



The Situation of *Kolbaran* in Kurdistan of Iran



**Association for Human Rights in Kurdistan of Iran-
Geneva (KMMK-G)**

Annual Report on extra-judicial Killings of Kurdish citizens in 2019

February 2020



I. Introduction and Methodology

This report provides background on the situation of *Kolbaran* in Iranian Kurdistan. *Kolbaran* are border couriers who transport goods across the Iran-Iraq border, often, but not always, as part of the informal economy. *Kolbaran* is mainly practiced in the Kurdish-region of Iran where poverty and economic disparity are among the highest in the country. Although *Kolbaran* face myriads of challenges and human rights violations on a daily basis, this report will specifically focus on the extrajudicial killings of these individuals by Iranian security and military forces. The report specifically focuses on the period between January 1 and December 31, 2019 during which at least 276 *Kolbaran* (i.e., border couriers) were killed or injured.

As the Iranian authorities refuse to provide accurate official data on the number both casualties and killings of **Kolbaran** and the causes of their death, KMMK-G collected and verified up-to-date information in the following ways:

- a) conducted interviews with family members of the victims
- b) conducted interviews with the lawyers of the victims
- c) contacted and received information from various on-the-ground institution, local networks, as well as informants within authorities and governmental entities
- d) monitored the Islamic Republic's official statements, state media and publications
- e) received information from informal news agencies
- f) partnering with the Human Rights Section of Kurdpa News Agency

II. Context

Kolbar is a term used by Kurdish citizens in Iranian Kurdistan. *Kolbar* which literally translates into “back porter”, is used for individuals who are employed to carry goods between the borders of Iran and Iraq. They are generally referred to as “border couriers” in English media. In Kurdish, they are also sometimes referred to as *koila* which literally means “slave”.

In order to make a living and help their families, *Kolbaran* resort to carrying goods on their backs, or on the backs of horses or mules, across borders. *Kolbar* operate both legally and illegally. The *Kolbaran* are estimated to be around 84,000 people. Their wages are estimated at about 10 USD for each successful border crossing. *Kolbaran* are among the most economically deprived citizens in the country.

Under the Islamic Republic, the Iranian Kurdistan has been plagued by high rates of unemployment, poverty, underinvestment, and negligence. Moreover, the region contaminated by landmines and explosive remnants of the Iran-Iraq war (1980-1988). These challenges seriously hamper the daily life of civilians, particularly farmers, nomads, shepherds and traders. As a result, Kurdish youth and farmers from four provinces of Kermashan (Kermanshah in Farsi), Sine (Kordistan in Farsi), Ilam and Wermé (Urumiyeh and West Azerbaijan in Farsi) transport of commodities, such as tea, tobacco and fuel to from Iraqi Kurdistan to Iran.

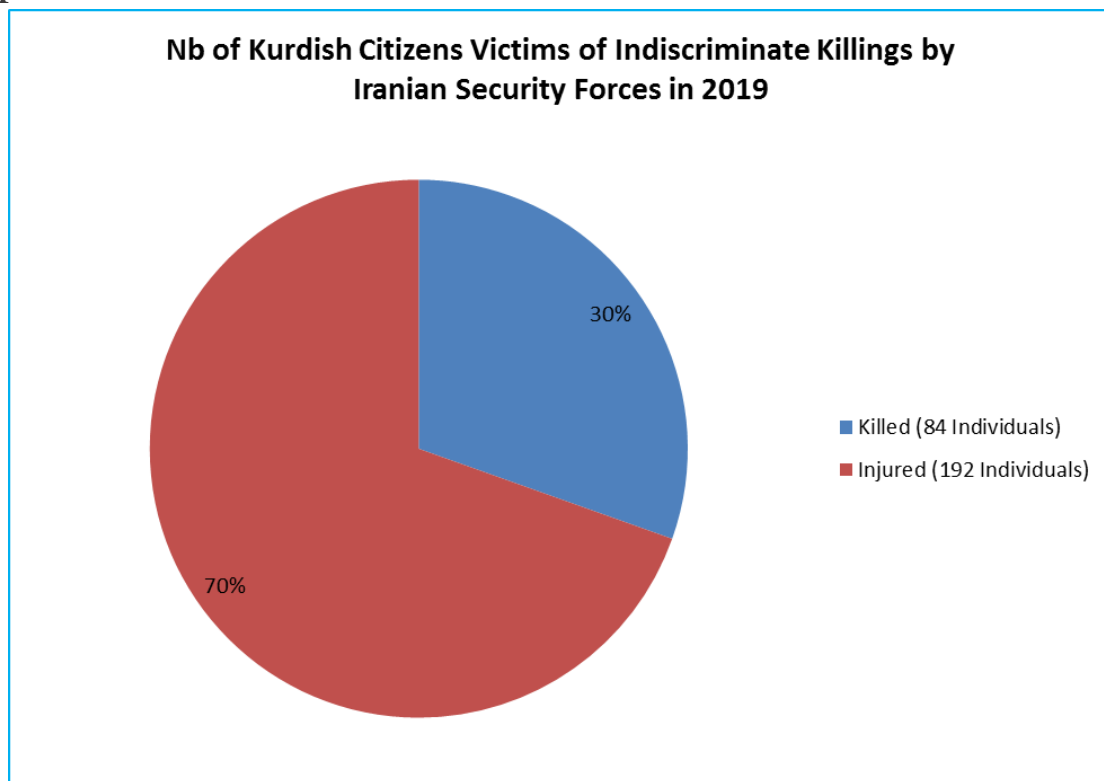
Not only is the job of *Kolbaran* extremely difficult and dangerous by its nature, strategies and policies adopted by the state to deal with them further endanger their lives. For example, the government securitizes Kurds and the Kurdistan, introducing and creating an image of Kurds as security threats to the state and its interest, justifying state violence and exclusionary policies and further impacting, the life and work of *Kolbaran* and their families. In other words, the *Kolbaris'* phenomenon is engendered by securitization strategies of the Islamic Republic of Iran in Iranian Kurdistan and it reflects normalcy of the precarity of Kurdish life and state-sponsored violence against the Kurdish people and it's a direct outcome of the state's exclusionary policy in Kurdistan.



