

Abdorrahman Boroumand Center

# A Review of Iran's Drug Law Reform

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Iran's recent drug policy reform, a positive but inadequate step toward overhauling the country's draconian anti-drug law regime, has triggered significant interest inside and outside the country. By limiting the circumstances in which the death penalty can be applied for drug crimes, the Article should result in an overall reduction in capital sentences in Iran, one of the world's most active executioner states.

Abdorrahman Boroumand Center (ABC) has documented at least 8,289 executions since 2000, of which 4,250 are drug-related. In light of the new law's shortcomings, the thousands of lives that hang in the balance, and inaccuracies in existing reporting, a thorough review of the recent change is necessary to support an informed and effective discussion on the current situation and what steps should be taken next.

Iran's Majles passed the [Bill](#) for the Incorporation of a Single Article<sup>1</sup> into the [Law](#) for Combating Illicit Drugs<sup>2</sup> on October 4, 2017. The approval came after months of protracted negotiations and pressure from non-legislative bodies, including the Anti-Narcotic Police, on the Legal and Judicial Committee to limit the scope of reform. The law, sent for implementation on January 8, 2018, fell dramatically short of lawmakers' aim of abolishing the death penalty for all unarmed drug offenses as reflected in [legislation](#) submitted to the previous parliament.<sup>3</sup> According to information provided to Legal and Judicial Commission Chair Hassan [Nowruzi](#),<sup>4</sup> 15,000 convicts stand to have their sentences reviewed. Though a few prisoners have already seen their sentences reduced, the impact of the Article on the number of executions in the longer term can only be assessed with time since it prescribes the death penalty for new categories of offenses and has serious shortcomings that may weaken its impact.

The new Article limits capital punishment to particular instances of drug crime, chiefly by raising the volume thresholds which trigger the death penalty. For instance: under the old law, producing more than 30 grams of methamphetamine carried the death penalty. The bar has now been raised to two kilograms.<sup>5</sup>

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<sup>1</sup> Full text of the bill translated to English by ABC: <https://www.iranrights.org/library/document/3262>

<sup>2</sup> Original text of the most recent version of the drug law: <https://www.iranrights.org/fa/library/document/3332>

<sup>3</sup> Full text of the Ninth Majles bill translated to English by ABC: <https://www.iranrights.org/library/document/3224>

<sup>4</sup> Original article from Asr-e Iran news: <http://bit.ly/2Fs1Q5Z>

<sup>5</sup> The drug volume provision covers the following offenses: importing, exporting, sending, producing, manufacturing, distributing, selling, and making available for sale more than 50 kilograms of Article 4 drugs (bhang, hash, marijuana, opium, opium syrup, and other "traditional" substances) and more than two kilograms of Article 8 drugs (heroin, morphine, cocaine, other substances derived from morphine and cocaine, LSD, methylene dioxide, methamphetamine, MDMA, GHB, Flunitrazepam, amphetamine, crystal meth, and other "industrial" substances); and purchasing, keeping, hiding, or carrying more than three kilograms of Article 8 drugs.



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Independently of these volume thresholds, the Article sets new conditions for offenses which carried the death penalty or life in prison in the Drug Law. If any one of these conditions is met, the offense now attracts the death penalty. These conditions comprise: drawing a weapon during the commission of crime or carrying a firearm or a hunting weapon with the intention of opposing law enforcement officials; serving as a ringleader, investor, or providing financial support; making use of children under the age of 18 or mentally incompetent persons; and having a prior finalized conviction of death, life imprisonment, or imprisonment exceeding 15 years for drug crimes.<sup>6</sup> Thus a person who distributed 6 kilograms of marijuana - a capital offense in the old law, which now no longer meets the new volume threshold - would now be sentenced to execution only if he had also, for instance, used a minor to do so.

All such instances of drug crimes (i.e. meeting the volume thresholds or other conditions) are now considered “corruption on earth” (“mofsed fey-al arz”) and punished with expropriation of assets obtained from drug activities in addition to execution. Other drug crimes are to be punished with various degrees of jail time and monetary penalties along with asset expropriation.

