

# IRAN

## SUBMISSION TO THE HUMAN RIGHTS COMMITTEE

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## INTRODUCTION

This briefing is submitted to the Human Rights Committee ahead of its consideration of Iran's third periodic report on its implementation of the International Covenant on Civil and Political Rights (ICCPR or the Covenant).<sup>1</sup>

As the Committee has already received several briefings by other NGOs, many of which mirror some of Amnesty International's own concerns, this briefing aims to highlight only certain egregious violations of the Covenant and includes some of Amnesty International's key recommendations to the Iranian government.

The Iranian authorities have not permitted Amnesty International to visit Iran since April 1979. Despite this, the organization has continued to monitor and document serious human rights violations in Iran. The organization has published numerous reports on the 18 years since the HRC considered Iran's second periodic report detailing extrajudicial executions and other unlawful killings; arbitrary arrests and detentions, sometimes in conditions amounting to enforced disappearance; torture and other ill-treatment, including the use of torturous and cruel punishments; unfair trials; and the extensive application of the death penalty, including against juvenile offenders and for crimes such as adultery and vaguely worded non-violent political "offences" that do not meet the criteria of "most serious crimes", as well as the use of stoning as a method of execution. Amnesty International has also documented discrimination and other abuses against women and members of certain ethnic and religious minorities, and serious violations of the rights to movement, freedom of belief, expression, assembly and association.<sup>2</sup>

Although Amnesty International welcomes the fact that the Islamic Republic of Iran has submitted its third periodic report, finally allowing scrutiny of its implementation of the Covenant by the Committee after 18 years, the organization regrets Iran's patchy record of cooperation with UN human rights mechanisms. Despite a standing invitation to all thematic mechanisms issued in 2002, coinciding with the abolition of the previous mandate of a Special Rapporteur on the Human Rights Situation in Iran, no special rapporteur has been allowed to visit since August 2005, shortly after President Ahmadinejad was first elected to office. Amnesty International understands that the UN High Commissioner for Human Rights has accepted an invitation to visit the country subject to agreement on a date. The organisation is however concerned at statements by Iranian officials that the new Special Rapporteur on the human rights situation in Iran, who took up his post in August 2011, will not be permitted to visit the country in his official capacity.

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<sup>1</sup> The briefing largely follows the structure of the *List of issues to be taken up in connection with the consideration of the third periodic report of Iran* (CCPR/C/IRN/3), UN Doc. CCPR/C/IRN/Q/3, 17 May 2011 (List of issues) with references to specific questions on the list where relevant. The list of issues as well as the *Third periodic report of Iran*, UN Doc. CCPR /C/IRN/3, 31 May 2010), are available at: <http://www2.ohchr.org/english/bodies/hrc/hracs103.htm>.

<sup>2</sup> Most of the organization's reports published since 1993 are available in chronological order at <http://www.amnesty.org/en/region/iran>.

**Amnesty International has called on the Iranian authorities to cooperate fully with all UN human rights mechanisms, including by allowing the Special Rapporteur on the human rights situation in Iran to conduct fact-finding missions to Iran.**

## **CONSTITUTIONAL AND LEGAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED (ARTICLE 2)**

Paragraph 1 of the list of issues<sup>3</sup> questions whether the provisions of the Covenant have been invoked before Iran's domestic courts. In this connection, Amnesty International notes that Article 9 of the Civil Code provides the following: "Treaty provisions which have been, in accordance with the Constitutional Law, concluded between the Iranian Government and other governments, shall have the force of law". This is not mentioned in Iran's state report, however, and it is unclear whether the judiciary considers the Covenant's provisions as part of Iranian legislation. Iran ratified the ICCPR in 1976, before the establishment of the Islamic Republic of Iran, but the Iranian authorities have not sought to change its status within the domestic legal order. One defence lawyer told Amnesty International that she feared to refer to the provisions of the Covenant in court because of a perception that judges would view this as "monarchist" or "anti-Islamic", to the detriment of her client.

The Committee questions "how article 4 of the Constitution (requiring that all civil, penal, financial, economic, administrative, cultural, military, political and other laws and regulations are based on Islamic criteria) is consistent with the provisions of the Covenant". In Amnesty International's assessment, the Iranian authorities interpret this Article and other "claw back" articles of the Iranian Constitution<sup>4</sup> to qualify rights guaranteed under the Covenant, and also interpret Islamic law in such a way as to provide the legal pretext for the violation of several Covenant rights. In particular, the Iranian authorities' interpretation of the requirements of Islamic law under these Constitutional provisions leads to discrimination in law against ethnic and religious minorities, women, and the lesbian, gay, bisexual and transgender (LGBT) community, as well as against those whose political opinions differ from those in the ruling establishment. This interpretation of Islamic law also permits the imposition of punishments amounting to torture, the use of the death penalty for many "offences" which do not constitute "the most serious crimes" under Article 6(2) of the Covenant, and for torturous methods of execution such as stoning. In other cases, the authorities fail to uphold even the limited Constitutional human rights safeguards leading to serious violations of Covenant rights in practice.

**Amnesty International continues to call on the Iranian authorities to ensure that Iranian law and its implementation are fully consistent with international human rights law in general, and the Covenant in particular.**

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<sup>3</sup> List of issues to be taken up in connection with the consideration of the third periodic report of Iran (CCPR/C/IRN/3)

<sup>4</sup> See for example, Articles 20,21,24,26, 27,28,72,168 and 175.



In addition to the above information concerning the specific issues raised in question 1 of the list of issues, Amnesty International would like to draw the attention of the Committee also to the following information relevant to the general framework within which the Covenant is implemented.

#### THE HUMAN RIGHTS HEADQUARTERS

The Committee has made clear in its General Comment 31 that “[a]dministrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies. National human rights institutions, endowed with appropriate powers, can contribute to this end.”<sup>5</sup>

The Human Rights Headquarters, referred to in paragraphs 153-156 of Iran’s report, is now known as the High Council for Human Rights. In 2007, its statute was changed and it has become a “national coordinating and policy-making institution in the field of human rights”<sup>6</sup>. during the 2010 UPR process Iran accepted recommendations both to establish an NHRI in full compliance with the Paris Principles, and to explore the possibility of seeking the accreditation of the High Council for Human Rights as Iran’s NHRI.<sup>7</sup> In paragraph 66 of its report to the UPR, Iran stated that the establishment of the National Human Rights Institution of the Islamic Republic of Iran was a national priority, and that relevant legislation was being drafted by the High Council for Human Rights, but Amnesty International is not aware of any such draft legislation yet having been submitted to parliament.

The HCHR’s current composition is such that it is not independent of the government or compatible with the Paris Principles; almost all current HCHR members are government or judicial officials. The HCHR’s lack of independence is evident from its website. While this refers to the serious abuses committed at the Kahrizak detention centre, generally it fails to reflect or address human rights violations in Iran and is mostly concerned with human rights in countries other than Iran or defending Iran’s record on human rights. Where cases in Iran are cited– such as that of Sakineh Mohammadi Ashtiani - whose sentence to death by stoning received wide international attention in 2010 – the HCHR role is limited to describing the judicial process and denying that human rights violations occurred.<sup>8</sup>

#### THE ISLAMIC CONSULTATIVE ASSEMBLY (PARLIAMENT)

The state report gives extensive information over the structure and functions of the Judiciary, but gives very little information concerning the powers of the parliament to legislate for

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<sup>5</sup> Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 15.

<sup>6</sup> National Report Submitted In Accordance With Paragraph 15 (A) Of The Annex To Human Rights Council Resolution 5/1: Islamic Republic of Iran, UN Doc. A/HRC/WG.6/7/IRN/1, 18 November 2009, para. 65.

<sup>7</sup> Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran, UN Doc.A/HRC/14/12, 15 March 2010, recommendations 10 and 11.

<sup>8</sup> See the HCHR statement on her case at <http://www.humanrights-iran.ir/news-17228.aspx>.

greater protection of human rights, and to investigate human rights violations. Independent public scrutiny of the government and state officials by elected representatives is an important function in any country.

The Article 90 Committee of the parliament is empowered to receive complaints by individual citizens, under Article 90 of the Constitution which states: "Whoever has a complaint concerning the work of the Assembly or the executive power or the judicial power can forward his complaint in writing to the Assembly. The Assembly must investigate his complaint and give a satisfactory reply. In cases where the complaint relates to the executive or the judiciary, the Assembly must demand proper investigation in the matter and an adequate explanation from them, and announce the results within a reasonable time. In cases where the subject of the complaint is of the public interest, the reply must be made public." The Committee has no real enforcement power, and its value lies in its public reporting function.

The Article 90 Committee, in the period of the sixth Majles (2000-2004), did seek to investigate violations of the human rights of students detained after the student protests in 1999 and journalists arrested after the crackdown on press freedom which began in 2000.<sup>9</sup> It also issued a strongly critical report on the role of the judiciary in the cover-up over the 2003 death in custody of Iranian-Canadian photojournalist Zahra Kazemi.

However, many sitting MPs were disqualified from standing in the subsequent parliamentary election, and subsequent parliaments appear to have been much less inclined to challenge human rights violations. The post-election unrest of 2009 was not investigated by the Article 90 Committee, but by a special parliamentary committee set up for the purpose. As described in the section on freedom of expression below, members of parliament may face arrest, and imprisonment if they dare to speak out. Also, fears have been raised that a new draft law introduced into parliament in April 2011 will, if passed, further undermine the ability of parliamentarians to investigate and criticise governmental and official actions.

#### IMPUNITY

Amnesty International is concerned that both law and practice in Iran contribute to pervasive impunity for human rights abuses, including those by non-state actors, which particularly affects individuals from certain social groups.

There are several laws which contribute to impunity, which have been dealt with in other submissions to the Committee, such as the provisions exempting those committing intentional murder from punishment if the judge in the case can be persuaded that the victim was "*mahdour al-damm*" (deserving of death – Question 8), and provisions which allow a husband (but not a wife) to kill his spouse with impunity if he suspects her of adultery with another man, unless she was under duress (Question 4)<sup>10</sup>, or which prevent

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<sup>9</sup> In April 2001 the Article 90 Committee stated that it would launch a probe into the judiciary, primarily in order to investigate the "startling numbers of reformist writers and journalists who were in prison." The Head of Tehran's Judiciary fiercely criticised the intervention, but subsequently authorized the investigation. See "Justice official retracts himself, authorizes probe into judicial system," Payvand Iran News, 11 April 2011, <http://www.payvand.com/news/01/apr/1037.html>.

<sup>10</sup> Article 630 of the Penal Code.

fathers and paternal grandfathers from being sentenced to *qesas* (retribution) for the murder of their children or grandchildren.<sup>11</sup>

Amnesty International also considers that the entire system of *qesas* may be discriminatory, as those with access to money who are convicted of crimes of personal injury or killing may find it easier to meet a demand for *diyeh* (blood money) from their victim, or his or her family, although Amnesty International has received reports that a state body has been set up to help with the payment of *diyeh* by persons who cannot afford it. If *diyeh* is paid, the perpetrator is either released or, in some cases, is sentenced to a prison term under Articles 612 (relating to murder) or 614 of the Penal Code (relating to intentional injury), which provide for imprisonment for offences in cases where there is no plaintiff or if *qesas* is impracticable, or if the plaintiff has granted pardon, and if the crime “disturbed public order or the protection and security of society or incites others”. In some cases, victims or their families have stated<sup>12</sup> that they are unwilling to forego their right to physical retribution because they feel that if they accept compensation, the perpetrator will either be released immediately or receive a relatively short prison term if these articles apply.

In addition to these laws which can provide impunity for abuses by private individuals, the past 18 years have also been littered with cases where state officials have enjoyed impunity for serious human rights violations, despite the existence of laws under which perpetrators could have been brought to justice. These include the 1988 “prison massacre” in which at least 4,500 - 5,000 political prisoners are believed to have been summarily executed; extra-judicial executions and enforced disappearances of dissidents both in Iran and abroad; a pattern of unnecessary or excessive use of force against demonstrators which has all too frequently led to deaths; deaths in custody, from torture or failure to provide adequate medical care; and torture or other ill-treatment more generally.

**Amnesty International continues to call on the Iranian authorities to establish independent and impartial bodies to investigate allegations of human rights violations promptly, thoroughly and effectively, and to provide reparations to victims and affected families in accordance with international law standards.**

## **NON-DISCRIMINATION AND EQUAL RIGHTS OF MEN AND WOMEN (ARTICLES 2, 3 AND 26)**

### **DISCRIMINATION AGAINST WOMEN IN LAW AND PRACTICE (QUESTIONS 2-4)**

Although the Iranian authorities have made great strides in extending education to girls and women since 1993 (over 60% of all university entrants are now women), during the same period women in Iran have remained subject to discrimination under the law, which is compounded by the prevailing patriarchal culture. In addition to the wide range of areas of

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<sup>11</sup> Article 220 of the Penal Code.