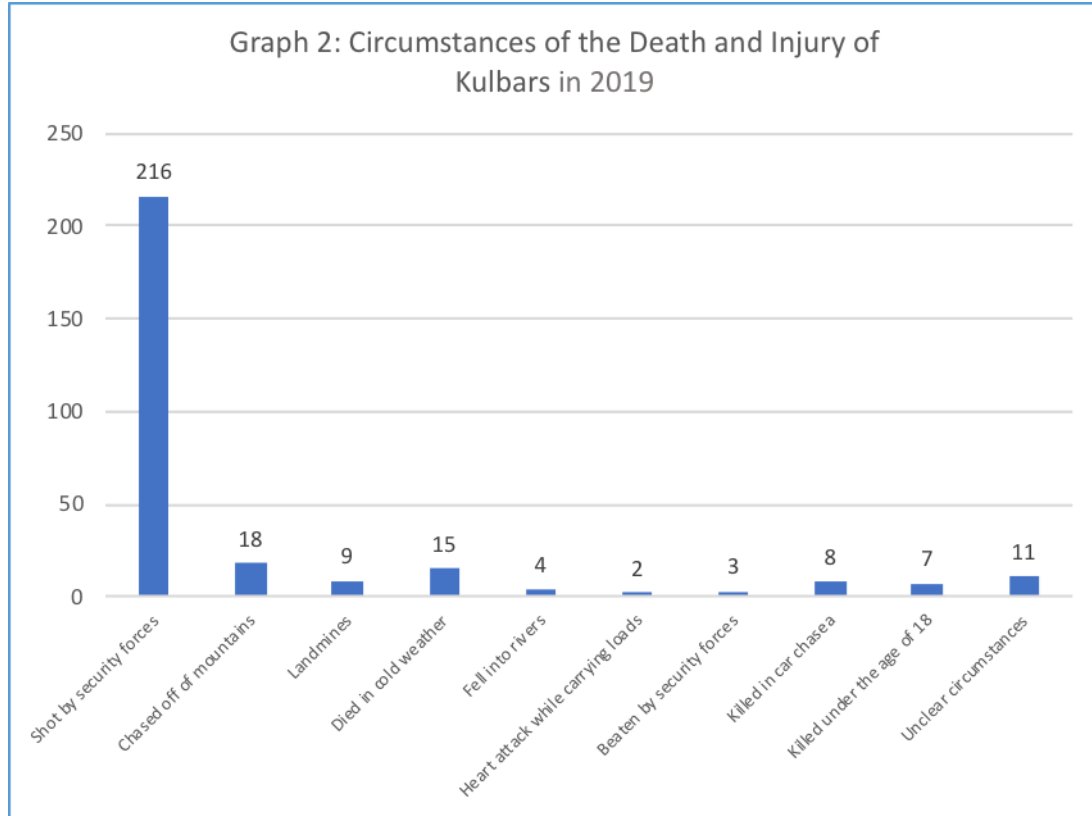
III. Findings

In 2019, KMMK-G has received reports of the indiscriminate and extra-judicial killings of 276 *Kolbaran* (SEE Graph 1). Of this number, 216 were victims of direct shootings of the security forces of the Islamic Republic of Iran, of which 84 died and 192 were wounded. Eighteen of this number died after falling from the mountains when they were followed by Iranian security forces. Nine died or were injured as a result of stepping on landmines. Fifteen died due to the cold weather conditions and snowy roads. Four fell off mountains into rivers. Two died due to heart attacks while carrying heavy goods. Three were wounded after being beaten by security forces and eight were killed or injured after being chased and targeted in their cars by security forces. It should be mentioned that seven who were killed by Iranian security forces were under the age of 18 (SEE Graph 2).

