iranian Constitution, which provides that '[i]nnocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court'. For example, in the case of Ali Sattari, the judges at trial and on appeal dismissed the defendant's alleged lack of knowledge concerning the content of the containers (Box 1). The defendant argued that he thought he was transporting alcoholic beverages and did not know that the containers had methamphetamine dissolved in water. The judgment fails to explain the *mens rea* requirement for drug trafficking in Iran. Furthermore, the Supreme Court concludes that 'there were no impediments or obstacles' for the defendant to find out about the content of the containers, failing to explore the reasonableness of the defendant's assertion.

Box 1: The case of Ali Sattari



At 2 o'clock in the morning of 13 December 2019, the vehicle driven by Ali Sattari was stopped by police officers who were allegedly acting on an information that drug traffickers intended to transport a consignment of narcotics from Khorasan Province to Alborz Province. The police discovered in the car two 20-litre containers, the contents of which were later identified as methamphetamine dissolved in water (when converted into solid form, the net weight of the crystal meth was 21.2 kilograms). At the police station, Ali Sattari stated that he was a traveling salesman of blankets and mattresses, and that a man who had purchased a blanket from him asked him to bring homemade alcoholic beverages to Shiraz. This man and his companion loaded the two containers in the defendant's car, and even helped him to put his mattresses and equipment in the car. Ali Sattari then proceeded to travel toward Karaj while the man and his companion were driving in front of him. Ali Sattari claimed that he did not know what was in the containers, and that he accepted their request because he thought he was transporting alcohol. He said 'I was duped; he lied to me'. Ali Sattari had no previous convictions. The trial court designated a court-appointed defence attorney for the Defendant. The trial court sentenced the defendant to death. On appeal, the Supreme Court upheld the conviction, stating that 'ultimately, there were no impediments or obstacles for him in ascertaining the nature of the drugs he had loaded'.

Source: Judgment obtained by ABC

The case of Alireza Madadpur stands out as an example of Karaj Islamic Revolutionary Court sentencing a defendant to death, despite compelling evidence that cast doubt on his guilt (see Box 2 and Appendix 1).

Box 2: The case of Alireza Madadpur

Alireza Madadpur, an accountancy student who worked part-time to make ends meet, was hired by an acquaintance to perform janitorial jobs. On 12 November 2011, as he waited outside the location where he was to perform his job, police raided the house and found approximately 990 grams of methamphetamines and other substances used for meth manufacturing. Madadpur was arrested along with two other individuals who were present at the premises. Another individual, Mehdi Rostami, was later identified as the one who allegedly employed them to manufacture meth, renting the location and procuring the materials. Madadpur was reportedly detained incommunicado and subjected to interrogation without access to a lawyer for weeks (though this information is not mentioned in the judgment).¹ All his three co-accused confessed before the Investigating Judge that Madadpur had been on the premises for the first time on that day to perform custodial and janitorial work, and that he had no knowledge of the activities conducted in the house. Despite these pleas from his co-accused, Madadpur was sentenced to death following trial proceedings lasting 20 minutes. His request for retrial was denied. A request for a new trial was denied by judicial authorities in 2015, as was his request for a pardon. Madadpur was executed in August 2016.

*Source: Judgment obtained by ABC. Case notes available from:
<https://www.iranrights.org/memorial/story/-7968/ali-reza-madadpur>*

After briefly narrating the facts of the case including the discovery of the drugs in the premises allegedly rented by one of the four co-accused, the Karaj Islamic Revolutionary Court immediately proceeded to state:

Therefore, given the discovery of illicit drugs (methamphetamines) and the tools and materials for production thereof, and considering the defendants' express confessions and statements, the court finds them guilty [of the charges], and, pursuant to Articles 8(6) and 20 of the Law for the Fight Against Illicit Crimes, dated 1997-98, sentences each of them to 5 million Rials monetary penalty, 30 lashes, and confiscation of the tools for the government on the charge of keeping and storing meth manufacturing tools and materials, and on the charge of manufacturing and storing methamphetamines, sentences each of them to death.

The judge sentenced all four defendants to death without explaining each defendant's role in the preparation and storage of 990 grams of methamphetamines. Based on documents (e.g. Aid-Seekers' Correspondence Forms submitted to the Court to request a pardon) gathered by ABC, all the three co-accused of Madadpur repeatedly stressed that Madadpur was hired to perform janitorial jobs and had no knowledge of the activities conducted in the house and had no connection to the subject drugs. These statements should have cast, at the very least, a reasonable doubt as to the guilt of Madadpur yet the courts refused to consider these.