<sup>12</sup> See for example an interview with Mohammad Rahmat, the son of a murder victim, Mojtaba Samienezad, “RAHANA Interviews Son of Victim in the Case of Mohammad Reza Haddadi”, 5 July 2011, at <http://persian2english.com/?p=12505>.

discrimination already indicated in the list of issues<sup>13</sup> discrimination manifests itself in that in some circumstances, the testimony in court of a woman carries only half the evidential weight of that of a man, or even that women cannot testify alone in court.

Women's rights defenders who are seeking an end to discrimination against women in law, such as those associated with the One Million Signatures Campaign, a grassroots movement which aims to collect a million signatures of Iranians demanding an end to discrimination in law, have also been singled out for harassment and arrest. At least seven women's rights defenders, most associated with the campaign, were held at the time of writing.

Women and girls are also more likely to be imprisoned for having sex outside marriage because the discriminatory legislation regarding marriage gives men the right to four permanent wives and any number of temporary ones, whereas women can only have one husband at any one time. In December 2010, Ali Rostami, the Head of the Tehran Reformation and Rehabilitation Centre which houses prisoners under the age of 18 said that 32 girls were held at the Centre, most of whom were held for "illicit relations".<sup>14</sup> This echoes the findings of the UN Special Rapporteur on violence against women, its causes and consequences, who stated in her 2006 report that she had received numerous reports of women on the death row, sentenced mainly for "sexually or morally oriented offences such as adultery". At the time of her visit in 2005, there were 397 women in Evin Prison, 200 of whom were sentenced for "moral crimes", some awaiting execution.<sup>15</sup>

The last year has seen proposals by the authorities to implement gender segregation in institutions of higher learning, for which the norm in recent years has been to have mixed gender courses. President Ahmadinejad was reported in July 2011 to have asked the Ministry of Science, Research, and Technology (MSRT) to stop current gender segregation plans, but it is not clear whether he has the authority to enforce this request, as the Supreme Leader is the head of state and appears to be supporting these proposals. In August 2011 it was reported that 20 universities would be restricting certain courses to one gender of students only.<sup>16</sup> Later the same month, the Ministry of Education issued a directive banning mixed-gender classes in pre-schools, in most cases.<sup>17</sup> Schools in Iran are already gender-segregated.

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<sup>13</sup> On 11 April 2009, Dr Abbas Ali Kadkhodaei, the Spokesman of the Council of Guardians, said that there is "no legal restraint" to the candidacy of women, although other officials disagreed with this interpretation. All women who registered to stand for the 2009 election were subsequently disqualified.

<sup>14</sup> See "Afzayesh do barabari-ye zendanian-e Kanoun-e Eslah va Tariyat-e Tehran", Hamshahri Online, 1 December 2009, <http://www.hamshahrionline.ir/news-122080.aspx>.

<sup>15</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Addendum: Mission to the Islamic Republic of Iran, UN Doc. E/CN.4/2006/61/Add.3, 27 January 2006, para. 41.

<sup>16</sup> See "Gender segregation underway in 20 Iranian universities", Radio Zamaneh, 8 July 2011, <http://radiozamaneh.com/english/content/gender-segregation-underway-20-iranian-universities>.

<sup>17</sup> See "Iran To Extend Gender Segregation To Preschools", Radio Free Europe/Radio Liberty, 23 August 2011, [http://www.rferl.org/content/iran\\_separates\\_sexes\\_in\\_preschool/24305334.html](http://www.rferl.org/content/iran_separates_sexes_in_preschool/24305334.html).

Gender segregation in universities raises concerns about whether women and men will continue to enjoy access to the same quality of higher education. These measures, coupled with reports of quotas restricting women's admission to specific university programs, and requirements for unmarried women to study as near to their hometowns as possible, appears to indicate that women are facing increasing discrimination in their access to education.

#### THE FAMILY PROTECTION BILL

Amnesty International is also concerned about the draft Family Protection Bill, which remains before parliament pending final approval. The organization believes that in many instances the Bill either fails to remove existing discriminatory provisions against women or, in some cases, would exacerbate such discrimination. The Bill also fails to address problems of domestic violence.

Amnesty International's concerns regarding this Bill include discriminatory employment criteria in the proposed Family Courts which would result in some women having unequal access to employment; the compulsory use of conciliation procedures which might prevent the investigation and prosecution of violence within the family; and a number of discriminatory provisions relating to marriage, divorce, child custody, women's right to employment and some penal provisions envisaged by the draft law. The bill does not clarify the requirements over contracting and registering temporary marriages, nor does it include provisions to ensure that temporary marriage cannot be used to circumvent the prohibition on early and forced marriage.<sup>18</sup>

#### IMPOSITION OF DRESS CODE

Amnesty International considers the imposition of an enforced dress code, which is addressed in the state report in paragraph 229, to violate the rights to freedom of expression and of thought, conscience and religion.

Women and men appearing in public in Iran must adhere to a mandatory dress code which is enforced in law. Women's dress must be loose fitting and cover their heads, necks, arms and legs all year round. Women undertaking sporting activity in public must wear a coat and headscarf over a tracksuit. Head scarves must always be worn, including by Iranian women athletes abroad. The dress code has never been fully defined, and while many women wear traditional forms of dress, others have also chosen to interpret this code in other ways, which has left them at risk of harassment from police or other security forces including the volunteer Basij militia, particularly during summer crackdowns which have increased since the election of President Ahmadinejad in 2005.

Violations of the dress code are criminalized under Article 638 of the Islamic Penal Code which provides that anyone who offends public decency will be sentenced to imprisonment from 10 days to two months or to up to 74 lashes. A note added to this Article states that women who appear in public without Islamic covering will be sentenced to imprisonment from 10 days to two months or to a cash fine. Clothing shops in Iran must also ensure that

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<sup>18</sup> The Committee on the Rights of the Child (CRC) has urged the Iranian authorities to "take the necessary steps to prevent and combat forced, early and temporary marriages". CRC, Concluding observations: Iran (Islamic Republic of), 31 March 2005, UN Doc. CRC/C/15/Add.254. para.23.

the way they dress mannequins does not “offend public decency.” Shopkeepers who fail to do that can receive guidance notes, warnings, threats and even risk fines, flogging and loss of their business licence<sup>19</sup>.

Despite the claim in Iran’s report that “needless to say, this requirement [for women to cover themselves properly] is for presence in public, and people are free in their private space like their homes”, Amnesty International is aware of cases where individuals have been arrested and harassed for the way they have dressed in private spaces. For example, police raids on private parties have led to some of those present being arrested for “improper dress”. In addition, crackdowns on failure to adhere to the dress code are an annual fixture in the summer months, when thousands of women are arrested, usually facing reprimands or fines. The authorities have stepped up efforts in recent years to enforce the 2005 Law on Promoting the Culture of Chastity and Modesty, which has led some universities to threaten students who do not comply with the dress code with a ban on completing their studies.

**Nasrin Sotoudeh**, a prominent human rights lawyer, already serving an 11-year sentence for her peaceful human rights activities including her defence of clients, was tried in February 2011 for not adhering to the dress code in a video she made to accept a human rights award in Italy in 2008 in which she did not cover her hair. The Iranian authorities had banned her from leaving the country to accept the award in person. The video was made in her house and was not aired by her in Iran, but was posted on the internet.<sup>20</sup> She was eventually fined 500,000 rials.

At the time of writing, actress **Marzieh Vafamehr**, who has also produced documentary programmes, was held following her arrest in late June 2011. Her husband Nasser Taghvai, also a filmmaker, said that Marzieh Vafamehr had been contacted by telephone several times and told to report to judicial officials for questioning, although she never received a formal written summons. Nasser Taghvai said on 26 July 2011 that the case judge had told him that her arrest was related to her appearance in the film *My Tehran For Sale*, in which she appears in one scene without the mandatory head covering and appears to drink alcohol in another, although Nasser Taghvai denied she had actually drunk any alcohol. The consumption of alcohol is a criminal offence in Iran.<sup>21</sup>

#### RAPE AND OTHER SEXUAL VIOLENCE

Where women are subjected to violence or are stigmatized for not conforming with dress codes, they may be told that the blame for the attack lies with them. Blaming victims in this way is used to reinforce the purported legitimacy of restrictions on dress.

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<sup>19</sup> Eight clothes shops were sealed in Esfahan in June 2011, and warnings were issued to another 120 businesses over violations relating to the “obvious display of immorality”. BBC Monitoring Service, Vision of the Islamic Republic of Iran, Esfahan Provincial TV, Esfahan, 19 June 2011.

<sup>20</sup> See Amnesty International, *The Wire*, February/March 2011. Vol. 41, issue 001, Index: NWS 21/001/2011, 1 February 2011, <http://www.amnesty.org/en/library/info/NWS21/001/2011/en>.

<sup>21</sup> See *Iran: New arrests and convictions highlight ongoing repression of basic freedoms*, Index: MDE 13/069/2011, 28 July 2011, <http://www.amnesty.org/en/library/info/MDE13/069/2011/en>.

This has been dramatically illustrated by up to six high profile gang rape and other sexual assaults which have taken place in 2011. These have been followed by statements by officials attributing the blame to the attacked women for not adhering to the dress code or to the rules on gender segregation in public. Initial efforts of security forces to bring the perpetrators to justice were half hearted until a public outcry forced them into action.

In May 2011, 14 men are alleged to have raided a party in **Khomeini Shahr**, near the central city of Esfahan, locked the men present in one room, and raped all the women present. Afterwards, Colonel Hossein Hosseinzadeh, Chief of the Police Detectives Bureau in Esfahan, said, "*If the women at the party had worn their hijab properly, they might not have been sexually assaulted.*" Four men were later sentenced to death by hanging in public<sup>22</sup>.

The following month, reports emerged that another woman, **Monireh Kh.** had been gang-raped by more than 10 men in Ghoojd village near Kashmar on 22 April 2011. Mostafa Qoreishi, a Revolutionary Guards officer said in June, "*Nearly a month and a half ago the people of Ghoojd contacted [the security forces] and reported a gang rape in the fields outside their village. . . Basij forces were dispatched and they arrested a number of suspects, transferring them to the relevant precinct. But because the rape victim had been moved to another location by the rapists, there was no complaint [officially] lodged and the suspects were released.*" He went on to say that judicial officials had reprimanded the Basij forces for bringing in suspects in the absence of a complainant. He added that a few days later, after the victim received treatment for her injuries, she filed a complaint and "*as the case was about rape it was referred to the provincial criminal court in Mashhad. The prosecutor then sent police to the village of Ghoojd and they arrested some of the suspects and transferred them to Vakil Abad Prison in Mashhad.*"<sup>23</sup> The Friday Prayer Leader of Kashmar later said that the woman was also arrested, in addition to the perpetrators, which suggests that the authorities believed she had committed an offence.<sup>24</sup>

Women who lodge complaints of rape but are not able to prove their claims, could risk prosecution for false accusation of sexual relations outside marriage (*Qazf*, for which the penalty is flogging) and because there is no separate offence of rape, which is dealt with under the provisions prohibiting sexual relations outside marriage, women who cannot prove their claims could even be prosecuted themselves for "fornication" or "adultery" under these laws.

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<sup>22</sup> See "Matn-e kamel- ra'i-ye dadgah-e tajavoz-e garouhi dar Khomeini Shahr, Esfahan: Mahkomiati 4 nafar be 'edam dar mola-ye 'am", ISNA, 11 August 2011, <http://www.isna.ir/ISNA/NewsView.aspx?ID=News-1824733>

<sup>23</sup> See "Eteraz-e Imam Jom'eh-ye Kashmar be yek tajavoz-e garouhi dar roustaye Ghoojd", Khabar Online, 18 June 2011, <http://www.khabaronline.ir/news-157904.aspx>.

<sup>24</sup> See Radio Zamaneh, "Iranian judiciary to prosecute gang rape suspects", 19 June 2011, <http://www.radiozamaneh.com/english/content/iranian-judiciary-prosecute-gang-rape-suspects>.