Graphic N° 1



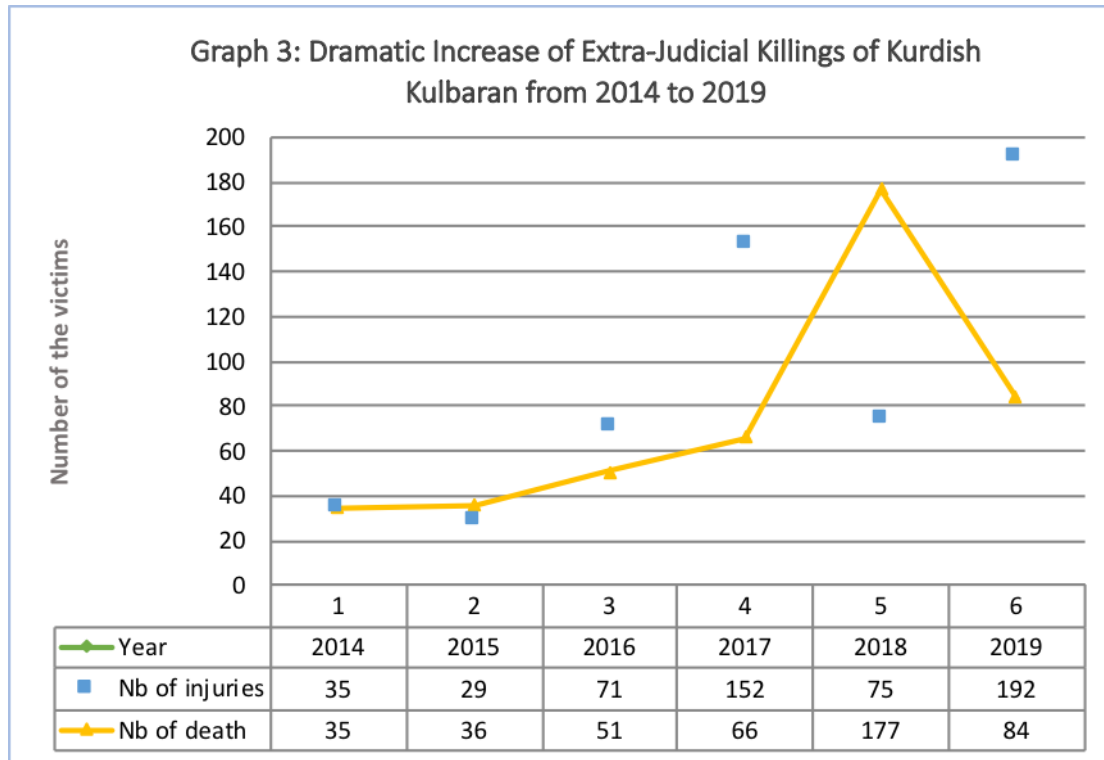
Graphic N° 2



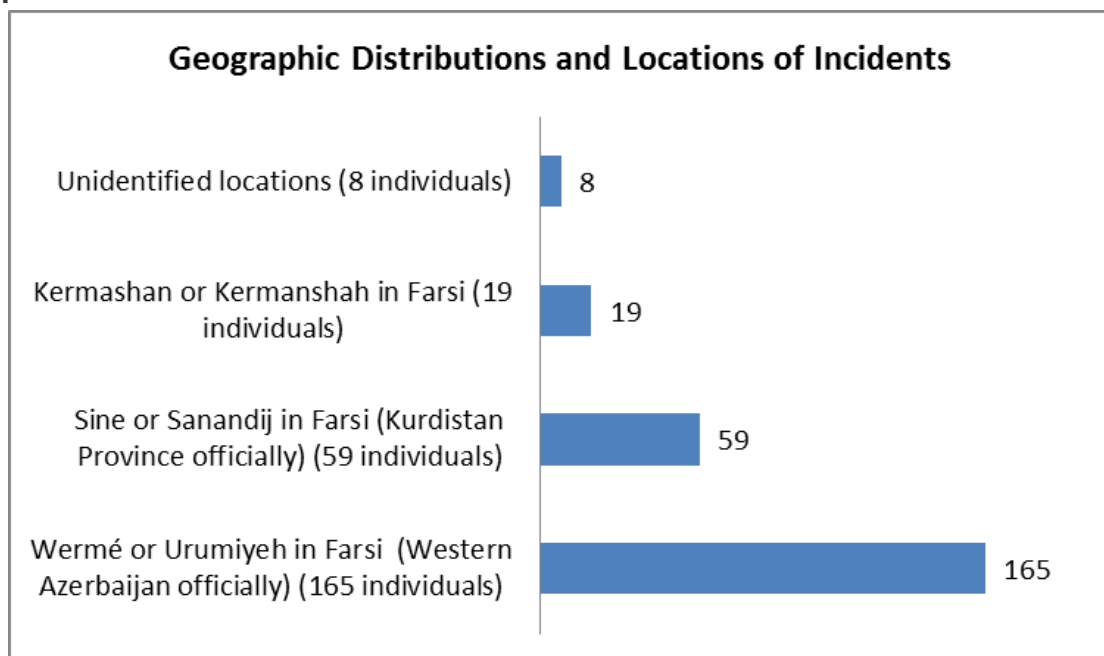
Between 2014 to 2019, the extra-judicial executions of Kurdish *Kolbaran* dramatically increased. While in 2014, the total number of the victims (injured or killed) was 70, by 2019 the annual number increased to 276 victims. The numbers of Kurdish citizens have been the victim of shooting has increased by five times. During the past 6 years, 554 *Kolbaran* were injured and 449 others were killed bringing the total number of victims to 1003 (SEE Graph 3). Most of the victims are from Wermé also called Urumiyeh (SEE Graph 4).



Graphic N° 3



Graphic N° 4





IV. Legal Issues

The indiscriminate killings of Kurdish *Kolbaran* takes place in blatant violation of Iran's domestic laws and international obligations. Below is a review of the domestic law considerations.

Is the job of a *Kolbar* considered a crime?

There is no specific law and regulations concerning the job of a *Kolbar*, still licenses to work as a *Kolbar* are distributed to Kurds who live within 15 kilometers of the border. More often than not, those who are desperate for work do not live within the licensing area, so they purchase the right of the permit by giving 60% of their earning to the permit holder and often left much less than their 40% share.

Given the lack of law and regulations concerning the *Kolbaran*, their work and activities are not regulated by work health and safety standards. However, the lack of regulation and law on this job does not give the authorization to security forces to shoot or kill them.

Occasionally, mostly during election periods, politicians and government officials make promises regarding ameliorating the situation of *Kolbaran* and ensuring their safety. Such promises, however, are forgotten after election times.

Iranian Law on the use of Lethal Weapons

It would be worthwhile to examine under which law the government sees itself authorizes to shoot at *Kolbaran*. Article 1 of the "Law on the use of lethal weapon by armed forces in case of necessity" justifies the use of weapons by armed forces for the purpose of 1) establishing order and stability, 2) preventing the escape of an accused or an offender, and 3) executing judicial decisions or other assigned missions.¹ Thus, the right to use a weapon should be permitted only in exceptional cases as set out above and not for any other purposes.

