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12 March 2020

IRN200132.E

Iran: The Revolutionary Court system, including procedures and documents issued by the courts (2017-March 2020)

Research Directorate, Immigration and Refugee Board of Canada

1. Overview

According to an academic article in *Iranian Studies* by Reza Banakar, a professor of sociology of law at Lund University, Sweden, and Keyvan Ziaee, a visiting research fellow at Lund University, the Revolutionary Courts are "special" courts, "presided over by religious judges and [which] operate outside the jurisdiction of public courts" (Banakar and Ziaee 2018, 719).

According to the US Department of State's *Country Reports on Human Rights Practices for 2018*,

[t]he constitution does not provide for the establishment or the mandate of the Revolutionary Courts. The courts were created pursuant to the former supreme leader Ayatollah Khomeini's edict immediately following the 1979 revolution, with a sharia judge appointed as the head of

the courts. They were intended as a temporary emergency measure to try high-level officials of the deposed monarchy and purge threats to the regime. The courts, however, became institutionalized and continue to operate in parallel to the criminal justice system. Human rights groups and international observers often identify the Revolutionary Courts, which are generally responsible for hearing the cases of political prisoners, as routinely employing grossly unfair trials without due process, handing down predetermined verdicts, and rubberstamping executions for political purposes. These unfair practices reportedly occur during all stages of criminal proceedings in Revolutionary Courts, including the initial prosecution and pretrial investigation, first instance trial, and review by higher courts. (US 13 Mar. 2019, 15)

According to a 2017 *Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran*,

Revolutionary [C]ourts continue to issue the vast majority of death sentences. Violations of the rights to fair trial and due process are systematic before these courts. Legal representation is denied during the investigation phase, lawyers are often refused access to information, many trials reportedly last only a few minutes ... (UN 14 Aug. 2017, para. 60)

Sources indicate that the Revolutionary Courts do not act independently from state institutions (Lawyer 27 Feb. 2020; MECS 14 Feb. 2020; US 13 Mar. 2019, 15), and that they operate particularly in association with the Islamic Revolutionary Guard Corps (IRGC) and the Ministry of Intelligence (Lawyer 27 Feb. 2020; US 13 Mar. 2019, 15).

2. Jurisdiction

Sources indicate that the Revolutionary Courts primarily handle prosecutions including

- acts against national security (Australia 7 June 2018, para. 5.13; IHRDC 12 Oct. 2016, Sec. 2.2.1.1; MECS 14 Feb. 2020);
- drug smuggling (Australia 7 June 2018, para. 5.13; IHRDC 12 Oct. 2016, Sec. 2.2.1.1; MECS 14 Feb. 2020);
- espionage (Australia 7 June 2018, para. 5.13; IHRDC 12 Oct. 2016, Sec. 2.2.1.1; Rahmani and Koohshahi 2016, 49);
- enmity with God (*moharebeh*) (IHRDC 12 Oct. 2016, Sec. 2.2.1.1; Rahmani and Koohshahi 2016, 49);
- "corruption on earth" (*efsad-e-fel-arz*) (IHRDC 12 Oct. 2016, Sec. 2.2.1.1);
- slander against the founder of the Islamic Republic of Iran (MECS 14 Feb. 2020; IHRDC 12 Oct. 2016, Sec. 2.2.1.1; Rahmani and Koohshahi 2016, 49) and the Supreme Leader (IHRDC 12 Oct. 2016, Sec. 2.2.1.1; Rahmani and Koohshahi 2016, 49);
- financial crimes that harm the stability and economy of the country (IHRDC 12 Oct. 2016, Sec. 2.2.1.1);
- smuggling of cultural heritage or national wealth abroad (IHRDC 12 Oct. 2016, sec. 2.2.1.1);
- illegal counterfeiting of audiovisual work (IHRDC 12 Oct. 2016, Sec. 2.2.1.1);
- and

- crimes pertaining to the public and private health institutions of the country (IHRDC 12 Oct. 2016, Sec. 2.2.1.1).

In correspondence with the Research Directorate, the Middle East Consultancy Services (MECS), a London-based research organization providing strategic advice and information on the Middle East and North Africa region to the public and private sectors (MECS n.d.), indicated that "Revolutionary [C]ourts have specific jurisdiction and the public prosecutor has the authority to establish a [R]evolutionary [C]ourt in every city where they deem it is required. The majority of cities in Iran have their own branches of [R]evolutionary [C]ourts" (MECS 14 Feb. 2020). Similarly, according to a 2016 report on the Iranian judiciary by the Iran Human Rights Documentation Center (IDHRC), a US-based non-profit organization founded by human rights scholars and lawyers that aims to establish a historical record of the human rights situation in Iran (IHRDC n.d.), article 297 of the Code of Criminal Procedure [1] indicates that "Revolutionary Courts are situated in the capital of each province and, at the discretion of the head of the Judiciary, in provincial judicial districts" (IHRDC 12 Oct. 2016, Sec. 2.2.1.2).