**Amnesty International is calling on the Iranian authorities to:**

- **immediately and unconditionally release anyone held solely for freely and mutually agreed sexual relations and review all relevant legislation to ensure that no one may be held solely on such grounds;**
- **ensure that men and women have full equality in contracting marriage, and that no one should enter marriage except on the basis of his or her free choice and with his or her full agreement, including by raising the age of marriage for girls, and to equalize it with that of boys at an age at which they can be expected to express free and full agreement to marry and by prohibiting the practice of plural marriage in Iran;**
- **ensure there is complete clarity over the requirements for contracting and registering temporary marriages and to ensure that temporary marriage cannot be used to circumvent the prohibition on early and forced marriage;**
- **ensure that the laws provide for equal rights in law to men and women in initiating and obtaining a divorce and in divorce settlements;**
- **ensure that women and men have equal rights in decision-making regarding the future of their children at all ages, taking the best interest of the child as primary consideration, and that decisions regarding custody are taken in all cases by qualified individuals who are obliged to act in the best interests of the child and without discrimination;**
- **ensure that men and women enjoy equal access to employment and that wives cannot be prevented from seeking employment by their husbands.**
- **abolish nationally enforced dress codes which have a discriminatory impact on women and repeal all laws imposing requirements that individuals dress or do not dress in a certain way (unless the restrictions imposed are only such as are demonstrably necessary and proportionate for a legitimate purpose, as stipulated under international human rights law, and are not discriminatory) and to take effective measures to protect women from violence, threats, or coercion by family members, community or religious groups or leaders in order to compel them to wear particular forms of dress;**
- **revise the law to include a separate offence of rape in the Penal Code, which does not allow the imposition of the death penalty. This provision must be in line with current international criminal law provisions, in particular the Elements of Crimes of the International Criminal Court, and existing international human rights law and standards on equality and physical and mental autonomy. The criminal law should define rape and other forms of sexual violence as sexual conduct in any instance in which the agreement of the woman or girl involved is not truly and freely given. Freely given agreement is agreement without force, threat of force, or coercion of any kind. Prosecutors should be instructed to take cases forward even in the absence of a complaint by the individual concerned, if there is other evidence to indicate that a rape or act of sexual violence has occurred.**
- **ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and, in accordance with Article 5(a) of CEDAW, take measures to modify social and**



**cultural patterns of conduct of men and women, with a view to eliminating prejudices and practices based on the idea of the inferiority or the superiority of either sex or on stereotyped gender roles.**

## **DISCRIMINATION AGAINST LESBIAN, GAY, BISEXUAL AND TRANSGENDER INDIVIDUALS IN LAW AND PRACTICE (QUESTION 5)**

Lesbian, gay, bisexual and transgender (LGBT) individuals face harassment and persecution, cruel punishment of flogging or even the death penalty for same-sex sexual activities. Same-sex sexual activities are prohibited for both men and women under the Hodoud section of the Penal Code. LGBT individuals also face hostility from a society which is intolerant of sexual identities other than heterosexuality.

According to Articles 110 and 111 of the Iranian Penal Code, penetrative “sodomy” is punishable by death, although the method of execution is at the discretion of the judge. Non-penetrative sexual acts carry penalties of between 60 to 100 lashes, although if one of the two men is a non-Muslim and is deemed the active party, he could face execution (Articles 121, 123 and 124 of the Penal Code). Non-penetrative acts which are repeated on four occasions, having been punished on each occasion, will be subject to the death penalty on the fourth occasion (Article 122).

In January 2011, two members of the Kurdish minority, known only as **Ayoub and Mosleh**, were reported to be facing execution in Piranshahr, north-west Iran. They were alleged to have taken part in and filmed sexual acts between men. Amnesty International wrote to the Head of Iran's Judiciary in January 2011, seeking clarification of their current legal situation and urging him to prevent their execution if they have been sentenced to death. No response had been received by September 2011.

Three men, identified only as **"M. T.", "T. T." and "M. Ch."** were reportedly executed in Karoun Prison, Ahvaz in Khuzestan province on 4 September 2011 after conviction of “sodomy” under Article 108 and 110 of the Penal Code. The reports contained no allegation that they had committed rape.<sup>25</sup>

There is no separate offence of male rape. Article 111 of the Penal Code provides that “sodomy will result in execution provided both the active and passive parties are mature, sane and consenting”, with the presumption being that in the absence of these requirements, the individual would not be subject to prosecution for “sodomy”. Activists for the rights of LGBT persons believe that this has in some cases led to one party to consensual sexual activity claiming to have been raped in order to avoid execution.

**“Ehsan”** was arrested in 2008 at the age of 17 after a man brought a complaint against him and two other youths, alleging that the three had attempted to rape him. Reportedly tortured for almost a month, “Ehsan” “confessed” to the charges during interrogations, but later in court withdrew his “confession” and denied all charges. Fars General Court convicted “Ehsan” of “sodomy” (*lavat*), and sentenced him to death. Of the Court's five judges, one deemed “Ehsan” not guilty. The man who initially pressed charges withdrew his

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<sup>25</sup> See “Be etteham-e ghachagh-e movad-e mokhaddar va tajavoz be 'onf, 6 mahkoum dar زندان-e Karoun Ahvaz be dar-e mojazat avikhteh shodand”, ISNA, 4 September 2011, <http://isna.ir/isna/NewsView.aspx?ID=News-1839696>.

allegations against all three accused youths prior to the first trial. The death sentence was confirmed by Branch 13 of the Supreme Court in Tehran and once “Ehsan” turned 18, he was transferred from a juvenile detention centre to Adel Abad Prison in Shiraz, where he is believed to remain on death row although efforts are said to be underway to try to get his death sentence overturned.

**Makwan Moloudzadeh**, a member of the Kurdish minority in Iran, was hanged on 4 December 2007 in Kermanshah Central Prison after conviction of the rape of three other boys allegedly committed when he himself was only 13. His trial, held in the western cities of Kermanshah and Paveh, was grossly flawed. He withdrew his “confession” to having had a sexual relationship with a 14-year-old boy in 1999 in court, saying he had been tortured or otherwise ill-treated to make it. The complainants withdrew their accusations in the course of the trial, and said they had either lied or had been forced to lodge their complaints. No investigation of his allegations of ill-treatment, or of those made by the witnesses against him who alleged that they had been required to provide false testimony, is known to have been investigated by the trial court or other Iranian authorities. In sentencing Makwan Moloudzadeh to death, the judge relied on his own, personal “knowledge” of the case; on the basis of this, he determined that Makwan Moloudzadeh could be tried as an adult and that he had committed the alleged offence and sentenced him to death.

The conviction and sentence were confirmed by the Supreme Court about a month later. Makwan Moloudzadeh’s lawyer sought a judicial review of the case, and in November 2007, the Head of the Judiciary, Ayatollah Shahroudi, granted a temporary stay of execution pending a further review of the case. On or around 1 December 2007 this review appears to have found no fault with the verdict and sentence and Makwan Moloudzadeh was hanged three days later, even though his lawyer had not been given advance notice of his client’s execution, although this is required by Iranian law.

“Lesbianism” (sex between women with their sexual organs) is punishable by 100 lashes, or, on the fourth conviction, with execution (Articles 129 and 131). If two women “lie under the same cover without necessity” they will receive less than 100 lashes, and on the fourth occasion, 100 lashes (Article 134).

The LGBT community face harassment and arrest, as well as unwarranted interference in their private lives.

Eighty-seven people were reportedly arrested at a private party in Esfahan in May 2006, during the annual crackdown on “immoral behaviour”. Many were beaten, with some reported to have suffered broken bones. At least eight of those arrested were men believed to have been wearing clothes generally associated with women at the time of their arrest. A judge was reported as saying they would be charged with consumption of alcohol, and “homosexual conduct” (*hamjensgara*).<sup>26</sup> Of those originally arrested, 24 men were later tried for “facilitating immorality and sexual misconduct,” as well as “possessing and drinking alcohol”. In June 2007, an Esfahan court found 19 of them guilty of various combinations of these charges. Seventeen were sentenced to fines of 10 million to 50 million rials (US\$1,000-5,000) for “facilitating immorality and sexual misconduct” and at least four were sentenced to up to 80 lashes for drinking or providing alcoholic drinks. Five were acquitted of offences related to alcohol. The flogging sentences were later implemented.

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<sup>26</sup> See *Iran: Possible prisoners of conscience/Fear of torture or ill-treatment*, Index: MDE 13/057/2007, 18 May 2007, <http://www.amnesty.org/en/library/info/MDE13/057/2007/en> and *Iran: Further information on possible prisoners of conscience / fear of torture or ill-treatment: Up to 17 men*, Index: MDE 13/065/2007 6 June 2007, <http://www.amnesty.org/en/library/info/MDE13/065/2007/en>.

LGBT individuals also come under pressure from family members, friends, employers and others to conform to socially accepted norms. In some cases, women have even been killed by members of their families for having same-sex relationships. For example, a 17-year-old girl identified only as **Z.A.** was reportedly killed in Baneh on 26 February 2009 in an “honour killing” for such a relationship.<sup>27</sup>

Gender-reassignment surgery is legal in Iran, which does give an avenue for some transgender individuals to have their gender reassigned. In one case, it was reported that a woman called “Shaghayegh” petitioned the Family Court in Tehran to be allowed to marry “Ardeshir”, who had undergone gender reassignment surgery, as her father was refusing to give his permission.<sup>28</sup> However, it is also claimed that LGBT individuals can be pressured into such operations as they allow the authorities to maintain a polarised view of sexuality and gender. Those who do not fit into the normative views of heterosexuality are seen as “gender troubled” who either need to have their “troubles” dealt with by medical intervention, or, if they refuse to do so, are seen as criminally and morally perverted and therefore requiring punishment, including flogging or execution.<sup>29</sup>

**Amnesty International continues to call on the Iranian authorities to:**

- **repeal or amend all legislation which provides for or could result in the discrimination, prosecution and punishment of people solely for their sexual orientation or gender identity. This includes those laws which explicitly criminalize consensual sexual conduct between adults of same-sex or transgender individuals; public order legislation used as a pretext for prosecuting and punishing people solely for their sexual orientation or gender identity; and laws prohibiting the “spread of corruption” which can be used to imprison lesbian, gay, bisexual, same-sex practicing and transgender individuals and human rights defenders. It also includes any law that prohibits or criminalizes the expression of gender identity or expression, including through dress, speech or mannerisms. All such laws should be repealed or amended to put an end to imprisonment, punishments amounting to torture or the death penalty on account of their sexual orientation or freely and mutually agreed sexual activities. Anyone held solely on account of such activities or orientation should be released immediately and unconditionally.**
  
- **take all necessary legislative, administrative and other measures to eliminate and prohibit discrimination on the basis of sexual orientation, including with respect to access to employment, housing, education and health care, and to ensure that individuals of different sexual orientation or gender identity are protected from violence and social exclusion within the community.**

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<sup>27</sup> Accessed on 27 February 2009 at <http://insannorg.accounts.combell.net/Article.aspx?fld=Scout&id=106>. This link is no longer available.

<sup>28</sup> See “Movafeghat ba ezdevaj-e do dokhtar-e Irani ba yekdigar”, International Women and Family News Agency, 7 July 2010, <http://www.wafa.ir/ejtemaee/havades/1043.html> and Robert Tait, “Iran set to allow first transsexual marriage”, The Guardian, 11 September 2010 <http://www.guardian.co.uk/world/2009/sep/11/iran-transsexual-marriage>.

<sup>29</sup> See for example, Raha Bahreini, “From Perversion to Pathology: Discourses and Practices of Gender Policing in the Islamic Republic of Iran,” in Vol. 5(1) Muslim World Journal of Human Rights, (2008).

## DISCRIMINATION AGAINST MEMBERS OF RELIGIOUS AND ETHNIC MINORITIES (QUESTIONS 22 AND 33-34 ON ARTICLES 18 AND 27)

Despite constitutional guarantees of equality (see above for discussion of how these are limited in practice), religious<sup>30</sup> and ethnic minorities<sup>31</sup> (which often intersect) face widespread discrimination in law and practice. These include land and property confiscations, denial of employment and restrictions on social, cultural, linguistic rights (including adequate opportunities to learn their mother tongue and to have it used as a medium of instruction which the Azerbaijani community has been prominent in demanding in recent years) as well as religious freedoms, such as restrictions on communal prayers for Sunni Muslims, including on building mosques in large cities.<sup>32</sup>

**Mamosta Saifollah Hosseini**, a Sunni cleric from the Kurdish minority, was arrested in 2008 and sentenced to a prison term by the Special Court for the Clergy, followed by enforced residence in Esfahan province, far from his home, reportedly for having conducted “illegal” Friday prayers for Sunnis in the city of Javanrud. He was released in May 2011. He is a leader of the Maktab-e-Qur'an Movement of Kurdistan which opposes discrimination against the Kurdish minority.

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<sup>30</sup> Religious minorities in Iran include the Sunni Muslim, Jewish, Zoroastrian and various Christian communities, which are recognized under the Constitution, as well as unrecognized minorities such as the Baha'is, Ahl-e Haq and Mandaean communities. Some Shi'a Muslims such as Sufis or dervishes, or clerics and their followers who do not uphold the political concept of “velayat-e faqih” (the ideological basis of the Islamic Republic) also face persecution for their beliefs.

<sup>31</sup> Iran has a very diverse population, including, inter alia, Arabs, Armenians, Azerbaijanis, Baluch, Kurds, Turkmen, and nomadic groups, as well as a large number of refugees and migrants of whom Afghans are the largest population.