Article 2 establishes that the holding of a weapon by an armed officer is conditional on good mental and physical health of the person holding the arm, relevant training of the agent, having mastered the use of arms, and familiarity with the law and the use of lethal arm.

Article 3 of the makes clear that the armed agents may only use weapons in a restricted way only in the following 10 situations:

- 1) Protection of the life of individuals under attack,
- 2) Defending against armed assailants/attackers,
- 3) Defending oneself against unarmed assailants/attackers provided that such defence is not possible without the use of weapons,
- 4) Arrests of thieves, blocking roads,
- 5) Stopping prisoners or escaping prisoners,
- 6) Protection of military bases,
- 7) Protection of weapons under possession,
- 8) Protection of places under cover,
- 9) Preventing and confronting individuals who intend to cross the unauthorized country borders points and do not pay heed to warrants of armed forces,
- 10) Protection of military and security equipment and establishments.

¹ <https://rc.majlis.ir/fa/law/show/92500>



Furthermore, Note 9 to Article 3 of the same law authorizes the use of lethal weapons for the purpose of preventing and confront individuals who intend to cross the unauthorized country borders points and do not pay heed to warrants of armed forces.

Furthermore, according to paragraph 1 of Article 2 of “Law on the use of lethal weapons by armed and security forces in case of necessity”, if the armed forces are forced to use weapons in one of the 10 situations described above, prior warning must be given to the target before a weapon is used. Moreover, Note 3 further adds the criteria that the armed forces should “Have no choice but to use a weapon” and should this criterion be met, they must take the following steps only proceeding to the next step if needed:

- 1) fire in the air,
- 2) shoot at the lower body,
- 3) shoot at the upper body.

