



High Council for Human  
Rights of the  
Islamic Republic of Iran

# **Mohsen Shekari: A Report on Death penalty & Execution of Sentence**

**The High Council for Human Rights of The  
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(13 December 2022)**

*In the Name of GOD*

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## **Description of Committed Criminal Act**

Back on 25 September 2022, Mohsen Shekari blocked the Sattar Khan Street in the Iranian capital, Tehran, while wielding a machete and threatening people to join and accompany him. In continuation of his criminal actions, the foregoing person attacked a security officer with the machete, inflicted blows on his body, and hit his left shoulder, as a result of which it received 13 stitches. After hitting the security officer, the convict tried to escape but was finally arrested by the law enforcement officers.

Mohsen Shekari has confessed to having participated in the riots and said: “After finishing our work, together with Ali (my accomplice), we first went to the Vali-e-Asr square from the Narmak district. Since the area was not that crowded, we went to the Sattar Khan Street and closed the Behboudi Street intersection to the people. Ali told me to go and participate in the rallies. We went there on Ali’s motorcycle, and he gave me a machete in advance to hit the officers with it. Ali said he would pay me good money if I could beat an officer.”

As the main plaintiff in the case, the police officer who was hit with the machete said: “When we arrived there, there were more than 100 to 150 cars stuck in the traffic. We went a little further and saw two tall people standing at the Behboudi Street intersection, trying to block the street! One was wielding a machete and threatening people to cooperate with and accompany him. I got off the bike and approached the defendant. I asked him what he was doing. He attacked me and tried to hit me. He tried to hit me with a machete once but failed to do so. For the second time, he attacked and injured my shoulder.”

One of the witnesses also gave his account of the incident: “People were frightened. Nearly 150 cars were stuck in traffic, and no vehicle could move. The machete-wielding defendant was standing in the street and was not letting anyone get through.”

## **Judicial Proceedings & Full Observance of Right to Fair Trial**

The duty judge conducts the preliminary investigations. Based on preliminary judicial measures, the defendant admitted the purpose behind committing such a serious crime and revealed for what amount of money he did this.

A judicial case is sent to the competent court after the prosecutor's office and the prosecutor issue a writ of summons and a bill of indictment. And since many accusations were attributed to the defendant, the case was referred to a specialized tribunal (the Court of Revolution), where the proceedings began.

The defendant has enjoyed the right to have a lawyer from the very commencement of the proceedings, with his lawyer being present during all trial stages to represent and provide the necessary defense for him. The foregoing person was present in all the hearings and stated all his points and defenses. For instance, he confessed to having brandished *armes blanches* during the instance in question and injured the security officers for the purpose of creating fear and terror among people.

Finally, on the strength of the existing laws, his actions were recognized as an example of *moharebeh* (including terrorist crimes); therefore, he was handed the death sentence.

The abovenamed lodged an appeal, and the case was referred to the Supreme Court. Then, following a careful re-examination of the case, the pronounced judgment was upheld and signed off on for execution.

Therefore, all the principles of a fair trial, including jurisdictional issues, the presence of the defendant in the hearing, the right of defense, the right to counsel, the right to hear reasons and justifications provided by the accused, and the right to appeal have been carefully considered and respected.

## **Reasoning Behind Pronounced Verdict**

Be advised that Mohsen Shekari, after going through all the stages of judicial proceedings and observing the conditions and principles of a fair trial, was found guilty of "*moharebeh*". After holding the court sessions for the defendant, the preliminary verdict was issued on 20 November 2022 based on the irrefutable evidence of the case and the statements of the witnesses. Therefore, Mohsen Shekari, was sentenced to the death penalty on the charge of *moharebeh*. By virtue of the available evidence, the Court found Mohsen Shekari guilty of *moharebeh* for

brandishing a weapon with intent to kill, create terror and deprive people of freedom and security, as well as intentionally wounding an on-duty security officer with an *arme blanche*, blocking Tehran's Sattar Khan Street, and disturbing the order and security of the society. At this stage, after the defendant lodged an appeal, the case was sent to the Supreme Court for more detailed investigations. The Supreme Court ultimately approved the verdict after review. In response to the appeal filed for the defendant by his lawyer, the aforementioned Tribunal said: "The appeal lodged by the convict's lawyer against the issued verdict is unjustified. That is because the actions of the perpetrator, i.e., participating in the rioters, trying to block the street, threatening people with *armes blanches*, as well as clashing with security forces and injuring them with cold (clise combat weapons) weapons, are instances of *man-shahr-al-salah-la-khaf-al-nas*<sup>1</sup>, all of which attribute to *moharebeh*. The judgment has been pronounced in accordance with Sharia and legal standards. Therefore, the verdict is upheld and confirmed by virtue of Paragraph A of Article 469 of the Code of Criminal Procedure."