<sup>32</sup> For further information on the situation for various ethnic and religious minorities, see Amnesty International, *Iran: New government fails to address dire human rights situation*, Index: MDE 13/010/2006, 16 February 2006, <http://www.amnesty.org/en/library/info/MDE13/010/2006>, *Iran: Defending Minority Rights – The Ahwazi Arabs*, Index: MDE 13/056/2006, May 2006, <http://www.amnesty.org/en/library/info/MDE13/056/2006/en> and five associated appeal cases all from May 2006: *Iran: 11 Iranian Arab Men facing death sentences*, Index: MDE 13/051/2006; - *Iran: Death in Custody: The Case of Ali Batrani* (AI Index MDE 13/057/2006); *Iran: Unfair trials of Ahwazi Arab political prisoners* (AI Index MDE 13/058/2006, *Iran: Prisoners of Conscience: Four Ahwazi Arab Women and two children* (AI Index MDE 13/059/2006); and *Iran: Land Confiscation and Population Transfer: The Case of the Ahwazi Arabs* (AI Index MDE 13/060/2006); *Iran: Human Rights abuses against the Baluchi Minority*, Index MDE 13/104/2007, September 2007, <http://www.amnesty.org/en/library/info/MDE13/104/2007/en>, and *Iran: Human rights abuses against the Kurdish minority*, Index: MDE 13/088/2008, 30 July 2008, <http://www.amnesty.org/en/library/info/MDE13/088/2008/en>, as well as the entries on Iran in the annual Amnesty International Report.

Members of many ethnic and religious minorities are not permitted to run for some public offices, including the presidency<sup>33</sup>, under discriminatory selection criteria.<sup>34</sup> The UN Committee on the Elimination of Racial Discrimination (CERD) expressed concern in its 2010 concluding observations that the application of these selection criteria “may limit political participation for, inter alia, persons of Arab, Azeri, Balochi, Jewish, Armenian and Kurdish communities”.<sup>35</sup>

Political and human rights activists from these communities who advocate for greater respect and protection of the rights of their communities risk harassment, arbitrary arrest, torture or other ill-treatment, grossly unfair trials particularly before Revolutionary Courts, corporal punishment such as flogging and the death penalty, as well as restrictions on movement and denial of other civil rights.

Kurdish journalist and human rights defender **Mohammad Sadiq Kaboudvand** is serving an 10-year prison sentence after conviction of “acting against state security by establishing the Human Rights Organization of Kurdistan (HROK)”, which he founded. He is also facing the possibility of further imprisonment on other charges relating to his work.

In the case of some ethnic minorities, persecution by the authorities is linked to the existence of armed opposition groups and either wage armed attacks against the Iranian authorities, such as the Baluch armed group the People’s Resistance Movement of Iran (formerly known as Jondallah) and some Ahwazi Arab groups, or which claim to have desisted from armed struggle but reserve the right to fight the security forces in “self defence”, such as various Kurdish groups including the Party for a Free Life in Kurdistan (known by its Kurdish acronym PJAK), the Kurdistan Democratic Party of Iran (KDPI) and Komala.

Foreign nationals – of which Afghans are by far the biggest number, with over one million registered refugees<sup>36</sup> and at least two million irregular migrants<sup>37</sup> –also risk discrimination, particularly if they come into contact with the justice system. There are repeated reports of detained foreign nationals being denied access to consular assistance and being tried unfairly, including on charges which carry the death penalty. Over 5,000 Afghan nationals are reported to be in prison in Iran, the vast majority charged or convicted of drugs offences, around 280 of whom have been sentenced to death. Dozens of Afghans are believed to have been executed in recent years, mostly for drug trafficking. Given the serious shortcomings of

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<sup>33</sup> Article 115 of the Constitution.

<sup>34</sup> See Amnesty International, *Iran: Amnesty International’s concerns relevant to the 91st International Labour Conference* (Index: IOR 42/003/2003, 10 April 2003), <http://www.amnesty.org/en/library/info/IO42/003/2003/en>.

<sup>35</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Islamic Republic of Iran, UN Doc. CERD/C/IRN/CO18-19, 27 August 2010, para. 16.

<sup>36</sup> 2011 UNHCR country operations profile - Islamic Republic of Iran, UNHCR, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486f96&submit=GO>.

<sup>37</sup> See “Iran urges Afghan refugee resettlement”, Press TV, 5 November 2010, <http://www.presstv.ir/detail/149773.html>.

the judicial process in Iran (see the section on Article 14 below) Amnesty International believes that many, if not most, are likely to have had unfair trials, including denial of access to a lawyer, lack of consular assistance and (in drug related cases) lack of right to appeal to a higher tribunal<sup>38</sup>.

The UN Special Rapporteur on the human rights of migrants noted the discrimination and stigmatization of Afghan irregular migrants, and the possibility of human rights violations in the context of deportation after her visit in 2004. The UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, who visited Iran in 2005, expressed concern about *“the continued discrimination faced by ethnic and religious minorities and nomadic groups, as reflected in the disproportionately poor housing and living conditions of these groups;[and] the considerable number of alleged cases of land confiscation and forced evictions [which often involved members of minority communities]”*.<sup>39</sup>

CERD, in its Concluding Observations of 2010, noted many reports regarding the existence of racial discrimination and insufficient efforts by the Iranian authorities to combat it and to implement measures to ensure that members of minority communities are able to enjoy the full spectrum of their rights, individually and communally. The Committee expressed concern at *“the limited enjoyment of political, economic, social and cultural rights by, inter alios, Arab, Azeri, Balochi, Kurdish communities, and some communities of non-citizens, in particular with regard to housing, education, freedom of expression and religion, health and employment,”* over the low level of participation of persons from minority communities in public life, and over reports that application of *“a selection procedure that requires prospective state officials and employees to demonstrate allegiance [to] the Islamic republic of Iran and the State religion may limit employment opportunities and political participation for, inter alios, persons of Arab, Azeri, Balochi, Jewish, Armenian and Kurdish Communities.”*<sup>40</sup>

Members of ethnic minorities, particularly women, may face double discrimination – as noted by CERD. For example, they may be disadvantaged before the criminal justice system, as they may not speak Persian, the official language, well. This can particularly impact rural women who are less likely to be well-educated than their urban counterparts.

**Hajieh Esmailvand**, an Iranian Azerbaijani woman from Jolfa in north-west Iran, was convicted in April 2004 after an unfair trial of “adultery” and being an accomplice to the murder of her husband. She was sentenced by Branch 3 of Jolfa General Court to five years’ imprisonment for involvement in the murder, and to execution

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<sup>38</sup> See Michael Hirshman, Farishte Jalalza, “Afghans On Iran's Death Row Describe Their Plight,” Radio Free Europe/Radio Liberty, 17 April 2010, at: [http://www.rferl.org/content/Afghans\\_On\\_Irans\\_Death\\_Row\\_Describe\\_Their\\_Pligh/2016566.html](http://www.rferl.org/content/Afghans_On_Irans_Death_Row_Describe_Their_Pligh/2016566.html).

<sup>39</sup> See Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, Mission to the Islamic Republic of Iran (19-31 July 2005), UN Doc. E/CN.4/2006/41/Add.2, 21 March 2006. Summary.

<sup>40</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Islamic Republic of Iran, UN Doc. CERD/C/IRN/CO18-19, 27 August 2010, paras. 15 and 16.

by stoning for “adultery”. She later wrote to judicial authorities that she had only “confessed” under duress, that she had not “confessed” to “adultery” and that she denied complicity in the murder. She also stated that she was an Azerbaijani Turkic speaker and not adequately literate, and did not know the meaning of “penetration”. She spent the next few years in jail not understanding the nature of her sentence as she did not know the meaning of the word “rajm” (stoning). Following international pressure, including by Amnesty International, the sentence was eventually commuted and her case sent back to Branch 1 of Jolfa General court for retrial. She was released on bail in September 2006 and finally acquitted of “adultery” after a retrial on 9 December 2006.<sup>41</sup>

Religious minorities which are not recognized under the Constitution, such as the Baha’is and Ahl-e Haq are particularly at risk of discrimination and persecution. They have no right in law to practise their faith communally. Officials monitor the presence of unrecognized religious minorities in schools and workplaces. For some crimes such as murder, victims who are members of unrecognized religious minorities are not regarded as persons with full equality before the law<sup>42</sup>. Evangelical Christians who attempt to proselytize are often arrested, and converts from Islam risk harassment, arrest and may be threatened with the death penalty for “apostasy from Islam” even though this is not an offence in codified Iranian law. However, converts are sometimes charged with “apostasy” and sentenced to death, on the basis of fatwas by clerics, under legal provisions which require judges to use their knowledge of Islamic law to rule on cases where no codified law exists (see the case of Pastor Yousef Nadarkhani below).

Members of Sufi, or dervish, communities have also been arrested, imprisoned or flogged, particularly when they have demonstrated against the destruction of their places of worship, and Shi’a Muslims who refuse to accept the principle of clerical rule which is the basis of the Islamic Republic are also persecuted. Those who openly profess atheism are also at risk of persecution.

In paragraph 16 of its 1993 Concluding Observations, the Committee expressed concern at the “extent of the limitations and restrictions on the freedom of religion and belief”, noting the prohibition on conversion from Islam, serious difficulties faced even by the communities of the three recognized religions in enjoying their right to freedom of belief, and highlighting the extent of discrimination against followers of non-recognized religions, notably the Baha’is. The Committee said that it had “received no satisfactory answer regarding the destruction of places of worship or cemeteries and the systematic persecution, harassment and

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<sup>41</sup> See Amnesty International, *Iran: End executions by stoning Index: MDE 13/001/2008*, 15 January 2008, <http://amnesty.name/en/library/info/MDE13/001/2008/en>.

<sup>42</sup> Article 207 of the Penal Code provides for “retaliation” (qesas) if a Muslim is murdered. If a non-Muslim is murdered, this penalty will only be applied if the murderer was also a non-Muslim. If a murder of a non-Muslim is committed by a Muslim, it is not clear that any penalty is applicable. Article 295 (c) provides for the payment of diyeh when qesas is not authorised (which could apply to the murder of a non-Muslim from a recognized minority). Article 297 was amended in 2003 to equalize the amount of diyeh payable for the deaths of Muslim men and men from recognized religious authorities. However, it seems that the killing of unrecognized religious minorities may not carry any penalty in law, leaving a judge with discretion to rule on whether any offence has occurred.

discrimination of the Baha'is". Sadly, in the intervening 18 years, the situation of religious freedom in Iran has not improved.

**Amnesty International continues to call on the Iranian authorities to:**

- **repeal or revise all legislation which discriminates against members of ethnic or religious minorities, to ensure that they fully enjoy the rights to freedom of expression, peaceful association, assembly, thought, conscience and religion as provided in the Covenant, , and in particular to ensure that members of all minorities enjoy access. equally with members of the majority, to employment, education, public services and housing, as well as to take part in the conduct of public affairs;**
- **end the persecution of members of ethnic and religious minorities, including of the Baha'i community. No one should be arrested, detained, or punished solely on account of their faith, lack of faith or change of faith, or on account of their ethnic identity;**
- **recognise, respect and facilitate the enjoyment of the right of members of ethnic and linguistic minorities to practise their culture, have access to education in their own language and to media in their own language;**
- **implement the recommendations of the Committee on the Elimination of Racial Discrimination and of UN Special Rapporteurs who have visited Iran relating to improving the enjoyment of the rights of members of minority communities, including by providing special programmes for women from minority groups who suffer multiple forms of discrimination.**

## **RIGHT TO LIFE (ARTICLE 6)**

### **THE DEATH PENALTY (QUESTIONS 6-7)**

Iran remains one of the most prolific executioners, second only to China in the number of executions carried out annually. The Iranian authorities do not provide official statistics on their use of the death penalty, and there is credible evidence that large numbers of executions are carried out in secret and are never acknowledged by the authorities. In 2010, the Iranian authorities acknowledged the execution of 252 people, including five women and one juvenile offender – a person convicted of a crime allegedly committed when under the age of 18. However, Amnesty International received credible reports of over 300 other executions not acknowledged by the authorities. Most of these were executed in Vakilabad Prison, Mashhad and were reportedly convicted of drugs offences.

Rather than seeking to reduce the number of crimes for which the death penalty may be applied as the Committee recommended in its 1993 concluding observations, the Iranian authorities have increased them. Laws extending the death penalty to additional offences have included the Anti-Narcotics Law, in revisions made in 1997 and 2010, the 2008 Law on Audio-Visual crimes, and the 2009 Law on Cyber Crimes.



The vast majority of executions are of individuals convicted of crimes – such as drug trafficking (who have accounted for over half of the executions recorded by Amnesty International so far in 2011<sup>43</sup>) and rape (under the zena provisions) and vaguely worded charges relating to national security. Many of these offences do not meet the Covenant criterion of “most serious crimes”, under which the death penalty may be applied under international law. Other crimes which do not meet this criterion, such as repeated conviction for drinking alcohol remain on the statute book. In the very few cases known to Amnesty International where the death sentence has been imposed for this offence, the sentence has eventually been commuted or overturned.