Similarly, Article 7 states that in case of the use of weapons, armed forces should target the foot of the target and ensure that their shots do not cause death or injury to third parties who are not involved. Based on the Note to the Article, armed forces are responsible for taking care of the injured person and transferring him to a medical centre as soon as possible. This note intends to protect the lives of individuals even when armed forces are authorized to use lethal weapons. Indeed, according to the Law, there is no justification for the use of lethal weapons against *Kolbaran* and instead of using violence against them, agents can easily stop them at the border, confiscate their goods or take legal action against them. Killing innocent human beings is against both Sharia and civil laws and the priority must be given to the protecting the lives of human beings.

However, in practice, the vast majority of *Kolbaran* are shot dead from a short distance within the country's borders without meeting the above-mentioned conditions and criteria under the law (such as receiving warning or warning shots).

The by-law² of Note 5 to Article 3 of The Law, established a “Commission of Incidents” for the purpose of examining the implementation of the laws on the ground. Regrettably, most of the decisions rendered by the Commission were not in favour of *Kuobaran*. In most of its decisions, the Commission declares that *Kolbaran* put their own life at risk through their work, therefore, the Commission considers it just and fair to kill them through the use of arms. In effect, the decision stated as the job is risky and dangerous; the government authorized the use of weapon to kill them. In fact, they cause their own deaths by putting themselves in such situation. This is while the only aim of *Kolbaran* is earning a living and not to get killed.

The members of the “Commission of Incidents” are composed of representatives of the Protection, Inspection and Legal departments of the Intelligence Ministry. Their decisions are not legally binding but are rather seen as a report on the issue by the Intelligence Ministry. These reports do not constitute an expert legal opinion which can be drawn on as evidence for judicial decisions in court. It is not mandatory for the courts to follow the Commission’s conclusion. Nonetheless, many courts have and continue to rely on the Commission reports to justify their decisions. It should be noted that an expert opinion is only reliable where it is issued by an independent individual or body.

Additionally, Article 41 of the Penal Code of the Armed Forces states “Any military personnel who, during mission, deliberately shoots a person in contradiction to the law, shall pay a compensation in addition to three months to one-year imprisonment”. In case of murder or injury and harm, in addition to the above-mentioned punishment, he will be sentenced to *Qesas* (i.e., death) or blood money (i.e., monetary retribution) or compensation. However, although this punishment is set out, where a violation has occurred, in practice the blood money is not paid by the officer but by the

² <https://rc.mailis.ir/fa/law/show/122165>



state insurance fund. If their act is the subject of Article 612 and 614 of the Islamic Criminal Code,³ they will be sentenced to punishments according to those articles.

According to Note 2 of Article 41, if the shooting is carried out in accordance with the rules, but it becomes established that the injured or killed subject was innocent, the military personnel will be exempt from punishment and payment of blood money and damages,⁴ which will be paid from the governmental insurance fund.

An obvious disproportionate disparity between crime and punishment has been repeatedly observed in relation to Kurdish *Kolbaran* who have often been targeted even before they were proven guilty. The key point is that even if a *Kolbar* committed a crime, the proportionate act would not be to take his life and kill him. The decision regarding the punishment meted out to an individual who is seen to have broken a law should only be taken in the courts of law. It is especially important for institutional bodies and government sponsored forces to observe this fact.

According to Article 28 of the Islamic Penal Code, in certain circumstances, the punishment given to the offender may be reduced. These include when certain circumstances, such as an existence of a noble motive in the commission of the crime, affected the decision of the individual to carry out an act that is in contradiction of the law. Therefore, based on this article, even if the work of a *Kolbar* is considered a crime, as the act is carried out due to their economic disparity and poverty and in order to make a living, the punishment handed out to him should be minimum or mitigated.

Furthermore, according to Article 1 of the “Penal Code for violators of the Economic System of the Country”, smuggling for the purpose of damaging the economy of the state is a crime which, if proven to meet the legal requirement for the charge of “corruption on earth” may be punishable by death. However, even under this article, the work of a *Kolbar* cannot be considered to undermine or damage the economics of the country as the goods carried by the workers is of small amounts intended to meet minimum economic means. In fact, *Kolbaran* do not intend to attack the Islamic Republic of Iran or attempt to oppose it or knowingly take effective action against it.

Therefore, instead, the Government should focus on increasing funding, job creation and clearing the landmines in the region which hamper the life of farmers.

V. Conclusion

Faced with high unemployment rates and threats to traditional farming activities as a result of landmine contamination, many Kurds turn to smuggling goods and commodities such as tea, tobacco and fuel across the border. However, efforts by Iranian officials to tighten border security have resulted in hundreds of deaths or injuries to *Kolbaran* over the years, as border patrols have taken a ‘shoot first, ask questions later’ approach to security enforcement. This is while *Kolbaran* have rarely been found to have been carrying illicit goods.