Judges have not been consistent in their rulings, however. In the case of Rahim Mohammadpur and Pishro Bivarani, Mohammadpur was sentenced to death in December 2013 for manufacturing 1.58 kilograms of crystal meth, but his co-accused Bivarani was acquitted based on his vehement denial and Mohammadpur's repeated statements to the effect that Bivarani had no knowledge of the existence of the drugs and that Bivarani was in the premises only to help irrigate the plants. Based on the information available, it is difficult to differentiate between this case and that of Madadpur other than the fact that in Madadpur's case, the presumption of innocence was not a principle that mattered to the judge.

Concluding Remarks

In Iran, judges appear to rely on intuition to establish guilt and to set the appropriate sentence for the defendant. If law or sentencing guidelines exist, judges do not apply them in their judgments, other than to make casual references to sections of the criminal code. When contrary information favourable to the defendants is presented (which did not occur often), judges tend not to elaborate their reasoning for dismissing these claims. When they do engage in the defence's arguments, they appeared to be guided by their own unique understanding of the defendant or the criminal justice process. This model of judicial decision-making, if it can be referred to a model, can only be sustained by having complete trust in the ability of judges to elucidate the 'truth', because the judgments—the official record of the trials and appeals—leave no room for concerned parties, researchers, and the general public to appreciate, comprehend, or challenge the reasoning behind the judicial-decision. It should also be remembered that these judgments are not made public. In other words, what is written in these judgments is inconsequential; the only fact that matters is that judges have somehow reached the decision.

Lack of transparency in judgments avails itself for opportunities for corruption. In fact, in 2019, 60 judges were dismissed in an anti-corruption initiative launched by the chief justice.³¹ In addition, the Iranian judiciary allows individuals with no legal education to fulfil the role of a judge. ABC's previous study into the standards and criteria for the selection of judges³² revealed that legal knowledge is not a requirement to serve as a judge in Iran. Under Iranian law, persons who are not law graduates can become judges if they fulfill certain conditions.³³ Indeed, many who have only had a religious education,



³¹ E.g. <https://www.al-monitor.com/originals/2019/06/iran-corruption-judiciary-ebrahim-raisi-judges-detained.html> and <https://iranwire.com/en/features/67539/>

³² The Law for the Selection of Judges of 1982 (1) with subsequent amendments, as well as the Guidelines for the Recruitment, Selection, and Apprenticeship of Applicants for Judgeship and Employment of Judges of 2013 (2), were among regulations that formed the basis of this analysis by ABC. The study is available from: <https://www.iranrights.org/library/document/2877>.

³³ Paragraph 5 of the Law for the Selection of Judges states that judges should be selected from experts in religious jurisprudence (*Mojtahed*), and in the event that there is not a sufficient number of such experts, then selection can proceed from among other candidates. *Mojtahed* is an

including Shari'a law (though not university level education), have entered the judicial profession on that basis. At the time when the study was published in 2015, a significant number of high-ranking judges had been selected from individuals without a legal education. Based on Article 157 of the Constitution of the Islamic Republic, the two selection criteria for the Head of the Judiciary are to be a *religious* jurist knowledgeable in judicial matters and to be a resourceful manager.³⁴

In the majority of the cases analysed in this note and evidenced by a significant number of other cases collected by ABC over the years, judgments declare that the defendants' charges are 'proven with certainty'.³⁵ However, what seems certain to judges in Iran is anything but certain to outsiders. Glancing at these judgments that sentenced drug offenders to death, two things are certain. First, judges in Iran do not comply with domestic and international standards concerning judicial judgments and fair trial guarantees, raising serious doubts about the safety of these convictions. Second, regardless of the safety of these convictions, death sentences for drug offences do not meet the 'most serious crimes' threshold under the ICCPR, to which the government of Iran is a party.

individual who has studied religious teachings at Islamic seminaries, and has reached the level of expert (*Ejtehad*) with the approval of prominent religious experts. According to the Constitution of the Islamic Republic, it is not necessary to have studied law to be the Head of the Judiciary Branch, a prosecutor, or the Head of the Supreme Court.

³⁴ The position is appointed by the Spiritual Leader for a renewable term of five years.

³⁵ In 6 out of 10 judgments analysed, the phrase 'proven with certainty' is used.