Additionally, people may be sentenced to death, and occasionally executed, for offences not codified in law, such as “apostasy from Islam” (see the case of Pastor Yousef Nadarkhani below).

On 26 January 2011, the Iranian authorities announced that **Sayed Ali Gharabat** had been executed for “spreading corruption” and “apostasy” in Karoun Prison, Ahvaz, after he, according to the authorities, falsely claimed to have communicated with the Twelfth Imam. Twelver Shi’a Muslims believe that the Twelfth Imam is currently in hiding and will return to earth to bring about justice.

Despite official claims to the contrary, Iran remains one of the very few countries in the world to still execute juvenile offenders. Over 50 juvenile offenders have been executed in Iran since 1990, far more than in any of the few other countries that still commit this violation of the Covenant and international law in general. Trials are generally unfair, particularly before Revolutionary Courts, and defendants are routinely denied access to a lawyer in the initial stage of arrest when torture and other ill-treatment are most likely to occur. In many cases, particularly in the provinces, individuals may not be granted access to a lawyer even during their trial. In some instances, the full judicial process from arrest to execution may take only days or weeks, raising concerns as to whether the individual has had adequate time to prepare their defence. Individuals convicted under the Anti-Narcotics law do not have the right to appeal against their conviction and sentences and foreign nationals are often denied consular assistance.

**Zeynab Jalalian**, a member of the Kurdish minority, was sentenced to death for “enmity against God” around January 2009 by Kermanshah Revolutionary Court for her membership of PJAK, an armed Kurdish opposition group. Before that, she had spent eight months in a Ministry of Intelligence detention facility, where she says she was tortured. During that time her family had no information concerning her conditions, treatment or fate as no family visits or communications were allowed. She was not granted access to a lawyer during her trial, which she says lasted only a few minutes. Zeynab Jalalian’s death sentence was confirmed by the Supreme Court on 26 November 2009 and she remains on death row.

**Haji Noutizehi, Gholamrasoul Shahuzehi and Zabihollah Naroui**, all members of the Baluch minority, were hanged in public in May 2009 less than 48 hours after a suicide bombing in a mosque in Zahedan which killed

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<sup>43</sup> As of 6 September 2011, the Iranian authorities had acknowledged 215 executions since 1 January 2011, of which around 134 were for drugs offences. Credible sources report at least 120 other executions not acknowledged by the authorities, mostly for drugs offences.

25 people. The People's Resistance Movement of Iran (PRMI – a Baluch armed group) claimed responsibility for the bombing. A local judiciary official said that the three men had confessed to “illegally bringing explosives into the country” which were used in the bombing, and that they had been involved in other bomb attacks and kidnappings. The official also said that prior to the executions, the cases against the three men had been continuously investigated by special judiciary officials for over 30 hours. Later, it emerged that the three men had already been in detention at the time of the bombing; the authorities said that they had “confessed” after the attack to providing the explosives that were used. The contradictory accounts of the judicial process followed in the case, the undue speed of the official investigation of the suspects’ alleged involvement in providing explosives, and their very speedy trial and executions indicate that their right to a fair trial was flagrantly violated; they were denied the right to have adequate time to prepare their defence and to appeal against their convictions and sentences to a fair higher tribunal empowered to review both the facts of the case and the procedures of the trial court. Their executions appear to have been no less than a form of reprisal for the PRMI attack.<sup>44</sup>

Methods of execution constituting torture such as stoning – applied for sexual relations outside marriage – persist in law. At least six people were stoned to death between 2006 and 2009 when the last known stoning was carried out. Public executions continued after 1993 at a high rate until a 2008 directive by the then Head of the Judiciary banning them without his permission, but have risen again sharply in 2011. Lawyers are not always informed in advance of their clients’ execution, despite the legal requirement that they must be informed 48 hours in advance, and families are not always given an opportunity for a final visit, or to receive the body and effects of their relative after execution. The Iranian authorities have also resorted to the harassment and persecution of those who seek to defend the rights of persons on death row, whether family members, defence lawyers, or human rights defenders.

**Ebrahim Mehrnehad, a member of the Baluch minority**, spent almost three years in prison after his arrest in March 2008 at the age of 16, after he was convicted of ‘acting against national security’ and ‘spreading propaganda against the system’. These charges were apparently related to his public condemnation of the death sentence imposed on his brother, Ya'qoub Mehrnehad, a Baluch civil journalist and civil society activist who was subsequently executed in August 2008.<sup>45</sup>

Ebrahim Mehrnehad was not given access to a lawyer and was reportedly tortured, including by being burnt.<sup>46</sup> He spent over a year in a secret detention facility run by the Ministry of Intelligence, after which he was

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<sup>44</sup> See Amnesty International, *Iran: Amnesty International's Comments on the National Report presented by the Islamic Republic of Iran for the Universal Periodic Review*, 18 February 2010, Index MDE 13/021/2010, <http://www.amnesty.org/en/library/info/MDE13/021/2010/en>.

<sup>45</sup> Ya'qoub Mehrnehad was the head and co-founder of Voice of Justice Young People's Society (VJYPS), which organizes events such as concerts and educational courses for young Baluch people, and raises funds to help the poor.

<sup>46</sup> See Amnesty International, *Iran: Further information on fear of torture/ possible prisoner of conscience/ unfair trial*, Index: MDE 13/168/2008, 18 November 2008, <http://www.amnesty.org/en/library/info/MDE13/168/2008/en>.

transferred without warning to Kerman Central Prison to serve the rest of his sentence in exile. He was released in or around August 2010.<sup>47</sup>

**Sajjad Ghaderzadeh**, the son of Sakineh Mohammadi Ashtiani, facing stoning to death, her lawyer **Javid Houtan Kiyan**, and **two German journalists** were all arrested in Tabriz in October 2010 at Javid Houtan Kiyan's office while the journalists were interviewing Sajjad Ghaderzadeh who had campaigned for his mother's stoning sentence to be overturned. Sajjad Ghaderzadeh was released on bail in December 2010, and the two German journalists in February 2011, but Javid Houtan Kiyan remains held. Another of Sakineh Mohammadi Ashtiani's lawyers, Mohammad Mostafaei, was forced to flee the country for his own safety in August 2010 after he spoke publicly about her case.

A letter attributed to Javid Houtan Kiyan, circulated in early 2011, stated that he had been tortured in detention. Since 1 November 2010, when a prosecutor said that he was held on suspicion of having three forged or duplicate ID cards, the Iranian authorities have given no information concerning his legal status. Other sources have since suggested that he has been sentenced to between one and 11 years in prison on various charges, and may still be facing other charges, most, if not all of which appear to relate to his defence of Sakineh Mohammadi Ashtiani.

**Amnesty International continues to urge the Iranian authorities to:**

- **establish an immediate moratorium on executions and to work towards the complete abolition of the death penalty;**
- **once the death penalty is abolished, ratify the second Optional Protocol to the Covenant and ensure its full implementation in law and in practice.**

**Pending complete abolition of the death penalty, Amnesty International calls on the Iranian authorities to:**

- **adhere strictly to the provisions of Article 6 of the Covenant and other relevant international law and standards, including by ceasing immediately the imposition of the death penalty against, and all executions of, individuals convicted of crimes committed when under the age of 18, and for offences which do not meet the criterion of "most serious crimes";**
- **ensure that everyone sentenced to death, after exhaustion of all legal avenues of appeal, has an effective opportunity to exercise the right to seek pardon or commutation of sentence from the relevant authorities;**
- **revise laws, policies and practices so as to ensure that every person accused of a crime for which the penalty is death is tried in procedures which comply fully in all respects with international standards as provided in the Covenant and other relevant international law and standards, including by allowing the right of appeal for individuals convicted under the Anti-narcotics Law;**
- **in any cases where persons have been convicted after unfair trials or where the guilt of**

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<sup>47</sup> See "Ebrahim Mehrnehad azad shod", Human Rights Activists News Agency, 22 September 2010, <http://www.hra-news.org/1389-01-27-05-25-54/4086-1.html>.

**the person charged is not based upon clear and convincing evidence which leaves no room for an alternative explanation of the facts, proceedings should be reviewed and appropriate measures taken, including, as appropriate, retrials in proceedings which comply with international standards;**

- **immediately cease executions in public, which violate the right not to be subjected to cruel, inhuman or degrading punishment;**
- **provide clear and comprehensive periodic statistics on the use of the death penalty. These should include, for each category of offence for which the death penalty is authorized, the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted. It should also include information on the extent to which the Covenant guarantees and the UN safeguards guaranteeing the rights of those facing the death penalty<sup>48</sup> are incorporated in national law;**
- **ensure that, in compliance with Iranian law, lawyers are notified of the execution prior to the implementation of a death sentence; that family members of death row inmates are given sufficient notice of an impending execution to allow them a final visit; that the body and personal effects of an executed person are returned to his or her family, should the family members wish it, and that the families of those already executed are informed of the location of their relatives' graves and are allowed to visit the graveside to express their grief;**
- **immediately cease the practice of harassing and persecuting families, friends and lawyers of death row prisoners and executed persons, release all persons who have been imprisoned solely as part of such persecution and respect the right to freedom of expression in discussing the death penalty.**

## **EXTRAJUDICIAL EXECUTIONS AND OTHER UNLAWFUL KILLINGS BY SECURITY FORCES (QUESTIONS 8 AND 9)**

There has been a long history of extrajudicial executions at the behest of the state, both inside Iran and abroad, about which the Committee expressed concern in its 1993 concluding observations. Although reports of such killings declined significantly after the scandal of the "serial murders"<sup>49</sup> in 1998, there are worrying signs that the Iranian authorities may once again be resorting to this method to silence opposition figures who express dissent, particularly from the religious and ethnic minority communities.

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<sup>48</sup> Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by Economic and Social Council resolution 1984/50 of 25 May 1984.

<sup>49</sup> A series of murders of writers and intellectuals in late 1998 and 1999 – for which the Ministry of Intelligence eventually acknowledged responsibility - caused a huge outcry in Iran, and became known as the "serial murders", but there remain unanswered questions as to whether those ultimately responsible for ordering the murders have ever been brought to justice.

**Sayed Ali Habibi Mousavi**, the nephew of opposition leader Mir Hossein Mousavi, was shot in the back and killed on 27 December 2009 by unknown assailants in a black Nissan patrol car, while on his way to protests called to coincide with the religious festival of Ashoura.<sup>50</sup> The police denied any involvement in the killing. In March 2011, when asked whether there had been any investigation into his son's death or if police had found a suspect, Sayed Ali Habibi Mousavi's father said, "Their only comment was that this act was previously planned." He went on, "my son had been threatened several times. My son and I worked for Mr. Mousavi during the election."<sup>51</sup>

In addition, there is a long history of apparently unlawful killings at the hands of the security forces during demonstrations, and deaths in custody in suspicious circumstances. The use of firearms during demonstrations is regulated by the "Law on the Use of Weapons by Agents of the Armed Forces In Case of Necessity". This law was passed in 1993 after a series of demonstrations mainly about economic grievances. Ever since, on an almost annual basis, there have been demonstrations where the security forces' response has resulted in loss of life, culminating in the bloody aftermath of the presidential election of 2009, and during sporadic demonstrations since. It seems that use of firearms in policing is not regarded as a means of last resort.

A much-publicised killing during the 2009 post-election unrest was that of **Neda Agha Soltan**, shot on 20 June 2009, whose death was captured on mobile phone footage. Although people present at the scene heard a Basij member in the vicinity exclaiming "I did not mean to kill her" and grabbed his ID card, a copy of which was posted online, the authorities have never properly investigated her killing, and have variously blamed the Peoples' Mojahedin Organization of Iran (PMOI) and the CIA. Her case is emblematic of the way the authorities have reacted to alleged abuses by threats, counter-accusations, obfuscation and further abuses<sup>52</sup>.

Under article 11 of the 1993 law, the military and security forces (including the Revolutionary Guards Corps, the Basij and the army) "shall use weapons as directed by the law in instances when they cooperate with the Police Force under the law and during assignments given to them" which are not further clarified. The law provides for executive regulations to be drawn up for the implementation of this article, but no such regulations have been made public, and it is not clear if they have ever been drawn up, a worrying situation given the events of 2009, when many different branches of the security forces were used to police demonstrations and over 60 people were shot dead, some by plain clothes snipers who did not give any warning.

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<sup>50</sup> See "Police say Mousavi nephew assassinated", Press TV, 29 December 2009, <http://edition.presstv.ir/detail/114894.html>.

<sup>51</sup> See "Ali Mousavi's Father opens up about his son's death", The Green Voice of Freedom, 30 March 2011, <http://en.irangreenvoice.com/article/2011/mar/30/3000>.