Kolbaran often resort to this painstaking task as a last resort when they have found no other means of supporting their families. The government is blamed for lack of financial investment and efforts to increase employment in the region. The Iranian government’s complex relationship with and treatment of its minorities is coupled with aggressive measure to address illegal transfer of goods from neighbouring countries to Iran, further worsening the situation for *Kolbaran*.

Despite the fact that the Supreme Leader proclaimed that *Kolbaran*⁵ should not be considered smugglers due to the comparably small amount they carry compared to large containers of illegal goods transported by smugglers, *Kolbaran*

³ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103202/125190/F-2020626636/penal%20code.pdf>

⁴ An offender is the person who commits or deliberately commits acts or violations that are prohibited under the laws and regulations of the subject, such as the law on the use of weapons, and that the legislator permits officers to comply with the law and regulations when they commit such acts.

⁵ www.aparat.com/v/u05EO/%D8%B3%D8%AE%D9%86%D8%A7%D9%86%D8%B1%D9%87%D8%A8%D8%B1%D8%A7%D9%86%D9%82%D9%84%D8%A7%D8%A8%D8%AF%D8%B1%D8%AE%D8%B5%D9%88%D8%B5%D8%A8%D8%B1%D8%AE%D9%88%D8%B1%D8%AF%D8%A8%D8%A7%DA%A9%D9%88%D9%84%D8%A8%D8%B1%D9%87%D8%A7



are often shot at by border patrol. When they are not dodging bullets from soldiers who shoot at them indiscriminately, they are avoiding landmines, trying not to freeze to death, all the while being crushed by their heavy loads.

Indeed, the current Iranian legal framework is not sufficient for addressing the issue of *Kolbaran* in terms of jobs security, jobs regulation and work safety. In addition, the law that does exist on the use of weapons – Law on the use of lethal weapons by armed and security forces in case of necessity” is not properly implemented on the ground by armed forces, the government or courts who are meant to hold them accountable. In the existing legal framework, there are some aspects which could potentially provide more protection for *Kolbaran* but often they are not implemented by the boarder grads and the security forces. Indeed, armed forces are not properly trained and informed about the law and the possible consequences and punishments for lack of adherence to it are neither emphasized to armed forces nor is implemented in cases of its violation. Thus, as, in practice, there are no consequences for non-adherence to the law, armed forces are left free to violate its provisions with absolute impunity.

Furthermore, the Commission of Incidents which sends its opinions and reports to courts consist of agents from the Ministry of Intelligence itself which is a government entity and thus biased towards its decisions. In fact, as has been outlined in this report, in the vast majority of cases, they have not decided in favour of *Kolbaran*, showing their lack of impartiality. Thus, in order to ameliorate the situation of *Kolbaran*, courts should not rely on the opinion and reports of the Commission for making judicial decisions regarding *Kolbaran*.

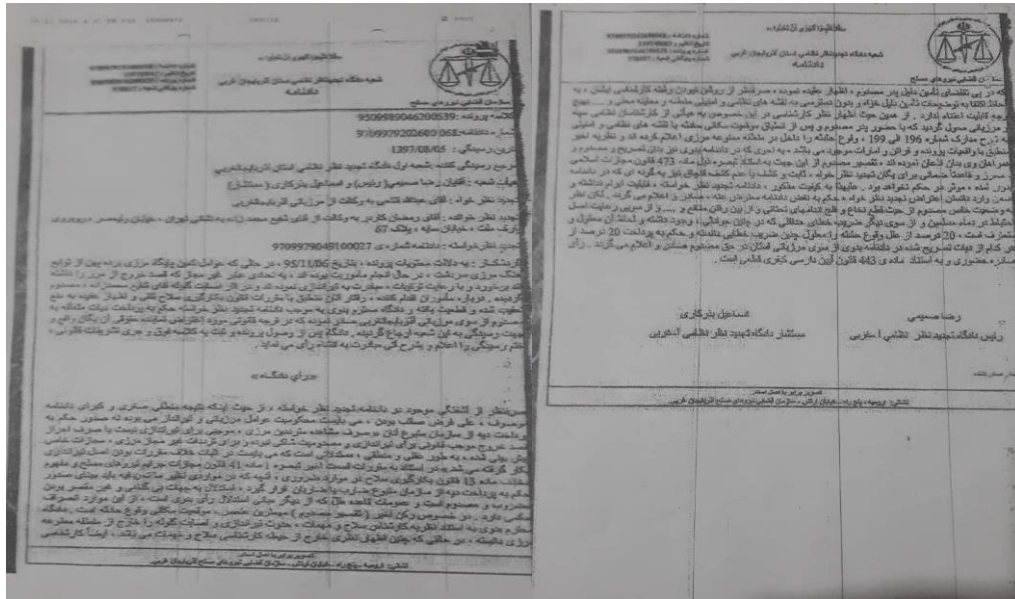
This leaves us with a simple question, when article 28 of the Iranian constitution states that the government is responsible for creating employment in all regions of Iran, why have they neglected this region and left it to such despair that individuals have to put their lives at risk in order to feed their families. And why, when they have to resort to such difficult work due to the government’s lack of effort and attention to their region, they are further placed under pressure by being shot and killed by the government itself? Indeed, this can only be caused by a deep seeded prejudice.