Appendices

Judgments

Appendix 1: List of

| | Name | Age (At the time of Judgment) | Date of Offence | Date of Judgment | Offence | Court | Legal Representation | Evidence | Penalty |
|---|------------------------------------|--|---|------------------|--|--|--|--|--|
| 1 | Mohsen Nasiri Mojreh ³⁶ | 27-28 (estimated year of birth: 1985-86) | (not indicated) | 11 April 2013 | Possession of 4.4 kg crystal meth | Karaj Islamic Revolutionary Court | Represented by unnamed defence Attorney | Defendant's admission; the discovered drugs in his possession; and the totality of the contents of the case file | Death |
| 2 | Darvish Monazami ³⁷ | (estimated year of birth: 1957-58) | 15 March 2012 | (Illegible) | Procurement and possession of 5 kg morphine | Orumieh County Islamic Revolutionary Court | Represented by Mr Parviz Najafpur | Defendant's admission; Discovery of narcotic drugs at defendant's home | Death and expropriation of property derived from the crime |
| 3 | Majid Parmasi ³⁸ | (not indicated) | (not indicated) | 7 June 2013 | Manufacture and possession of 6.1 kg crystal meth | Not indicated | Parmasi: Represented by Rassul Azadbakht | Defendants' admission; their presence at the location where drugs were being manufactured; discovery of the drugs and paraphernalia | Death and expropriation of property derived from the crime |
| | Mikael Shahbazi ³⁹ | | | | | | Shahbazi: Represented by Ahmad Khodayari | | |
| 4 | Rahim Mohammadpur ⁴⁰ | (not indicated) | 7 September 2013 (date of search in Mohammad pur's house) | 19 December 2013 | Manufacturing, transporting and possessing 1.5 kg crystal meth | Sardasht General Court | Represented by Mr Abdorrahman Mahmudi and Mr Nasser Jamshidjam | Totality of content of the case file incl: Police's preliminary report on Defendants' activities in cooking and manufacturing crystal meth; discovery of the drugs inside Mohammadpur's house; his record of prior criminal conviction | Death by hanging inside Mahabad's prison |
| | | | | | Possessing and manufacturing 3 litres of acid acetone | | | | 40 months imprisonment, 40 lashes, and 40 million Rials monetary penalty |
| | Pishro Bivarani | 26 | 7 September 2013 | 19 December 2013 | Complicity in manufacturing, transporting and possessing 1.5 kg of crystal meth & 3L of acid acetone | Sardasht General Court | represented by Mr Khaled Paknam | Bivarani's vehement denial of the commission of the crime; Mohammadpur's statements that Bivarani had no knowledge of the drugs | Acquitted |

³⁶ <https://www.iranrights.org/memorial/story/-7770/mohsen-nasiri>

³⁷ <https://www.iranrights.org/memorial/story/-8464/darvish-monazami-gulgani>

³⁸ <https://www.iranrights.org/memorial/story/-8575/majid-parmasi>

³⁹ <https://www.iranrights.org/memorial/story/-8576/mikail-shahbazi>

⁴⁰ <https://www.iranrights.org/memorial/story/-8577/rahim-mohammadpur>

| | | | | | | | | | |
|---|--|--|-------------------------------------|------------------------|---|--|---|--|---|
| 5 | Reza Hosseini ⁴¹ | 31-32 (estimated year of birth: 1982- 83) | (not indicated) | 16 February 2014 | Possessing 140.3 kg of heroin and morphine | | Represented by Mr Omid Moghadasifar | Totality of the content of the case file incl: multiple-month surveillance in Hosseini's residence; discovery of drugs and 16.850 million Tumans in is rented apartment and his presence at the location | Death and expropriation of property derived from crime |
| | Hamzeh Jamshidian | 38 | (not indicated) | 16 February 2014 | Possessing 18.4 kg of heroin | Tehran Islamic Revolutionary Court | Represented by Mr Ebrahim Baboo | Discovery of drugs in Jamshidian's residence | Death and expropriation of property derived from crime |
| | (Reza Hosseini objection at the Prosecutor General) ⁴² | | | 29 November 2014 | | Office of the State Prosecutor General | | | (Objection of Hosseini's attorney denied; sentence affirmed) |
| 6 | Mohsen Danahur ⁴³ | 23-24 (estimated year of birth: 1990-91) | (not indicated) | 27 May 2014 | Complicity in manufacturing psychotropic substances; possessing 2.8 kg of crystal meth | Karaj Islamic Revolutionary Court | Represented by Mr Shamlu Ahmadi | Discovery of the drugs; Police's investigations; admissions of Danahur; statements of Kiamehr's fiancée re: delivery of a package from Danahur | Death and expropriation of property derived from the crime |
| | Mohammad Kia Kiamehr ⁴⁴ | 31-32 (estimated year of birth: 1982-83) | | | | | Represented by Mehrparvar and Azadbakht | | |
| 7 | Sa'eed Shokri ⁴⁵ | 23-24 (estimated year of birth: 1990-91) | 9 April 2014 (date of arrest) | 20 July 2014 | Purchasing and transporting 1.5 kg of heroin | Qom Province Judiciary | Represented by Mr Mehdi Nasrollahi | Shokri's admission; Police investigations of his drug-related activities; discovery of 1.5 kg heroin in his car | Death |
| | Behzad Qaffarzadeh | 27-28 (estimated year of birth: 1986- 87) | (not indicated) | 20 July 2014 | Complicity in purchasing 1.5 kg of heroin | | Represented by Mr Mohammad Tahmassebi | Shokri's statement on Qaffarzadeh's role in procuring the heroin; Qaffarzadeh's presence at the site of the deal | 25 years imprisonment |