While it is too soon to assess the impact of the new law on the number of future executions, several problems should be underlined:

- ❖ The Article actually toughens punishments on some classes of drug offenders and transforms certain offenses which previously carried life in prison into capital offenses. Per the old terms of the note to Article 4 of Iran’s drug law, first-time offenders found guilty of attempting to import, export, produce, distribute, or sell less than 20 kilograms of Article 4 “traditional” drugs who had not in fact successfully sold or distributed, were sentenced to life in prison. Offenders in the same circumstance will now be sentenced to death. The same holds for Article 8 substances. Per clause 6 of Article 5 of the old drug law, selling, keeping, or carrying more than 100 kilograms of Article 4

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<sup>6</sup> These text of the Article pertaining to these conditions is as follows:

*A. Cases where the principal or at least one of the accomplices has drawn a weapon during the commission of the crime, or has carried a firearm or a hunting weapon with the intention of opposing [law enforcement] officials. “Weapon” in this paragraph means weapons and ammunitions described in the Law for the Punishment of Trafficking in Weapons and Ammunitions and of Possessors of Unauthorized Weapons and Ammunitions of August 29, 2011.*

*B. If the perpetrator is the ringleader (as described in Article 130 of the Islamic Penal Code of 2013), provides financial support, is an investor, and/or utilizes children and young individuals under the age of 18 or mentally incompetent individuals (“majanin”\*\*) for the commission of the crime.*

*C. Cases where the perpetrator has a prior record of final conviction [sentencing the perpetrator to] death, life imprisonment, or imprisonment exceeding 15 years, for commission of crimes that are the subject of this Law.*



“traditional” drugs carried life in prison; under the terms of the new Article, these same offenses will attract the death penalty if the offense meets the Article’s other requirements.

- ❖ The Article’s weapons use provision is open to interpretation and abuse. First: it exposes individuals to the death penalty through collective liability for acts they themselves did not commit. “Draw[ing] a weapon during the commission of the crime” and “[carrying] a firearm or a hunting weapon with the intention of opposing [law enforcement] officials” carry the death penalty not just for the principal offender, but for accomplices as well. Second: the act of “[carrying] a firearm or a hunting weapon with the *intention* of opposing [law enforcement] officials” is itself vague and contains potential for abuse. Third: the definition of weapon, grounded in the Law for the Punishment of Trafficking in Weapons and Ammunitions and of Possessors of Unauthorized Weapons and Ammunitions, is concerningly broad. Taken together, the weapons use provision could authorize a judge to sentence several co-defendants to death for one defendant’s brandishing of a knife or carrying of a hunting rifle, independently of the volume of drugs in question.
- ❖ The nature of involvement condition also deserves scrutiny. The terms “ringleader” and “financial support” are not defined with sufficient clarity in Iranian law. Without a precise definition, a judge is at liberty to widen the sphere of capital sentencing by handing down the death penalty for an act that doesn’t otherwise carry it, should that judge now interpret the act as qualifying the offender as a “ringleader” or “investor.” For instance: an individual who buys an amount of drugs, below the threshold carrying the death penalty, in order to resell could stand to be executed, should his act be interpreted as “investing” by a judge.
- ❖ The fact that “(utilizing) children and young individuals under the age of 18 for the commission of a crime” now qualifies an offender for the death penalty is inconsistent with the Iran’s laws regarding juvenile culpability.<sup>7</sup> Iran regularly tries and sentences minors as adults, sentencing them to death in violation of the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, provided that a judge finds them to be mentally mature. How Iranian law recognizes the diminished responsibility and unique vulnerability of minors in this Article (going so far as to classify them besides mentally incompetent persons in this regard) while neglecting the same realities in other parts of criminal law, demands accounting for.
- ❖ The final sentence of Paragraph D (the drug volume provision) states: “The implementation of this paragraph for perpetrators [tried and sentenced] before this Law takes effect is premised on their meeting one of the conditions of paragraphs A, B, or C.” Implementation for offenders tried after the law takes effect, however, enjoy no such conditionality. Thus an individual convicted of

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<sup>7</sup> Note 1 of Article 1210 of the Iranian Civil Code states that “the age of majority for boys is fifteen lunar years and for girls nine lunar years.”



importing 21 kilograms of marijuana on September 15, 2017 without meeting any other condition would have his life spared, while an individual arrested for committing the very same act on January 15, 2018 would face the death penalty.