As explained many times by the Islamic Republic of Iran to international mechanisms, albeit *moharebeh* is a jurisprudential term, it actually refers to terrorist crimes; and, its literal meaning, which is enmity with or war against God, is under no circumstances whatsoever considered when issuing a verdict.

*Mohareb* literally means someone or those who disturb the security of society. As defined by Article 279 of the Islamic Penal Code: "*Moharebeh* is defined as drawing a weapon on the life, property or chastity of people or to cause terror as it creates the atmosphere of insecurity." If someone with a personal motive pulls a weapon at one or more specific people and his action has no public aspects, and when a person pulls a weapon at people but does not deprive them of security due to incapacity, the offender is not considered a *mohareb*.

Analogous to other crimes, the constituent elements of *moharebeh* are as follows:

- a) **Legal Element:** That is when the law has criminalized the crime, which means the legislator has set a penalty for wrongful acts and nonfeasance. As far as *moharebeh* is concerned, the legislator has explicitly determined the punishment therefor in Article 282 of the Islamic Penal Code and defined its punishment in Article 279 of the said Code.

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<sup>1</sup> It comes from *fiqh*, or Muslim jurisprudence, and means: the use of a weapon against people to scare them.

- b) **Material Element:** That is the physical behavior of the perpetrator, including the wrongful act, nonfeasance, conditions and circumstances. According to Iranian law, the criminal conduct in *moharebeh* is the act and physical behavior of the perpetrator, which is, pulling a weapon and getting people in trouble.
- c) **Spiritual or Psychological Element:** It includes malice, either general ill-intentions that prove the intentionality of the act committed by the perpetrator or particular malice, that is to achieve a specific objective. Concerning the committed crime in question, it includes creating insecurity, trying to foster an unsafe environment as well as causing harm.

As far as the present case is concerned, according to Note of Article 651 of the Islamic Penal Code, the weapon used by the foregoing person is among the weapons listed in the aforesaid Code (including different types of *armes blanches* such as machetes, swords, knives, and brass knuckles). According to the law, brandishing a weapon is well enough to be considered *moharebeh*. It is not that a person has to be killed so that *moharebeh* is perpetrated. Anyone who strikes fear into the hearts of people and creates terror in society is considered a *mohareb*. As far as *moharebeh* is concerned, there is no need to harm someone with a weapon; as soon as the weapon is brandished, the material element of the aforesaid criminal act has been fulfilled. Moreover, according to the confessions made by the defendant and the available evidence, in addition to the public aspect of the malice held by the foregoing person, his particular ill-intention has also been proven. As a result, the spiritual or psychological element of the crime has also been realized. Finally, considering the determination of punishment for *moharebeh* on the strength of Article 279 of the Islamic Penal Code, the crime's legal element can therefore be identified.

### **Most Serious Crimes Defined by International Standards**

Concerning the right to life, Paragraph 2 of Article 6 of the International Covenant on Civil and Political Rights states: "In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court."

Therefore, according to the International Covenant on Civil and Political Rights, the death penalty has not been declared absolutely prohibited, and it is permitted if the following conditions are met:

- The death penalty shall be limited to the “most serious crimes”;
- Conviction and punishment for serious crimes shall be based upon the law at the time of committing the offense;
- The aforementioned laws shall not be in contradiction with the said Covenant and the Convention on the Prevention and Punishment of the Crime of Genocide; and
- The death sentence shall be a definitive verdict issued by a competent court.

With regards to the compliance of the aforementioned conditions with the present case, be advised that according to the explanations provided, the offense committed by Mohsen Shekari is considered one of the examples of terrorist crimes in a way that had endangered the lives of people and jeopardized public order and security. Few international lawyers and experts would disagree with the fact that terrorist crimes are among the instances of “the most serious crimes”. The second condition referred to in Paragraph 2 of Article 6 of the aforesaid Covenant regarding the application of punishment based upon the law at the time of committing the offense has been fully observed in the case in question. The sentence prescribed for *moharebeh* was issued on the strength of the provisions of Articles 279 and 282 of the Islamic Penal Code. Under no circumstances whatsoever does the judgment conflict with other provisions of the International Covenant on Civil and Political Rights and the Convention on the Prevention and Punishment of the Crime of Genocide. On the other hand, the fourth condition regarding the issuance of the judgment by the competent court, as explained hereinabove, has been strictly observed in this case.

Therefore, based upon the explanations provided hereinabove, it can be concluded that the judgment pronounced against Mohsen Shekari and the execution of his punishment are both in full compliance with the laws and regulations of the Islamic Republic of Iran as well as the Country’s international obligations, including those under the International Covenant on Civil and Political Rights.