<sup>52</sup> For a fuller account of how the authorities sought to cover up who was responsible for Neda Agha Soltan's death, see Amnesty International, *Iran: Election Contested, Repression Compounded*, Index: MDE 13/123/2009, December 2009, <http://www.amnesty.org/en/library/info/MDE13/123/2009/en>.

#### IMPUNITY FOR KILLINGS BY SECURITY FORCES AND NON-STATE ACTORS

In relation to the issue of *mahdour al-damm* (Question 8), one case which caused much controversy in Iran was that of six members of the Basij militia convicted of several murders in Kerman province from 2002 onwards. They had all watched a tape by a senior cleric, Ayatollah Mesbah Yazdi, who had issued a fatwa ruling that Muslims could kill a morally corrupt person if the law failed to confront that person. The six accused, all in their early 20s, described how they had taken their victims – two of whom were a married couple whom the killers suspected of having a relationship they considered illicit - outside the city after they had identified them. Then they stoned them to death or drowned them in a pond by sitting on their chests. The defendants argued in court that they should not face *qesas* under the *mahdour al-damm* provision as they were following the directives of Ayatollah Mesbah Yazdi. In response to a request by the then Head of the Judiciary for clarification of the law, in 2004 the Supreme Leader replied that “*officers of the Disciplinary Force, Basij Forces, and others who kill someone on purpose, and do this because they consider them as persons whose blood may be shed with immunity [mahdour al-damm] or on the basis of preventing vice, their qesas (retaliation) verdict should be changed to paying of blood money*”.<sup>53</sup> Initially sentenced to death for murder, their convictions were overturned by the Supreme Court in 2007<sup>54</sup> and the case was sent to the General Board of the Supreme Court, which sent it back to the Supreme Court in November 2009<sup>55</sup>. In June 2011, the Head of the Kerman provincial judiciary said the case was still open, although the last defendant had been released “on heavy bail”<sup>56</sup>.

## **PROHIBITION OF TORTURE AND OTHER ILL-TREATMENT, LIBERTY AND SECURITY OF PERSON, TREATMENT OF PERSONS DEPRIVED OF THEIR LIBERTY (ARTICLES 7, 9, AND 10)**

#### USE OF TORTURE AND OTHER ILL-TREATMENT (QUESTIONS 11 AND 12)

Article 38 of the Constitution prohibits torture, but only if it is “for the purpose of extracting confession or acquiring information”. Additionally, Article 39 of the Constitution bans all affronts to the dignity of detained or imprisoned persons. This prohibition was reinforced by

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<sup>53</sup> See “Yeki az mottahemin-e ghatlha-ye zanjireh’i Kerman: mabna-ye ‘amal-e ma harfha-ye Ayatollah Mesbah va rahnamud farmandeh-e sepah-e Kerman bud. Etelaat, November 2004, [http://ettelaat.eu/04-11/m\\_a\\_m\\_h\\_a\\_m\\_va\\_r\\_f\\_s\\_k\\_b.htm](http://ettelaat.eu/04-11/m_a_m_h_a_m_va_r_f_s_k_b.htm).

<sup>54</sup> See Vahid Sepehri, “Iran: Supreme Court Upholds Principle Of Morality Killings”, Radio Free Europe/Radio Liberty, 23 April 2007, <http://www.rferl.org/content/article/1076041.html>.

<sup>55</sup> See “Gozaresh-e yek parvande-ye ghayr-e ghabel-e tarh”, Institute for Legal and International Research, 26 October 2010, <http://www.egms.ir/news/news1/117-parvande1.html> and “Gozaresh-e yek parvande-ye ghayr-e ghabel-e tarh (bakhsh-e dovom va payani), Ma’va, 27 October 2010, <http://www.maavanews.ir/tabid/57/ctl/Edit/mid/404/Code/7598/Default.aspx>.

<sup>56</sup> See “Tavakkoli: Hokm parvande-ye ghatlha-ye mahfali Kerman sader na-shode ast”, Iranian Students News Agency, 21 June 2011, <http://khabarfarsi.com/ext/676982>.

the Law on respect for legitimate freedoms and safeguarding citizens' rights, enacted in 2004, Article 6 of which provides that while a prisoner is being detained, interrogated or investigated, law enforcement officers must not harm an accused person, for example by blindfolding them or tying their limbs.

However, it appears that the authorities may consider it lawful in some cases to cause physical or mental pain or suffering to persons in some circumstances, which at the very least would appear to allow the use of ill-treatment and would appear to be contrary to article 39 of the Constitution. Responding to the questionnaire on the Use and Application of the Code of Conduct for Law Enforcement Officials, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials administered by the UN Crime Prevention and Criminal Justice Division of the United Nations, the Iranian authorities stated that in order to obtain information or confession, law enforcement officials are in special cases permitted to use interviewing and interrogation techniques which may cause physical or mental pain or suffering to persons when ordered to do so by a superior law enforcement official or other government official.<sup>57</sup>

Despite the claims of the Iranian authorities, in practice, torture and other ill-treatment are routine, partly because of the value attached to "confessions" as the main source of evidence in trial proceedings in court and because of the culture of impunity which exists for officials in Iran. Torture and other ill-treatment are facilitated, among other things, by the use of incommunicado detention in the early days after arrest, and the denial of access to lawyers during pre-trial interrogation.

Article 3 of the Law on Respect for Legitimate Freedoms and Safeguarding Citizens' Rights requires courts and prosecutors' offices to respect the right of detainees and defendants to a legal defence and to provide them with the opportunity to be represented by a lawyer and to use the services of experts. This should remove the limitations on access to a lawyer provided under the note to Article 128 of the Code of Criminal Procedures, which is routinely used to deny detainees access to a lawyer during the investigation stage<sup>58</sup>. However, in practice, prosecutors and courts have ignored this new legislation and have continued to invoke this note to deny defendants their right to a lawyer. Other judicial safeguards which exist in Iranian law to protect detainees and prisoners are also routinely flouted.

Methods of torture and other ill-treatment reported include severe beatings, with hands, feet or cables; electric shocks; forced submersion of the head in faeces in dirty toilets; prolonged solitary confinement; confinement in extremely small spaces, sometimes referred to as "coffins"; rape (including with implements) and other sexual attacks; suspension from a height by the feet or hands for long periods, sometimes accompanied by beatings; burns with cigarettes or from use of hot implements, such as irons, on the skin; death threats, including

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<sup>57</sup> See <http://www.uncjin.org/Standards/Conduct/ccl/iran.pdf>, page 4.

<sup>58</sup> The note states that "[i]n instances where the case has a confidential aspect or the presence of somebody other than the defendant may, at the discretion of the judge, cause corruption, as well as in the case of offences against the national security, the presence of lawyer during the investigation stage shall depend on court permission. Such permission is routinely denied.

mock executions; threats to, and actual arrest and torture of family members; deprivation of light, food and water; 24-hour exposure to light; being placed outside in prison yards in freezing or extremely hot temperatures; and denial of necessary medical treatment<sup>59</sup>. In some cases, torture has led to the deaths of detainees, including in the Kahrizak detention centre in 2009 (see below)<sup>60</sup>.

At least four Ahwazi Arab men - **Reza Maghamesi**, **Abdol Karim Fahd Abiat Ahmad Riassan** (identified by some sources as Ja'far) Salami and **Ejbareh Tamimi** are said to have died in custody in Khuzestan province between March and May 2011, possibly as a result of torture. Ejbareh Tamimi was reportedly arrested from his home in the days after demonstrations by Ahwazi Arabs on 15 April, apparently on suspicion of having been in contact with, and having provided information to, al-Arabiya TV. He was reportedly tortured in order to force him to make a recorded "confession" which he refused to do, and died in Sepidar Prison in Ahvaz as a result.<sup>61</sup>

Abuses by prison inmates, which are either condoned or encouraged by prison officials, are also reported. For example, a September 2010 letter to the Supreme Leader from Mehdi Mahmoudian, a journalist and member of the Society for the Defence of Prisoners' Rights arrested in September 2009 in connection with his work exposing torture after the 2009 election, came to public attention in May 2011. In that letter, he described widespread rape in Iran's prisons, stating: "*In [Raja'i Shahr] prison, those who have pretty faces and are unable to defend themselves or cannot afford to bribe others are forcibly taken to different cells each night [to be raped] ...The situation is such that those exposed to rape even have an owner and that owner makes money by renting him out to others and after a while selling him to someone else.*"<sup>62</sup>

Another problem is the ongoing impunity for perpetrators of human rights violations. While Article 38 of the Constitution and Article 578 of the Penal Code<sup>63</sup> provide for prosecution

<sup>59</sup> Further details of the use of torture and other ill-treatment after the 2009 presidential election may be found in Amnesty International's two reports: *Iran: Election Contested, Repression Compounded* (chapter 6) (*op. cit.*) and *From Protest to Prison: Iran one year after the election* (chapter 4) Index: MDE 13/062/2010, 9 June 2010, <http://www.amnesty.org/en/library/info/MDE13/062/2010/en>

<sup>60</sup> For more information about the deaths in Kahrizak, see *Iran: Election Contested, Repression Compounded*, Index: MDE 13/123/2009, December 2009, <http://www.amnesty.org/en/library/info/MDE13/123/2009/en> and *From protest to prison: Iran one year after the election*, Index: MDE 13/062/2010, 9 June 2010, <http://www.amnesty.org/en/library/info/MDE13/062/2010>.

<sup>61</sup> See Amnesty International, *Iran: Arbitrary arrests, torture and executions continue*, Index: MDE 13/051/2011, 20 May 2011, <http://www.amnesty.org/en/library/info/MDE13/051/2011/en>.

<sup>62</sup> See "Nameh Mehdi Mahmoudian khattab be rahbari piramun vaziat-e zendane-ha", Human Rights house of Iran, 8 May 2011, <http://www.rahana.org/archives/39605>.

<sup>63</sup> Article 578 provides: "Any governmental official or employee, whether judicial or non-judicial, who physically tortures or torments an accused person to force him to confess will, in addition to retribution-in-kind or payment of blood money, be sentenced to imprisonment from six months to three years, depending on the case, and if someone has ordered the same, only the person giving the order will be given the said punishment of imprisonment and if the torture and torment results in death, the

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and punishment for such perpetrators, with the exception of some very limited sanctions brought against some individuals over high profile cases of torture or excessive use of force, some of which resulted in the death of victims, the Iranian security forces enjoy virtual impunity.

**Akbar Mohammadi** and **Ahmad Batebi**, arrested after widespread student demonstrations in 1999<sup>64</sup>, were tortured in the Towhid detention centre. Towhid, administered by the Ministry of Intelligence, was closed in August 2000 by order of the Judiciary. Akbar Mohammadi stated that his feet were whipped with metal cables and that he was suspended by his limbs and repeatedly beaten. Ahmad Batebi stated that he had been beaten while blindfolded and bound, and ordered to sign a “confession”. He wrote that his head was plunged into a drain full of excrement and held under, forcing him to inhale excrement through his nose and into his mouth. Investigative journalist **Akbar Ganji**, who helped uncover the truth behind the “serial murders” stated in court in November 2000 that he had been tortured by prison officials at Evin. Amnesty International is not aware of any of these allegations having been investigated.

**Behrouz Javid Tehrani**, a member of the banned Democratic Front political party, and a student imprisoned for four years after the 1999 student demonstrations, was arrested again in 2005 after he had published an interview with Akbar Mohammadi (see above) while the latter was on temporary prison leave. Behrouz Javid Tehrani was tortured in detention, including by beatings on the head which are believed to have caused him to lose up to 50% of his eyesight. A medical examination in 2006 is reported to have confirmed that he was tortured, and he lodged a complaint, which is not known to have been investigated. Instead, he was sentenced to seven years in prison and 74 lashes for membership of the Democratic Front, and contacts with the PMOI – which he denied and said resulted from his having publicised a letter from a PMOI member which he had found in the wall of his cell during a previous detention. He has never been granted temporary leave and in June 2011, as he approached the end of his sentence which he had spent in the extremely poor conditions of Reja'i Shahr prison, he was transferred without warning to solitary confinement in Section 240 of Evin Prison where he may be under renewed investigation.

Photo-journalist **Zahra Kazemi**, who held dual Iranian-Canadian nationality died in hospital on 11 July 2003 as a result of a blow to her head, following detention in Evin Prison.<sup>65</sup> Five officials, including three members of Tehran's judiciary, and two Intelligence Ministry officials were arrested in connection with her death. However, four of them were subsequently released and only Mohammad Reza Aghdam, an official of the Ministry of Intelligence, was brought to trial. He was acquitted in 2004, and his acquittal was upheld on appeal in 2005, although in 2007 a new investigation was ordered into Zahra Kazemi's death. Amnesty International is not aware of the outcome of this investigation.