⁴¹ <https://www.iranrights.org/memorial/story/-8578/reza-hosseini>

⁴² <https://www.iranrights.org/memorial/story/-8578/reza-hosseini>

⁴³ <https://www.iranrights.org/memorial/story/-8579/mohsen-danahur>

⁴⁴ <https://www.iranrights.org/memorial/story/-8585/mohammad-kia-kiamehr>

⁴⁵ <https://www.iranrights.org/memorial/story/-8580/said-shokri>

| | | | | | | | | | |
|----|--------------------------------|---|------------------|------------------|--|--|---------------------------------------|--|---|
| 8 | Mussa Shateranlu ⁴⁶ | 27-28 (estimated year of birth: 1983-84) | 12 November 2011 | 17 July 2012 | Participation in the preparation and storage of 990g of methamphetamines | Karaj Islamic Revolutionary Court | Shateranlu: Represented by Mr Jostani | Discovery of methamphetamines in Rostami's rented house; defendants' confessions (note: 3 defendants all claimed Madadpur's innocence) | Death expropriation of property derived from the crime |
| | Alireza Madadpur ⁴⁷ | 32-33 (estimated year of birth: 1978-79) | | | | | Madadpur: Ms. Salarian | | |
| | Ahmad Montahai | 31-32 (estimated year of birth: 1979-80) | | | | | Montahai: Mr Zadeh | | |
| | Mehdi Rostami | (not indicated) | | | | | Rostami: Mr Rezai | | |
| 9 | Ali Sattari | (not indicated) | 13 December 2019 | 5 September 2021 | Transporting and possessing 21.2 kg of crystal meth | Supreme Court (On appeal from Mashad Islamic Revolutionary Court dated 20 June 2021) | | Discovery of drugs in Defendant's vehicle; admission that he transported containers with no knowledge that they contained drugs; laboratory result confirming that the contents are crystal meth | Death and expropriation of vehicle used transporting narcotics (upheld decision of trial court) |
| 10 | Khaleq Khezzadeh ⁴⁸ | 31-32 (estimated year of birth: 1989-90) | June 1, 2020 | 6 January 2021 | Conspiracy in transporting 6.5 kg of crystal meth | Supreme Court (On appeal from Bandar Lengeh County Revolutionary Court dated 21 October 2020) | represented by Mr Hassan Azadbakht | Discovery of drugs in Defendant's vehicle; Khezzadeh's admissions | Upheld the trial court decision sentencing Khezzadeh to death |
| | Raheem Zeyn | 32-33 (estimated year of birth: 1988-89) | | | | | represented by Mr Hassan Rias | Denial of the charges; Khezzadeh's statements that Zeyn had no knowledge of the drugs | Overturned trial court's decision (remanded the case to lower court for <i>de novo</i> hearing) |

⁴⁶ <https://www.iranrights.org/memorial/story/-8581/musa-shateranlu>

⁴⁷ <https://www.iranrights.org/memorial/story/-7968/ali-reza-madadpur>

⁴⁸ <https://www.iranrights.org/memorial/story/-8586/khaleq-khezzadeh>

Appendix 2:

Judgment of Mohsen Nasiri Mojreh

The Judiciary Branch

Date: April 13, 2013

Number: 144/1/929972664100030

Attachment:

Karaj Islamic Revolutionary Court

The Court is in session during administrative hours on April 11, 2013, to hear case number 144/1/920012, with the undersigned Judge presiding. Having examined the entirety of the evidence in the case file, the Court declares the close of the proceedings and seeking the assistance of the Great Almighty, rules as follows:

Court Decision

Regarding the charge brought against Mr Mohsen Nasiri Mojreh, son of Nezamali, born in 1985-86, Identification Number 74 issued from [the town of] Khalkhal, single, literate, profession: sale of apparel, Shi'a Moslem, without a criminal record, national of Iran, from Khalkhal, residing at the Karaj Penitentiary, of possession of 4.4 kilograms (approximately 10 pounds) of crystal meth; The Court, Having taken into consideration the report [of the relevant authorities], the discovered narcotic drugs, the Defendant's admission that said drugs had been left with him for safekeeping and that he had no knowledge of that it was crystal meth, the Defendant's statements and admissions at various stages of the proceedings and his defence attorney's brief in his defence, and the totality of the contents of the case file; Finds that the charge against the Defendants has been proven with certainty; And pursuant to Article 8, Paragraph 6, of the Law Amending the Law for Combatting Narcotic Drugs, **sentences the Defendant to death.**

This Decision was issued in the presence of [all or some of the individuals] concerned [at the trial stage, or who submitted briefs], and shall become final and binding upon the approval of the honourable Chief Justice of the Supreme Court or the honourable State Prosecutor General. Regarding properties and assets derived from that same crime and the motor vehicle used in transporting the narcotic drugs, proper action shall be taken [regarding expropriation and confiscation of said assets for the benefit of the Government] in accordance with Articles 28 and 30 of the Law Amending the Law for Combatting Narcotic Drugs, upon full investigation into the matter by the Prosecutor's Office and the latter's report submitted thereon. [To the Clerk of the Court:] It is hereby ordered that the case be removed from [this Court's] docket and case statistics [record], and be dispatched to the Secretariat of the State Prosecutor General's Office.

Karaj Islamic Revolutionary Court, Branch One, Presiding Judge, Assef Al-Hosseini

11 April 2013

Appendix 3:

Judgment of Mohsen Danahur and Mohammad Kia Kiamehr

[Emblem]

Date: May 27, 2014

Number:

Attachment:

144/2/93/4200191

Karaj Islamic Revolutionary Court

Court Decision

Having examined the entirety of the evidence in the case file, and seeking the assistance of the Great Almighty,

The Court declares the close of the proceedings and rules as follows:

Court Decision

Regarding the charges brought against Messrs. 1. Mohsen Danahur, son of Sekhavat, born in 1990-91, from Tehran, residing at the declared address, married, Shi'a Moslem, literate, without a criminal record, represented by Mr. Shamlu Ahmadi; and 2. Mohammad Kia Kiamehr, son of Karim, also known as Khezar, born in 1982-83, from Sardasht, residing in Karaj, single, Sunni Moslem, literate, without a criminal record, married, represented by Messrs. Mehrparvar and Azadbakht; of complicity in the manufacture and production of psychotropic substances, possession of 2 kilograms and 800 grams (2.8 kilograms, approximately 6.2 pounds) of the psychotropic substance crystal meth, and possession of one kilo and three hundred grams (1.3 kilograms, approximately 2.9 pounds) of ephedrine pill, a precursor for the manufacture of psychotropic substances;

The Court,

Having taken into consideration the indictment issued by that Karaj Prosecutor's Office; the discovery of the psychotropic drugs and the results of tests thereof; thorough investigations by the Anti-Narcotic Drugs Police; Defendant Number One's statements and admission; the statements and the discovery of a blue notebook; the statements made by Ms. Elmira Ebrahimi, Defendant Number Two's fiancée, regarding delivery of a package from Defendant Number One; the statements made by the anti-narcotics officer, Babak Mojarad; the discovery of a sample of the recovered pills from Defendant Number Two's car; contained on pages 9, 15, 18, 26, 51, 56, and 61 of the case file, all of which indicate that both individuals were engaged in the manufacture and production of psychotropic drugs;

And pursuant to Article 8, Paragraph 6, of the Law Amending the Law for Combatting Narcotic Drugs, and Article 5, Paragraph 3, and Amended Article 4 of the Law Amending the Law for Combatting Narcotic Drugs,

On the charge of complicity in the manufacture and production and possession of psychotropic drugs, **sentences each Defendant to death and expropriation of property** derived from that same crime, and on the charge of complicity in possession of ephedrine, sentences each Defendant to two years' imprisonment, 45 lashes, and payment of twenty million Rials monetary penalty.