3. Procedures

According to the IDHRC report, Article 297 of the Code of Criminal Procedure indicates that "when adjudicating cases carrying severe punishments, Revolutionary Courts are composed of one chief judge and two associate judges. The court has quorum with two judges. The chief judge, an alternate or an associate judge, will hear all other cases" (IHRDC 12 Oct. 2016, Sec. 2.2.1.2). An overview of the Iranian legal system published by GlobaLex, an "electronic legal publication dedicated to international and foreign law research" (GlobaLex n.d.), states that "[u]nder Article 297, the [R]evolutionary [C]ourts are in session with three judges in capital punishment, life sentence, and limb [a]mputation, felonies on body injuries [that involve] a minimum [payment] of one third worth of blood money punishment. In other cases, the court only has one judge" (GlobaLex Aug. 2015). In correspondence with the Research Directorate, in a follow-up to a telephone interview, an Iranian human rights lawyer indicated that the Revolutionary Courts "follow both the criminal procedure code and the Islamic penal code in all cases [for which the Revolutionary Courts have] jurisdiction, such as crimes against the state, *moharebeh* and 'corruption on earth'. Those are capital crimes" (Lawyer 28 Feb. 2020).

According to the MECS, the "official procedures" of the Iranian Revolutionary Courts are as follows:

- i. The prosecution court is responsible for gathering information and issuing indictments. The court should then issue a summons to the defendant and explain why they have been summoned, in addition to the date and time of

their attendance. At this stage, usually, the defendant will be arrested under "temporary arrest" proceedings.

- ii. The prosecution court will then send the case to the [R]evolutionary [C]ourt, deciding which branch should deal with the case. Then, the manager of the [R]evolutionary [C]ourt branch will issue a summons and tell the defendant the time and date of their required attendance.
- iii. Usually one judge has the responsibility of deciding on and issuing the verdict.
- iv. The last stage is the serving of the verdict to the defendant. (MECS 14 Feb. 2020)

However, sources indicate that Revolutionary Courts do not always issue summons (MECS 14 Feb. 2020; DRC and DIS of Denmark Feb. 2018, 6). The MECS also notes, that "in practi[c]e,"

the [R]evolutionary [C]ourts in Iran have different proceedings. In reality, the [R]evolutionary [C]ourts collaborate closely with the intelligence services and usually they do not issue a summons. In political cases, a defendant will be contacted by the telephone and asked to attend an interview. If the defendant does not obey, they may be arrested without any warrant. Moreover, in most cases, the judge acts as a figurehead and is told what verdict and sentence should be issued against the defendant. (MECS 14 Feb. 2020)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the Australian Department of Foreign Affairs and Trade (DFAT) country information report on Iran, the Revolutionary Courts

do not use juries, and trials are frequently closed to the public. The judges in the courts fulfil additional roles as prosecutors and mediators. The courts do not allow defence attorneys. Court orders issued by the Revolutionary Courts are final and binding in penal/criminal affairs in most cases, although in limited cases, the defendant has the right of appeal (including capital cases). (Australia 7 June 2018, para. 5.13)

Regarding the right of appeal, Amnesty International similarly states that

[t]he CCP [Code of Criminal Procedure] provides for the right to appeal to a higher tribunal, but the appeal proceedings, particularly before the Supreme Court, raise concerns. For instance, those convicted of crimes punishable by irreversible punishments, including the death penalty and amputation, have access to just one level of appeal conducted in writing. Even if the Supreme Court overturns the sentence, the case is then sent back to a court of first instance that could insist on reissuing the same verdict. Despite the failure of the new CCP to address these and other shortcomings of the right to appeal, it did significantly improve the appeal

process for those sentenced to death for drug-related offences as it repeals Article 32 of the Anti-Narcotics Law, which had effectively taken away the right to appeal for such individuals. (Amnesty International Feb. 2016, 13)

Sources indicate that in 2018, the Iran judiciary published a list of 20 state-approved lawyers who are the only ones who can representant defendants during the investigation phase in Tehran in national security cases (Human Rights Watch 17 Jan. 2019; Radio Farda 5 June 2018) and political cases (Radio Farda 5 June 2018). Human Rights Watch *World Report 2019* adds that there are no women or human rights lawyers included on the list (Human Rights Watch 17 Jan. 2019).

According to the lawyer, when gathering evidence, the police are often the preliminary investigators, but Ministry of Intelligence and IRGC agents will investigate higher profile cases (Lawyer 27 Feb. 2020). The lawyer indicated that a "common" method of gathering evidence for the Revolutionary Courts is "most often" through "non-physical torture," such as "emotional torture" and isolation, with the goal of producing a confession, as a confession is seen as the "most important" evidence in the Iranian legal system (Lawyer 27 Feb. 2020). The UN Special Rapporteur similarly reports that "no evidence other than confessions extracted through torture is considered for the imposition of a death sentence" in Revolutionary Courts (UN 14 Aug. 2017, para. 60).

4. Documents



Information on documents specifically issued by the Revolutionary Courts, including samples, could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. For information on the appearance of court summons and arrest warrants issued by the general court system in Iran, see Response to Information Request IRN200131 of March 2020.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.


Note

[1] Sources indicate that the Code of Criminal Procedure of the Islamic Republic of Iran came into force on 22 June 2015 (Austrian Red Cross Jan. 2019; Amnesty International Feb. 2016, 19), but that an English translation of the current version of the Code of Criminal Procedure could not be found (Austrian Red Cross Jan. 2019).

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Additional Sources Consulted

Oral sources: Academics (4) researching the Iranian judiciary; Center for Human Rights in Iran; Foundation for Democracy in Iran; Iran Human Rights Documentation Center; lawyers (3) who have practised in Iran.

Internet sites, including: BBC; Foreign Policy Centre; Freedom House; *The Guardian*; Radio Free Europe/Radio Liberty; Reuters; UK – Home Office; UN – Refworld; US – Department of the Treasury; *The Washington Post*.

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