A parliamentary enquiry by the parliamentary Article 90 Committee into the circumstances surrounding her death indicated that senior judicial officials, including from the Office from the Tehran Chief Prosecutor, were

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perpetrator shall be sentenced to the punishment for murder, and someone who ordered the [torture] will have the punishment prescribed for ordering a killing.”

<sup>64</sup> These demonstrations began in Tehran in protest at the enforced closure of *Salam* newspaper and quickly spread to other cities across Iran. They were violently repressed by the security forces.

<sup>65</sup> See Amnesty International, *Iran: Only an independent investigative body can serve justice and human rights*, Index: MDE 13/026/2003, 31 July 2003, <http://www.amnesty.org/en/library/info/MDE13/026/2003/en>.

involved in her interrogation, yet none were prosecuted. Indeed, it was colleagues of Tehran's Chief Prosecutor who were entrusted to carry out the investigation which led to the charges being pressed against Mohammad Reza Aghdam.

The amount of compensation payable in cases where officials are found to have caused injury or death is also discriminatory, with women only being eligible to half that of men, although there are reports that the authorities are considering equalising *diyeh* (blood money) for men and women.<sup>66</sup>

In more recent years, many of those who have raised concerns in public about torture or other ill-treatment (including poor prison conditions) after the 2009 unrest – who are often prisoners themselves – have faced reprisals for their actions. They include **Mohammad Davari, Isa Saharkhiz, Abdollah Momeni, Hashem Khastar, and Mehdi Mahmoudian**, among others.

For example, in August 2011, **Abdollah Momeni**, the spokesperson of the Graduates' Association, was reported to have been charged with "propaganda against the system" and "causing unease in the public mind" in connection with an open letter to the Supreme Leader published in September 2010, in which he described his arrest and interrogation, during which he was tear-gassed, beaten, held in solitary confinement in an extremely small, dirty cell, received threats to himself and his family, had his head pushed down a dirty toilet bowl, so that he ingested faeces, and was forced to eat his interrogation forms during the fasting month of Ramadan.<sup>67</sup>

Abdollah Momeni was among a group of 26 political prisoners<sup>68</sup>, including prisoners of conscience, who in May 2011, wrote an open letter to the committee responsible for overseeing the implementation of the Law on Respecting Legitimate Freedoms and Protecting Citizens' Rights, calling for an investigation into the numerous violations since the 2009 election of all the rights protected under that law which they described.<sup>69</sup>

**Hossein Khezri**, a Kurd executed in January 2011, said in a letter written in October 2010 from Oroumieh Prison that he was tortured after his arrest in detention centres belonging to the Revolutionary Guards in

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<sup>66</sup> In 2007, it was reported that Ayatollah Hashemi Rafsanjani, the Head of the Expediency Council told a meeting of conservative women that "*Members of Parliament can introduce legislation to address disparities of diyeh between men and women. If the Seventh Parliament passes this legislation, it will be a source of pride for us, but if they fail to pass the legislation or if it is blocked by the Guardian Council, we can take steps to ensure its passage into law within the Expediency Council.*" See <http://www.we-change.org/english/spip.php?article98>.

<sup>67</sup> His letter may be read at <http://www.iranhumanrights.org/2010/09/letter-momeni-khamanei/>.

<sup>68</sup> The signatories were Mohsen Aminzadeh, Mohsen Mirdamadi, Bahman Ahmadi Amou'i, Abdollah Momeni, Milad Asadi, Abdollah Ramezanzadeh, Emad Behavar, Mostafa Tajzadeh, Mojtaba Tehrani, Ali Jamali, Mohammad Hossein Khourbak, Mohammad Davari, Amir Khosrow Dalirsani, Kayvan Samimi, Esma'il Sahabeh, Mohammad Farid Taheri Ghazvini, Feizollah Arabsorkhi, Behzad Nabavi, Abolfazl Ghadiani, Majid Dorri, Zia Nabavi, Mehdi Karimian Eghbal, Mohammad Reza Moghisseh, Ali Malihi, Mohammad Javad Mozaffar, and Hassan Asadi Zeidabadi.

<sup>69</sup> See "Shekayat-e 26 zendani siyasi az vezarat-e etela'at va sepah-e pasdaran: shakanje shodeh-im", Kalame, 11 May 2011, <http://www.kalame.com/1390/02/21/klm-57736/>.

Kermanshah and Oromieh, north-west Iran and also at a Ministry of Intelligence detention facility, by methods including beatings for several hours a day; threats against himself and his family; kicks to the genitals which caused bleeding and severe swelling for 14 days; kicks to the legs resulting in an 8cm wound which was still open in late 2010; and harsh baton blows to the entire body for 49 days, causing bruising and inflammation. He said that he complained about his treatment and was then moved for three days to an Intelligence Ministry facility in February 2010 where he was interrogated about his complaint, but his request for an investigation into the complaint was rejected.

In August 2011, the Head of the Prisons Organization, Gholamhossein Esmaili, denied that torture occurred in prisons run by his organization, but stated that detainees held for interrogation were tortured. He told the semi-official *Mehr News Agency*: "*Torture is practiced in prisons that are run by the police and where prisoners are continuously being interrogated. But Iranian prisons are not run by the police or the judge. They are instead run independently as subsidiaries of the Prisons Organization, under the supervision of the judiciary.*"<sup>70</sup>

### CRUEL AND TORTUROUS PUNISHMENTS

The Iranian authorities continue to make use of cruel punishments, some of which often constitute torture, such as flogging, and others which invariably do, such as amputation and stoning to death.

Flogging is provided for a wide range of offences, including some sexual offences, committing a religiously unlawful act in public, drinking alcohol, falsely accusing someone of sexual relations outside marriage, insulting others, including the Leader or senior officials, spreading lies with intent to cause unease in the public mind, some drugs offences, and disturbing public order. At least 34 individuals were flogged in Iran between 1 January and 31 August 2011, some of them in public, although the true figure may be higher. At least 29 people were flogged in 2010. In December 2010, a man was flogged 80 times in public in Farmandari Square in Ramshir for drinking alcohol. Individuals are sometimes sentenced to both flogging and execution. For example, a man identified only as "M. S." was flogged 80 times in public in Bandar Abbas in April 2011 before being executed for rape. Persons charged with politically-related offence have also been flogged – Behrouz Javid Tehrani (see above) received 74 lashes in November 2010.

Fourteen Sufi dervishes were flogged 25 times each in May 2011 after conviction of "disturbing public order by holding an illegal gathering" after they had participated in a demonstration in Gonabad in July 2009 in protest at the arrest of another dervish, Hossein Zara'i, who had allowed a burial of a dervish in the cemetery. The local authorities had banned further burials in the cemetery in March 2009, reportedly under pressure from the security forces.

Amputation is provided for certain cases of theft; cross amputation, where a hand and opposite foot is cut off is one of four possible punishments for the offences of "enmity against God" and "corruption on earth". Amnesty International recorded at least 12 cases of amputation for theft in 2010, with a further case of cross-amputation. Most amputations in recent years have been carried out in the provinces. In November 2009, Asghar Jafari, head

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<sup>70</sup> See "Prison authorities deny use of torture", Radio Zamaaneh, 9 August 2011, <http://zamaaneh.net/english/content/prison-authorities-deny-use-torture>.

of Iran's Police Criminal Investigation department, called for a greater reliance on Islamic punishments, especially the amputation of the hands of thieves, claiming that if such punishments were implemented, crime could be reduced by 90%.<sup>71</sup>

Crucifixion is also provided for under the law, as a possible punishment for "enmity against God", but Amnesty International is not aware of any individuals who have received this punishment in recent years. The draft penal code currently under discussion in parliament maintains these penalties, and also allows for those who facilitate the commission of "hodoud crimes" (crimes against God which are derived from Islamic Law) to receive 74 lashes.

The law of *qesas* (retribution in kind) for causing injury intentionally also allows the imposition of cruel punishments such as eye-blinding, although none is known to have been carried out in recent years, as injured parties usually accept compensation in the form of *diyeh*.

The case of **Ameneh Bahrami** garnered much international attention this year. For years she refused to accept compensation from Majid Movahedi, who had been sentenced to *qesas* in 2008. He poured a bucket of acid over her after she had rejected his marriage proposal several times, blinding her. A Tehran court therefore ordered that five drops of acid be placed in each of his eyes. The sentence was scheduled to be carried out on 14 May 2011 but was postponed at the last moment. It was rescheduled for 31 July 2011, but Ameneh Bahrami finally pardoned him at the last moment, just as a doctor was preparing to drip the acid into his eyes. Ameneh Bahrami reportedly said after she pardoned him that she was seeking compensation for medical fees, which she put at 150,000 euros, although Majdi Movahedi's lawyer said his family could not afford this amount.

#### **Amnesty International continues to call on the Iranian authorities to**

- **take effective measures to prohibit and prevent all forms of torture and other cruel, inhuman or degrading treatment or punishment and that those suspected of such actions are investigated and brought to justice in fair proceedings and without recourse to the death penalty. Victims should have an enforceable right to reparations in accordance with international standards;**
  
- **remove all forms of cruel or torturous punishment, including flogging, amputation, crucifixion, stoning and the deliberate infliction of injury under the law on *qesas*, from law and provide penalties only for internationally recognizable criminal offences, and in conformity with the provisions of the Covenant.**

#### **LIBERTY AND SECURITY OF PERSON (QUESTIONS 13 AND 14)**

Under Iranian law, arrests in Iran must be carried out on the basis of an arrest warrant, unless an arresting officer (who may be a member of the Basij or one of the many intelligence bodies) captures someone in the act of committing a crime. However, Amnesty International has received numerous reports of people being arrested without arrest warrants where this

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<sup>71</sup> Accessed at <http://www.ilna.ir/newstext.aspx?ID=88248>, although this link is no accessible.

exception did not apply or on the basis of general arrest warrants that do not name them and do not fully specify the reasons for arrest.

Detainees must, under the law, be held in facilities controlled by the Prison's Organization. However, in practice, many of those arrested, particularly those suspected of opposing the government, are taken to detention facilities run by intelligence bodies such as the Ministry of Intelligence or the Revolutionary Guards Intelligence branch. The state report fails to mention the existence of such detention facilities outside the control of the Prisons Organization. Many detained persons, particularly those suspected of political offences, are held incommunicado for days or weeks after arrest in such detention facilities, in conditions which often amount to enforced disappearance. It is at this time that torture is particularly likely.

Article 32 of Iran's Constitution requires that "charges with the reasons for accusation must, without delay, be communicated and explained to the accused in writing, and a provisional dossier must be forwarded to the competent judicial authorities within a maximum of 24 hours. Article 24 of the Code of Criminal Procedure also sets 24 hours as the limit within which authorities must provide a detainee with a written reason "in cases where the detainee must be kept in detention in order for the authorities to continue their investigations".

As the state report acknowledges, Iranian law requires a judge to authorize any pre-trial detention and provide written charges within 24 hours of any arrest. However, the report fails to mention that Article 33 of the Code of Criminal Procedure provides that a judge may issue temporary detention orders for cases involving offences under the security laws, allowing authorities to hold detainees without charge beyond the 24-hour period. This article also gives the accused the right to appeal his or her detention order to a Provincial Appeal Court within 10 days. While Article 33 provides that the detainee's case must be resolved in the course of one month, it also allows the judge to renew the temporary detention order at the end of that period. The Code sets no limits on how many times this order may be renewed, and Amnesty International has learned of cases where detainees have been held for months – sometimes even years – in pre-trial so-called temporary detention.

Two US nationals, **Josh Bauer and Shane Fattal** spent over two years in pre-trial detention before they were sentenced to eight years in prison by a Revolutionary Court after conviction of "espionage" and "illegal entry" during which they were denied adequate access to both their lawyer and consular assistance. They were arrested while hiking in the Iraq-Iran border area in July 2009. Eyewitness testimony reported by US news magazine *The Nation* placed the three hikers inside Iraq, not Iran, at the time of their arrest by Iranian troops. The Iranian authorities maintain that they were arrested in Iranian territory.<sup>72</sup>

Amnesty International is also aware of some cases in which judges have issued an order for release on bail, but the detainee was not released, apparently because one or other intelligence body refused to comply with the release order.

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<sup>72</sup> See Amnesty International, Iran: Release US hikers following 'grossly unfair' trial, 21 August 2011., <http://www.amnesty.org/en/news-and-updates/iran-release-us-hikers-following-%E2%80%9Cgrossly-unfair%E2%80%9D-trial-2011-08-21>.

**Mohammad Ghouchani**, the editor of the newspaper *Etemad-e Melli*, detained in June 2009, was released in October 2010, two months after payment of one billion rials (approx. US\$100,000) bail. In other cases, detainees continue to be held although their temporary arrest warrants have expired – in effect, they are now being detained without any legal basis. **Maryam Bahreman**, a member of the One Million Signatures Campaign, who had participated in the 55<sup>th</sup> session of the UN Commission on the Status of Women, who was arrested in May 2011, was released in September 2011 despite an agreement by the prosecutor on 5 July 2011 to release her on bail. Intelligence Ministry officials reportedly refused to allow her release.