Regarding the properties and expropriation thereof, the case is hereby remanded to the Prosecutor's Office so that each Defendant's property can be precisely ascertained, and so that it can be determined, with the cooperation of the Property Identification Committee located at the Province Combatting Narcotic Drugs Coordination Council, if said property is derived from that same crime, and if it is, then in line with

the Amended Article 26 of that same Law, be so identified and the case be completed and sent back to this Court.

This Decision was issued in the presence of [all or some of the individuals] concerned [at the trial stage, or who submitted briefs], and can be implemented upon approval by the honorable State Prosecutor General.

To the Clerk of the Court: In accordance with Article 32 of the Law Amending the Law for Combatting Narcotic Drugs, upon attachment and proper pagination of this case file, forward the same to the Secretariat of the Honorable State Prosecutor General's Office.

Karaj Islamic Revolutionary Court, Branch Two, Presiding Judge

Safari

[signed and sealed]

Appeal brief by Mohammad Kia Kiamehr's legal representatives

The Honorable State Prosecutor General

Greetings and Salutations

I, Ma'az Abdollahi, attorney at law, representing my client (Defendant Number Two) Mr. Mohammad Kia Kiamehr in Case Number 259/1/946/140, before presenting any requests, would like to humbly ask Your Honor to read the case file without any preconceived notions against my client and based on the Principle of the Presumption Innocence (which is a principle repeatedly emphasized in the tenets of the true religion of Islam) in order to obey God Almighty's [will] and prevent an innocent person from being punished, and if you see definitive evidence of my client's guilt anywhere in the file, and determine that he is not innocent, to then issue the appropriate sentence. In order to shed light on the truth and discover the facts, and in objecting to the Court Decision issued by the [city of] Karaj Islamic Revolutionary Court, Branch Two, I would like to bring the following to Your Honor's attention:

1. Considering that at first reading, it appears that the honorable [lower court] Judge has issued the Court Decision based on his own knowledge [in accordance with the concept of] "the Judge's Knowledge", it is necessary that the requirements for relying on and citing the Judge's Knowledge as a basis for the issuance of a decision be examined. Article 211 of the Islamic Penal Code of 2013 defines the Judge's Knowledge as follows: "The Judge's Knowledge consists of certainty resulting from consideration of evidence in a case brought before him. In instances where the basis of a judge's ruling is the Judge's Knowledge, he is obligated to expressly state in the court decision what the evidence forming the basis of his knowledge is." There are two methods for acquiring the Judge's Knowledge with regards to a criminal event, from a place and time standpoint. The first is when the Judge's Knowledge has been acquired outside the investigation and trial sessions, which is not the case here. The second, however, is when the judge, after examining the complaint and the totality of the evidence of the charge and hearing the defendant's defense, and taking into full consideration the entirety of the case file as well as hearing the statements of the parties, gains knowledge about the accuracy, or lack thereof, of the evidence of the commission of a crime by a defendant. The Note to Article 211 of the new Islamic Penal Code provides that expert opinion, crime scene investigation, local investigations, witness statements, law enforcement reports, and other evidence that by their nature create knowledge [of the facts] can form the basis of the Judge's Knowledge; one can deduce from this Note that the basis for forming the Judge's Knowledge is an [objective] one and not a subjective one, and that said basis must be such that it would create knowledge for any other judge as well. Furthermore, from the standpoint of religious jurisprudence and Shari'a, "knowledge" is the equivalent of "certainty" and "conviction" and the opposite of "doubt". It appears that the evidence relied upon by the honorable judge does not, as a matter of course, create certainty as to the commission of the crime, and until and unless there is certainty, the principle of "the Presumption of Innocence" applies, and one cannot issue a sentence of death purely on the basis of guess work and conjecture. The Judge's Knowledge has certain particularities and specificities in both Fiqh (Islamic jurisprudence) and in Iranian criminal law, including the need for the conventionality and

normalcy of the means of acquiring such knowledge; in other words, only that knowledge formed through utilization of standard and common means is valid, not one acquired in unconventional ways.

