

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

19 December 2013

Index: MDE 13/057/2013

Iran: Charter of Citizens' Rights must enshrine human rights for all

A draft Iranian human rights charter being consulted on this month by the Office of the President should be amended to address major gaps in the protection of human rights, Amnesty International urged today.

The organization has written to the President's Deputy on Legal Affairs to welcome the initiative, but called on the authorities to address provisions of the draft Charter of Citizens' Rights that undermine tenets of international human rights law, such as non-discrimination and the right to life, and to strengthen others prohibiting torture or guaranteeing freedom of expression, which are currently restricted by the inclusion of vaguely worded phrases such as "within the framework of the law".

Amnesty International believes that the Charter – as currently drafted – risks being a missed opportunity, as much of it merely repeats existing provisions of Iranian law related to freedom of thought and expression, freedom of the press, the right to access information, the right to work under equitable conditions, the right to form trade unions, the right to education and the right to health. Instead the Charter should serve as a powerful instrument for the protection of human rights and signal a real departure from a past marred by recurring human rights violations.

Amnesty International also considers that any such charter should not be limited to citizens alone and should instead recognize and safeguard the human rights of all persons, in accordance with Iran's obligations under international human rights law.

The right to life

Article 3.1 of the draft Charter states that "[a]ll citizens have the right to life. No one can be deprived of their right to life unless on the basis of the ruling of a competent court and following proceedings in line with fair trial principles." An exception is made for the death penalty, which, under Iranian laws such as the Islamic Penal Code, can be imposed for a wide range of offences, including some which do not meet the threshold of "the most serious crimes" under international standards. The provision also does not prohibit the imposition or execution of death sentences against persons under the age of 18 at the time they committed their alleged crimes, a recurring practice in Iran that violates international law.

Amnesty International believes that the continued use of the death penalty is violative of the right to life as proclaimed in the Universal Declaration of Human Rights. Further, the use of the death penalty for crimes which do not meet the threshold of the most serious crimes amounts to arbitrary deprivation of life; a violation of Iran's obligations as a state party to the International Covenant on Civil and Political Rights.

Amnesty International calls on the Iranian authorities to amend Article 3.1 of the draft Charter and fully guarantee the right to life by abolishing the death penalty.

The prohibition against torture

The draft Charter fails to provide for the absolute prohibition of torture and other ill-treatment. Article 3.92, which is identical to Article 38 of the Constitution, prohibits torture but does not provide any definition for it and restricts the prohibition to when it is “for the purpose of extracting confession or acquiring information”.

Amnesty International calls on the authorities to amend all Iranian legislation, including the draft Charter, to provide for a definition of torture in line with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The amendments should explicitly prohibit corporal punishments; specify that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, nor any order from a superior official or officer, justify any such act; and guarantee that no information of any kind obtained through torture or other cruel, inhuman or degrading treatment may be admitted in evidence in any proceedings of any nature.

Freedom of expression, association and assembly

Articles 3.11 to 3.20 of the draft Charter provide for the right to freedom of opinion and expression, freedom of the press, and the right to access information. In a similar way to the Constitution and other national legislation, however, these provisions, limit such rights with vaguely worded phrases such as “in the framework of law” and “in accordance with the law”. For example, Article 3.16 states “the government will respect freedom of the press and publications within the framework of the law... provided that they do not contravene the basis of Islam and public laws”. Such vaguely worded and ill-defined phrases render the rights to freedom of expression, association and assembly susceptible to abuses and prevent the full enjoyment of these rights.

Amnesty International urges the authorities to ensure that the rights to freedom of expression, association and peaceful assembly are fully protected by making all Iranian laws consistent with the International Covenant on Civil and Political Rights, in particular Articles 19, 21 and 22. Any restrictions to such rights should only be such as are provided by law and are demonstrably necessary in a democratic society for the protection of national security or of public order, public health or morals or the rights or reputations of others.

Non-discrimination

In a positive development, Article 3.101 of the draft Charter explicitly provides for women’s access to higher education without any discrimination. However, the draft Charter fails to challenge the deeply rooted discrimination in Iranian laws against women and religious minorities by its repeated references to existing legislation. For instance, Article 3.62 prohibits discrimination regarding the right to work only when it is based on “illegal motives and reasons”. Article 3.99 of the draft Charter asserts that the government must respect women’s rights, but limits this obligation by adding the phrase “in accordance with the existing legislation”, which includes discriminatory provisions with respect to, among other matters, marriage, divorce, inheritance, child custody, and weight of testimony.

In addition, the draft Charter continues to allow for discrimination against members of the Baha’i religious faith as it does not provide any safeguards for religious minorities that are not recognized under the Constitution. According to Article 13 of Iran’s Constitution the only recognized religious minorities are Christians, Jews and Zoroastrians.

Amnesty International calls on the authorities to amend or abolish all laws that discriminate on the basis of race, colour, religion, ethnicity, birth, sex, sexual orientation, gender identity, political or other opinion, national or social origin, property, or other status and ensure that the draft Charter explicitly guarantees equality and non-discrimination for all.

Background on Charter

The first draft of the Charter of Citizens' Rights was released on the website of the Office of the President on 26 November 2013. The Office of the President asked the general public, lawyers, academics, NGOs and others to send their feedback and comments to the President's Deputy on Legal Affairs within a month.

The draft Charter of Citizens' Rights comprises three chapters containing 15 articles. Chapter 1 outlines general principles. Article 1 asserts that the Charter's provisions will not affect the existing rights and obligations under national laws and international treaties to which Iran is a party. Note 1 to the Article states that "this Charter has been drafted with the aim of collecting, identifying, and declaring citizen's rights". Chapter 2 classifies "the most important citizens' rights" whose fulfilment the government will prioritize over others and Chapter 3 provides for the supervisory bodies mandated with overseeing the implementation of the Charter.

In August 2013, in advance of President Hassan Rouhani's inauguration, Amnesty International sent a detailed public memorandum entitled *Iran: Human rights agenda for change* to the Iranian government and judiciary officials. The document suggested ways in which the authorities could bring their laws and practices into line with its international human rights obligations. Amnesty International is urging the authorities to adopt such an approach in amending the current draft Charter.

Public Document

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