- ❖ The drug volume provision is problematic from a constitutional point of view. The bill passed by the Majles is not clear as to whether two or three kilograms of Article 8 “industrial” substances trigger the death penalty for certain kinds of unnamed offenses.<sup>8</sup> In his January 8, 2018 [directive](#), Judiciary chief Sadeq Amoli Larijani attempted to resolve the ambiguity by specifying the offenses and declaring the threshold to be two kilograms. The fact that an executive order was required to bring clarity to a fundamentally incomplete piece of legislation is notable.
- ❖ The Law for Combating Drugs treats addiction itself as a crime, which has led to mass incarceration and forced detoxification of millions of addicts in past decades. The Article is silent on this matter, making no move towards decriminalizing addiction, and does not tackle weaknesses of Iran’s drug law regarding measures aimed at prevention and harm reduction despite repeated calls by officials and experts. As Morteza Shahbazi, President of SKODA (the All-Iran Prosecutors’ Associations), [emphasized](#) to Tasnim News Service on January 22, 2018: “Punishment will not necessarily solve the problem. Demand for drugs must be reduced.”
- ❖ The Article associates monetary penalties with sentence reduction and intensifies negative economic consequences faced by those sentenced, many of whom are driven to drug activity out of poverty and unemployment, and their families. Death row prisoners who are eligible for commutation through the new law are now facing heavy fines, the non-payment of which can lead to asset expropriation and additional prison time. ABC has information on a prisoner who had spent five years on death row after being sentenced over 450 grams of methamphetamine. Currently, his sentence has been converted to 30 years of prison and a 200 million toman monetary penalty (about 60,000 USD), which he cannot afford. Other penalties assessed for drug offenses range from a 800,000 toman fine, 30 lashes, and two years of imprisonment for just over one gram of industrial drugs to a minimum 25 years of imprisonment, a 100 million toman fine, and drug-related asset expropriation for just over 100 grams of industrial drugs.

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<sup>8</sup> The text of the bill referred to “other crimes which are the subject of Article 8,” a formulation left over from the penultimate version of the bill which listed individual offenses earlier in Paragraph D. Without a complement, these “other crimes” cannot be determined.



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- ❖ On religious grounds, the applicability of “corruption on earth” to drug crimes is greatly contested by religious experts and officials.<sup>9</sup>
- ❖ More generally, this Article fails to adequately address a systemic crisis of the right to life in the Iran from the perspective of international human rights law. No volume of trafficked illicit substance, nor any of the other conditions set for capital sentencing in the law, qualify an act as a “most serious crime” involving intentional killing, the standard fixed for capital punishment by the International Covenant on Civil and Political Rights.

The change in Iran’s drug law is a first step in the right direction, though lawmakers were pressured to significantly reduce its scope. The informative and crucial debate it has triggered has drawn attention to a multitude of problems including lack of critical data, proper funding for prevention and rehabilitation, limited attention from decision makers, poor coordination among various bodies and ministries involved in addressing addiction and trafficking, and the absence of accountability for officials who fail to perform their duties. These weaknesses are not new. Experts and former officials have stressed the need for serious changes in Iran’s drug policy for nearly two decades. The most recent public debates indicate that the limited changes that have taken place are not sufficient to tackle Iran’s drug problems.

Finally, the Iranian judiciary - the institution charged with carrying out the reform - continues to suffer from an acute lack of transparency and impunity for systemic due process violations. Authorities’ harsh and punitive approach to the drug problem, their resistance to collecting and publishing reliable data, and the absence of independent and systematic investigation into Iran’s justice system will continue to take a toll on the country’s most vulnerable. Independently of the content of the Article, these major institutional failures both threaten the policy’s implementation and complicate any effort to assess its true impact.

By standing firm on principles, including by denying funding to law enforcement bodies, and by calling on Iran to respect its international human rights commitments and to allow independent monitoring of the judicial process and access to prisons, the international community will strengthen those who, inside Iran, call for transparency and deeper structural reforms. Ultimately, the dialogue on Iran’s drug policy should continue inside and outside Iran until capital punishment for drug offenses is eliminated altogether from the law.

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<sup>9</sup> As Majles Representative Jalil Rahimi Jahanabadi [demanded](https://www.iranrights.org/library/document/3207) to know of death penalty supporters in July 2017: “Which part of the Quran, Prophetic Tradition, or Islamic belief tells us that based on unstable jurisprudence drugs offences should definitely carry the death penalty?” (Article in translation by ABC: <https://www.iranrights.org/library/document/3207>). Retired Revolutionary Court judge Hossein Akbari [affirmed](https://www.iranrights.org/library/document/3302) the same point before a 2016 conference on drug policy organized by the Jurists’ Bassij Organization, citing the jurisprudential opinions of Grand Ayatollahs Makarem Shirazi, Nuri Hamedani, Javad Tabrizi, and Abdolkarim Musavi Ardebili that the death penalty for drug crimes was neither “hadd” (a punishment established by God) nor “ta’zir” (punishments administered at the discretion of a judge on Shariah grounds) (Article in translation by ABC: <https://www.iranrights.org/library/document/3302>).