Given the explanation above, [it is necessary to] examine and critique all the evidence, one by one, that has formed the basis for the Judge's Knowledge, as stated in the Court Decision issued by the honorable judge:

- a) In line six of the Decision, reference is made to "the discovery of psychotropic drugs", which discovery by no means and in no way constitutes proof of participation in the manufacture and production of the psychotropic drug (crystal meth).
- b) Line six makes reference to "thorough investigations by the anti-narcotics police" as a basis for the Court Decision. The question then becomes on what page of the case file and of the investigations does it say that the manufacture and production of psychotropic drugs by my client has been specified and proven?!
- c) Lines six and seven of the Court Decision refer to "Defendant Number One's statements and admissions". First, Defendant Number One's statements (who is a defendant himself) cannot be proof of the commission of the crime of complicity in the manufacture and production of psychotropic drugs by Defendant Number Two. Secondly, Defendant Number One's admission, given the meaning of the word admission which is "making a statement against one's own interest", is solely indicative of the manufacture and production of psychotropic drugs by Defendant Number One, and not Defendant Number Two (that is, my client). Furthermore, Defendant Number One has already confessed in writing while he was in jail that he had lied and that Defendant Number Two had no involvement in the manufacture and production of psychotropic drugs. Following said written confession, however, he stated in court that he had been deceived, and that as a result, had stated that his statements against Defendant Number Two had been lies. It should be noted that Defendant Number One is now ready to testify once again that he lied that Defendant Number Two had cooperated with him in the manufacture and production of psychotropic drugs. Defendant Number One is currently saying that he is having a crisis of conscience because his lie has led to a sentence of death for my client. I therefore humbly ask your honor to order that his statements be heard once again, may it please God. We really have to think whether [it is even possible that] the statements of an individual who denies his statements multiple times and makes contradictory statements can be the basis of forming the Judge's Knowledge, and bring about any knowledge at all! Can these statements be considered evidence of the crime?
- d) Line seven of the Court Decision refers to the discovery of a blue notebook, which my client has denied ownership of and stated that it is not in his handwriting, and has requested that it be referred to an expert so that the truth can come out, which request was denied by the Court. Secondly, the content of the notebook contains no proof of the manufacture and production of psychotropic drugs by my client.
- e) In line seven of the Court Decision, "the statements made by Ms. Elmira Ebrahimi" have been used as evidence forming the basis of the Judge's Knowledge, whereas Ms. Ebrahimi has simply testified that she witnessed that a package containing five hundred thousand Tumans was given by Defendant Number Two to Defendant Number One. This was mistakenly written in the Court Decision as "delivery of a package by [Defendant] Number One" which was actually delivery of the package to Defendant Number One.
- f) Line eight of the Court Decision refers to "the statements by the anti-narcotics police officer, Babak Mojarrad" as evidence forming the basis of the Judge's Knowledge. However, the officer has claimed that he heard Defendant Number Two telling Defendant Number One from behind the door, "You take the blame for everything, and I will solve your problem if I'm released". First, what does the sentence "take the blame for everything" mean? The ephedrine pills or the manufacture and production of psychotropic drugs or both? It is not clear. So one cannot simply say what Defendant Number Two meant was to take the blame for the manufacture and production of psychotropic drugs. Secondly, the methods of acquiring Judge's Knowledge must be standard and conventional, and hearing someone's voice from behind a closed door is not a normal way of obtaining evidence to prove commission of the crime and distort the Principle of

the Presumption of Innocence. Can what a police officer hears, which can possibly even be a personal interpretation, be a basis for and evidence upon which a judge can form his knowledge? Did said officer hear the statements as a law enforcement officer or as a witness? Has his fairness and impartiality been ascertained (is he a just person)? Can testimony to the effect that a word was heard from someone without seeing that person's face become a basis [to form Judge's Knowledge]? How do we even know that it wasn't Defendant Number One who told Defendant Number Two to "take the blame for everything"?! How is said officer certain that the voice he heard was that of Defendant Number Two when he had not even seen his face?!

- g) Line eight of the Court Decision refers to "the discovery of a sample of the recovered pills from Defendant Two's car". First, discovery of a sample of these pills in the Defendant's car is not proof of anything in particular, and is by no means proof of the manufacture and production of psychotropic drugs. Secondly, these pills have pharmaceutical effects as well, and are used by bodybuilders, and the discovery of a sample thereof in the hands of an individual is not proof of manufacturing crystal meth.
- h) At the end of these few lines, the honorable judge states on line nine "all of which indicate that both individuals were engaged in the manufacture and production of psychotropic drugs". Therefore, the honorable judge has cited and relied upon the contents of the previous paragraphs as the basis for his [judge's] knowledge for the commission of the crime by the two defendants, and has issued the sentence of death on that basis. As noted, however, not only can the entirety of the evidence cited in the Court Decision not be considered sufficient to form a basis for the Judge's Knowledge, they are by no means proof of the manufacture and production of psychotropic drugs by my client (Defendant Number Two).