VI. *Kolbar Case Studies*

Court case of Shafee’e Mohammadzadeh

Shafee’e Mohammadzadeh, a *Kolbar*, was 27 years old when he was hit in the back by the Islamic Revolutionary Guard Corps (IRCG) forces at the Urumyieh border in 2017. He was consequently paralyzed. A lawyer took his case to the Razayee Military Court and requested compensation. In a rare situation, the local Rezayee Court accepted full compensation to be paid to the victim. However, the IRCG made an appeal against the court decision and the case was submitted to IRCG Military Court in western Azerbaijan (Wermé or Urumiyeh in Farsi). The IRCG Court further referred the case to an IRCG Commission to investigate the shooting and this commission produced a report for the Appeal Court which declared that the *Kolbar* was guilty as he was found in an authorized border region. The Appeal Court basing its decision on IRCG Commission report, thus, decided to reduce the compensation to the victim to only 20% namely to 1/5 of the original compensation.

Therefore, the IRCG can many times act as both law enforcement and a judge and a law, which can lead to biased decisions which are not taken based on a just implementation of the law.



(Verdict in Mohammadzadeh case)



Farhad and Azad Khorswai

The tragic death of Farhad and Khosraw from a Kurdish poor family from Mariwan who were only 14 and 17 years old in the mountains of “Tah tah” in Uramanat in Iranian Kurdistan provoked a wave of protest in Kurdistan and media coverage. First, the body of the older brother Khosraw was found on December 17th, 2019. After three days of intense search of hundreds of local people from Mariwan, the body of the younger brother Farhad was also found under snow next to the main road to Mariwan from the mountains. Hundreds of the inhabitants of Mariwan accompanied the body of Farhad to the cemetery with holding a bread in their hands in a sign of protest and chanting that Farhad died for bread”.

A photo of Farhad taken after his death, frozen, mouth half opened and with a directed hand and closed fist, went viral on social media and provoked the anger of the wider nation indicating that Farhad died for bread.





Loghman Wahid

Loghman Wahid a *Kolbar* from Shin Abad who stepped on landmines in December 2018 stated in social media that he wanted to sell his kidney in order to pay his eye surgery. His request for assistance to the commission for landmines and war unexploded remnants was rejected. His request was rejected based on the Article 2 of the landmines' commission declaring that he wasn't eligible for assistance and he had also to pay a fine because he crossed the border without authorization. It is worth mentioning, that after his publication on social media, he could gather 13 million Tomans from people for his eye surgery.





National athletes that are Kulbar

Mehdi Khosrawi, a 20 years old boxer and member of national boxing team, posted a photo of him while doing *Kolbari* [Being a *Kolbar*], created a huge media controversy in the country. The story of Mehdi Khosrawi, a 20-year-old Kurdish resident of Kani Dinar from Mariwan, and a member of the Iranian Youth Boxing Team and candidate for Asian cup, stated in an interview: “I started boxing at age 15 and I was invited to the Iranian Youth Boxing Team in 2018. Because of poor financial conditions, I was forced to work as a *Kolbar*. If the weather is snowy, I will go twice in a week to the Tah Tah Houraman for carrying items.” Mehdi Khosrawi responded to the words of the Kurdistan Boxing Board secretary who had denied his porting, saying: “I am working as a porter since 15 because of poor financial conditions.” There are many Kurdish athletes like Khosrawi in Iran.





Taha Ghafari, a 26-year-old, is Iran's champion in track and field and has also received medals in Asia, told the state-run "Fars News" in a recent interview: "*Kolbari* is not a profession. It is an obligation to feed your family and sustain their livelihood." Taha Ghaffari is yet still working as a *Kolbar* in Iranian Kurdistan (Mariwan) in order to support his family. Ghafari by posting a picture of him while carrying goods as *Kolbar*, made also a huge controversy in social media. During an interview with TASNIM news agency, Mr. Ghafari declared: "the conditions of a *Kolbar* is extremely difficult and dangerous and I do this job because there is no other work opportunity for me. Every day, over 5 hours, I carry 50 to 80 kilos of items such as cloths for 160 thousands Tomans. *Kolbaran*' work is a dangerous and life-threatening work, you carry goods in 2500 meters high mountains, imagining it is difficult and think of doing it in real." He also declared that he was lucky that he is not killed yet by security forces shootings. Ghafari is owner of more than 50 medals in different marathon competitions.





Anshar Sayadniazi

Anshar Sayadniazi was only 15 years old when he lost his life. Afshar was from a poor family from Mariwan and he was forced to work as a *Kolbar* to earn a living and support his family. On 14th of March 2019, after being chased by the Iranian security forces, he fell down from Tata mountain in Uraman Takht, a highly risky mountainous path and died.





Ata Dadgustar

Ata Dadgustar, 41 years old, a famous Kurdish artist and painter from Mariwan, who is disabled (lives with one hand), resorted to *Kolbari* and carries items from Iraqi Kurdistan to Iranian Kurdistan in order to earn a living and feed his family. The photos of the Kurdish artist Ata Dadgustar provoked outrage among Kurdish intellectuals and media. Hundreds of Kurdish intellectuals made an open statement demanding the people to help him.





Aziz Hassanpour

Aziz Hassanpour, a Kurdish *Kolbar*, 44 years old, from Kani Rash village from Sheno (Ashnavia in Farsi) was killed on Sunday evening on 11th of August 2019 in the border region of Sheno while porting items. He was killed by the Islamic Revolutionary Guard Corps (IRGC) forces in the border.



Reza Ibrahimi

Reza Ibrahimi, a Kurdish *Kolbar*, from Safia village of Khuy town (West Azerbaijan province) was killed by direct shooting of IRGC in Aland border region on Saturday 10th of August 2019.





Ismail Sawchinajad

Mr. Ismail Sawchinajad a 16-years-old Kurdish *Kolbar*, from Mariwan, was killed by direct shooting of IRGC forces in the border region of Qamishle on 8th of August 2019.

Fagher Abdullahi

Mr. Fagher Abdullahi son of Saeed, 25 years old, from Piranshahr, was killed by IRCG forces of Nilan border region of Piranshahr.



Beryagi Ibrahimzadeh

Mr. Beryagi Ibrahimzadeh son of Khezr, a Kurdish *Kolbar* from Gulan village of Sardasht, was killed on 15 July 2019 in Sardasht border region by border security forces.





Mansour Gerja

Mr. Mansour Gerja son of Mohammad, a Kurdish *Kolbar* from Kani Zard village from Sardasht, was killed by Iranian border security force on 14th of July 2019. Mansour was freshly married.



Yunis Altun

Mr. Yunis Altun son of Omar, a 26-years-old Kurdish *Kolbar* from Nimanche village of Piranshahr, was killed by IRGC forces on 4th July 2019 in Ziwya & Mashkan border region.





Goran Azizadeh

Mr. Goran Azizadeh son of Hussein, a Kurdish *Kolbar* from Hanneh Grimala village from Nushah town was killed by IRGC border forces on 3rd July 2019. His companion and mate Mr. Asir Shahpasandi son of Sabri (left in the picture) was also seriously wounded in the same shooting.



Extrajudicial Confiscation of Property and Killing of Horses

Moreover, authorities arrested a significant number of *Kolbaran* in the first eight months of 2019, confiscating their goods. In addition, 2800 horses belonging to Kurdish *Kolbaran* were confiscated and 562 of them were also shot dead.





About KMMK-G

The Association for Human Rights in Kurdistan of Iran - Geneva (KMMK-G) was established in 2006 to promote democracy, respect for human rights, and social development in and beyond Iranian Kurdistan. KMMK-G strives to serve as a bridge between the Kurdish and Iranian civil society on the one hand and the United Nations agencies and International institutions on the other. Since its inception, KMMK-G has actively participated in every session of the UN Human Rights Council and other relevant UN human rights mechanisms, including the Forum on Minority Issues. Over the years, the Association has frequently submitted reports on human rights situation in Iran's Kurdistan to various UN treaty bodies and in various UN Committees' meetings. KMMK-G has regular media outreach to Kurdish and Persian media and sponsors cultural events for the Kurdish community in Europe.

As a part of its advocacy efforts, KMMK-G is hosting regularly panels and seminars in Human Rights Council sessions in Geneva and as well as at the Swiss and EU Parliaments to promote the rights of ethnic groups in Iran. Recently, the group partnered with Geneva Graduate University and Impact Iran to organize a workshop on the rights of Iran's ethnic groups and also a panel at Human Rights Council with the participation of the UN Special Rapporteur for Iran and Madam Shirin Ebadi the Peace Nobel Laureate.

KMMK-G prepares annual human rights in Kurdistan of Iran reports, and provides detailed annexes of data collected to the office of the Special Rapporteur on the situation of human rights in Iran, as well as other relevant entities along with its annual reports. Click here for its www.kmmk-ge.org.