2. Given that my client (Defendant Number Two) has a license to import and export ceramics and tiles to and from the country of Iraq, and that his current assets are the result of his hard and round the clock work in this realm, the expropriation of his assets as property acquired from the commission of the crime does not seem just: First, the client has only committed the crime of possessing ephedrine pills and said assets cannot be the fruit of this crime. Secondly, all of the evidence and documentation and bills of transactions proving engagement in commercial transactions and engagement in the business of import and export of ceramics and tiles by my client were attached to the case file at trial. There is therefore no doubt that these assets were not obtained as a result of the commission of the crime and are the fruit of my client's relentless efforts and work. Consequently, we request that these assets be released.

3. As indicated by the content of the case file, the location of the manufacture and production of crystal meth was the home of Ms. Noruzi, Defendant Number One's mother-in-law. Therefore, if my client is accused of complicity to manufacture and produce crystal meth, he normally would have had to have comings and goings to Ms. Noruzi's home and know her. My client asked the court to have him face Ms. Noruzi so that it could be ascertained whether Ms. Noruzi has ever even seen my client. The truth is that Iranian custom does not accept that my client would be participating in the production of crystal meth in the home of Defendant Number One's mother-in-law, who is solely his friend, because he was not acquainted with nor did he have any family relations with this family.

4. The charge brought against my client (Defendant Number Two) is complicity in the manufacture of crystal meth at Ms. Noruzi's home. Therefore, Ms. Noruzi, who provided the location of the crime, and as she expressly stated in her statements, his son-in-law (that is, Defendant Number One) brought the equipment for the production of crystal meth to her home, is a co-conspirator and should have been prosecuted. How is it that the honorable judge has sentenced Defendant Numbers One and Two to death on the charge of manufacture and production of crystal meth in Ms. Noruzi's home, but Ms. Noruzi, in whose home and under whose supervision the crime has been committed (if it can be so proven) has not been prosecuted?! The truth is that Defendant Number One was the one who had engaged in the production of crystal meth at Ms. Noruzi's home, as he has repeatedly admitted, and Ms. Noruzi is her co-conspirator.

5. The facts of this case are as follows: According to the officers' report, Defendant Number One, Mr. Mohsen Danahur was active in [the realm of] crystal meth. Upon a request by law enforcement authorities, an arrest warrant was issued for Defendant Number One. My client was arrested following the bogus statements made by Defendant Number One against Defendant Number Two (my client) as to my client's

participation in the production of crystal meth with Defendant Number One. It must be noted that Defendant Number One's false statements against my client were made for reasons of personal revenge as well. In the law enforcement officers' second report, my client was accused of being the leader of a gang engaged in the manufacture and production of crystal meth. It appears that said report was drafted based on reports made by the people who live in the neighborhood and or something similar to that effect. However, there is no doubt as to the falsehood and wrongness of the report because, in order for a person to be the leader of a gang, a gang must first be identified, whereas there is absolutely no such gang in his case, and the only defendant the charges against whom are in no doubt whatsoever is Mohsen Danahur. It is clear that Defendant Number One's false statements and claims were not completely without effect on the aforementioned report. Furthermore, the law enforcement report cannot, in and of itself, be evidence of the commission of the crime, nor can it form a basis for the Judge's Knowledge without being taken together with evidence about which there is no doubt and uncertainty. It must also be noted that in the course of the officers' interrogation of my client, they had told him "according to Danahur, you are the principal actor in the manufacture and production [of the drugs]"; that means that the officers' only reason for attributing the crime to my client were Danahur's false statements.

6. Line eleven of the Court Decision sentences my client to death "for complicity in the manufacture and production and possession of psychotropic drugs", that is, crystal meth, whereas absolutely no crystal meth was recovered on my client's person and there is no evidence to that effect; possession of crystal meth by my client is not in evidence.

In closing, and given the above, we request that the death sentence on the charge of complicity in the manufacture and production and possession of psychotropic drugs (crystal meth) against my client (Mohammad Kia Kiamehr) be overturned, a verdict of not guilty be issued and his assets be released.



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