## CONDITIONS OF DETENTION (QUESTION 16) (ARTICLES 7 AND 9)

In its 1993 concluding observations, the Committee recommended that “the conditions of detention of persons deprived of their liberty should be improved”. However, it remains the case that prison conditions in Iran are generally poor, and have worsened in recent years as overcrowding has increased. The state report acknowledges that there is “crowding and congestion” in Iranian prisons (paragraph 347). The prison population has been rising for years. In March 2011, the Head of the Prisons Organization said that the prison population had reached over 220,000.<sup>73</sup> In late June 2011, Younes Mousavi, a member of the parliamentary Judicial Committee, was reported to have stated openly in parliament that overcrowding in some prisons was so bad that prisoners were sleeping on stairs; that the budget of the Prisons’ Organisation was insufficient to clothe and feed prisoners so that in some prisons, prisoners shared a blanket. He said that some prison buildings were too old and no longer fit for purpose; and that the health system of some prisons was so poor that some prisoners could experience “unsuitable medical conditions” while in prison.<sup>74</sup> In May 2011, the Head of the Prisons Organization said that the prison population had decreased by 12,000 between February and March 2011<sup>75</sup>, but in July 2011, he told parliament’s Social Affairs Committee that the prisons’ population was now 235,000 - three times their capacity of 85,000 and more than his March 2011 figure - a situation which was leading to problems including a lack of access to medical care.<sup>76</sup>

Paragraph 354 of the state report on “reduction of prison sentencing for targeted reduction of prison population” says that “if the five percent growth rate of prison population had continued, it would have reached 240,000 and per capita space would have declined to 2.5 square metres”. As the current prison population has now reached 235,000, it is clear that there is extreme overcrowding in Iranian prisons. This has led to extremely poor prison conditions in many parts of Iran, especially for those convicted of non-political offences. Some deaths in custody (see above) in recent years have been attributed to a failure or

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<sup>73</sup> He said “*During the [18-month] period since I took over as director of the organization, 55,000 people have been added to the overall number of prisoners while not even as little as 55 meters of space has been added to the current system.*” See “220 hezar Irani dar زندانها با 85 hezar zarfiyat”, Deutsche Welle, 3 March 2011, <http://www.dw-world.de/dw/article/0,,6458574,00.html>

<sup>74</sup> See “800 nafar dar زندانها-ye 100 nafareh”, Shargh, 27 June 2011, <http://sharghnewspaper.ir/News/90/04/06/3723.html>.

<sup>75</sup> See BBC Monitoring report from Vision of the Islamic Republic of Iran West Azarbaijan Provincial TV, Oroumieh, 13 May 2011.

<sup>76</sup> See “Ba hozour-e ra’is sazman-e زندانها: vaziat-e زندانها dar komisiyon-e ejtema’i bar resi shod”, Iranian Students News Agency, 20 July 2011, <http://isna.ir/isna/NewsView.aspx?ID=News-1810276>.

refusal of prison authorities to grant access to adequate medical care for ill prisoners and detainees.

In 2011, several prisoners of conscience held in Iran have written letters from prison, including to judicial authorities, highlighting the extremely poor conditions they have experienced. Most have been held in prison wards with prisoners convicted of non-political offences including murder and drug smuggling.

Retired teacher and trade unionist activist **Hashem Khastar**, serving a two-year prison sentence for his peaceful activities in the Iranian Teachers' Trade Association wrote several open letters describing the appalling conditions in Vakilabad Prison, Mashhad and his inadequate medical treatment. **Mehdi Mahmoudian**, serving a five-year prison term after he was arrested following the 2009 election, wrote a letter to the Head of the Judiciary in September 2010 about the dire conditions in Reja'i Shahr prison, including prisoner on prisoner rape, which was published in May 2011 (see above).<sup>77</sup> Sayed **Ziauddin (Zia) Nabavi** (see below), a student banned from education, who was arrested after the 2009 election and is serving an 10-year prison sentence in exile in Khuzestan, wrote a letter to the Head of the Judiciary in May 2011, describing the harsh conditions in Karoun Prison, in Ahvaz, Khuzestan province.<sup>78</sup>

The state report suggests that plans are underway to build new prisons and detention centres (paragraphs 351 which relates to harm reduction centres and 357-359 on plans for new detention centres) although the March 2011 comment by the Head of the Prison Organization's Head raises concerns about how advanced these plans are. There are serious concerns that the conditions in some of the facilities opened in recent years are even worse than those in older prisons.

The **Kahrizak detention centre**, the site of torture of many post-election detainees, was opened as a detention centre for "thugs and hooligans", under the control of the police, in around 2004. It appears to have consisted of a number of metal shipping-type containers placed in the desert in the outskirts of Karaj. It was reportedly identified as substandard and illegal by the Judiciary in 2007, after Mehdi Mahmoudian (see above) wrote a letter complaining about the treatment of inmates there, but the recommended closure never happened. After the mass arrests in June 2009, at least 147 detainees initially held elsewhere were sent to Kahrizak, where they were held in extremely unsanitary conditions in the summer heat, and tortured, including by rape. Up to five of those held there reportedly died later, although the authorities have only acknowledged three deaths.

A January 2010 parliamentary report, although dismissing allegations of rape, found that abuses had occurred, but stated, "*the most important reason for forming the Kahrizak detention centre was to re-educate dangerous louts and ruffians, those attacking people's families, sexual aggressors, large-scale drug traffickers and dangerous criminals. Thus regardless of post-electoral demonstrations, the transfer of certain offenders with other charges to this detention centre is not justified, and the judicial apparatus must again be*

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<sup>77</sup> See "Nameh Mehdi Mahmoudian khattab be rahbari piramun vaziat-e zendane-ha", Human Rights house of Iran, 8 May 2011, <http://www.rahana.org/archives/39605>.

<sup>78</sup> See "Karun Prison, where line between humanity & barbarity are blurred", The Green Voice of Freedom, 5 May 2011, <http://en.irangreenvoice.com/article/2011/may/05/3108>. Zia Nabavi's prison term was imposed for "enmity against God" in connection with his alleged links to and cooperation with the PMOI. He denies such cooperation, stating that he has been targeted because he has family members who are members of the PMOI and that he has really been arrested for his student activities.

*held to account in this regard.*" Such a statement calls for discrimination and the continued violation of the right of all persons deprived of liberty to be treated with humanity under Articles 7 and 10(1) of the Covenant

Similar concerns arose in 2011, when reports emerged that political prisoners had been among a group of women transferred from Raja'i Shahr prison to **Gharchak (or Qarchak) prison** in Varamin, near Tehran. Some reports have suggested that well over 1,400 and possibly as many as 2,000 female prisoners were held there.

The parents of **Shabnam Madadzadeh**, one of the women transferred, said that she described it as a former barn where chickens had been farmed, with only a few bunk beds, so that most prisoners slept on the floor, with no security "because all kinds of prisoners are held there".<sup>79</sup>

Some family members of those transferred wrote a letter to the Head of the Islamic Human Rights Commission in May:

*"Although approximately 600 female prisoners charged with a variety of crimes have been transferred to Gharchak prison, the rationale behind these transfers remains unclear. These 600 women spend their days in a hall without beds and without access to rudimentary hygiene and sanitation. Prison authorities at Gharchak refuse to provide prisoners with food and water and according to the prisoners there are no regular meal times and prison authorities serve food at their convenience. The 600 female prisoners have access to only four bathrooms and the same bathrooms must be used by everyone for taking showers, washing their clothes and washing other items such as dishes. Furthermore, the water supply is cut off during most of the day. In the past few days, the complaints by the female prisoners at Gharchak regarding these unbearable conditions have led to an inhumane and illegal reaction by the prison authorities. It has been reported that the prison authorities have beaten the prisoners with batons. According to prisoner accounts, those attempting to escape the beatings by prison officials were trampled upon and injured by other prisoners."*<sup>80</sup>

In December 2010, the Interior Ministry announced plans to set up five new rehabilitation centres to treat thousands of drug addicts in the provinces of Esfahan, Kerman, Khorasan, Sistan-Baluchestan, and Tehran and said that 36,000 inmates serving time for drug-related offences would be transferred there.<sup>81</sup> Amnesty International would welcome a shift from cruel punishments and executions of drug offenders to a focus on rehabilitation and re-integration into society.

Although the state report gives information about procedures by which prisoners and detainees may make complaints about their treatment, in practice many of those who do receive no information of any follow up, or even may face reprisals for having complained.

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<sup>79</sup> See Fereshteh Ghazi, "This Prison Is More Like a Stable," 9 May 2011, Rooz Online, <http://www.roozonline.com/english/news3/newsitem/archive/2011/may/09/article/this-prison-is-more-like-a-stable.html>.

<sup>80</sup> See "Dar زندan-e Gharchak Varamin, yek faji'eh insani dar hal-e voghou' ast", Kalame, 8 May 2011, <http://www.kalame.com/1390/02/18/kIm-57435/>.

<sup>81</sup> See "Iran plans to set up 5 drug rehab centers", Press TV, 30 December 2010, <http://www.presstv.ir/detail/157809.html>.



**Hashem Khastar** and **Mehdi Mahmoudian** (see above) both faced reprisals after their letters about poor prison conditions were published. Hashem Khastar was moved to a section of Vakilabad prison with violent offenders and death row inmates, and when his two-year prison term expired in July 2011, instead of being released, he was summoned to court and charged with “causing unease in the public mind”. He was released on bail in September 2011. Mehdi Mahmoudian was placed in solitary confinement after his letter was published.

The state report also gives details of convicted prisoners’ rights to education, rehabilitation temporary leave, newspapers and televisions and family visits, but does not mention the fact that these rights are routinely denied to those in pre-trial detention, and that even convicted prisoners may have these rights denied. The report states that convicted persons have the right to their holy book, but Amnesty International has received reports that some pre-trial detainees have even had copies of the Qur’an removed from their cell. In addition, members of unrecognized religious minorities have no right to their holy texts or to receive visits from representatives of his or her religion.

**Amnesty International continues to call on the Iranian authorities to take urgent steps to address the overcrowding and poor prison conditions faced by detainees and prisoners, in full conformity with Covenant provisions.**

## **FREEDOM OF MOVEMENT (ARTICLE 12)**

In 1993, the Committee found that “legal provisions allowing for the possibility of banishing individuals, preventing them from residing in the place of their choice, or compelling them to reside in a given locality, are not compatible with article 12 of the Covenant”. These provisions still exist, and convicted persons may still be sentenced to enforced residency, in addition to prison terms. In addition, individuals may be arbitrarily banned from leaving the country – either by court order, which is provided for in law, or by executive order, usually by the President’s Office, which has no basis in law. Often the first time that individuals are aware of such bans is when they go to the airport and are prevented from boarding a plane. Others are contacted by telephone before they travel and are warned not to go. Exile and travel bans are often imposed on human rights, political and religious activists, even where their activities have been entirely peaceful.

**Hojjatoleslam Ezimi Qedimi**, a religious scholar and member of the Azerbaijani minority, was sentenced in 2006 by Branch Five of the Special Court for the Clergy in Tabriz (see below for information on this special court) to one year’s imprisonment after conviction of “propaganda in favour of groups and organizations against the system”. He received the additional punishments of five years’ exile from all Azerbaijani provinces in Iran, and a five year overseas travel ban under Articles 19 and 20 of the Penal Code. He was also banned from wearing the clothes of a religious scholar for ten years for “bringing the clergy into disrepute”, a violation of his freedom to manifest his religion, as set out in Article 18 of the Covenant.

**Ahmad Zeidabadi (see below)**, a journalist and Spokesperson of the Graduates’ Association arrested after the 2009 election who is serving a six-year prison term as a prisoner of conscience solely for his peaceful expression of his opinions, was also sentenced to five years of internal exile in the city of Gonabad, as well as

to a lifetime ban on all social and political activities. He has been tortured or otherwise ill-treated in custody.<sup>82</sup>

Travel bans have often been imposed on human rights defenders, including women's rights defenders, who have developed international contacts with activists abroad. Several members of the One Million Signatures Campaign have been banned from travel in recent years, along with members of the Centre of Human Rights Defenders (CHRD) and the Association to Defend Prisoners' Rights (ADPR).

**Hayedeh Tabesh**, a member of the One Million Signatures Campaign in Esfahan, learned in July 2009 that she was banned from travel abroad when she tried to renew her passport; she later discovered this was because she had previously been invited to a training event in South Africa, even though she did not participate in the event. **Narges Mohammadi**, the Deputy Head of the CHRD, was banned from leaving the country in May 2010 when on her way to attend a conference in Guatemala. **Abdolreza Tajik**, a journalist and member of the CHRD, was also banned from leaving the country in February 2009 when planning to attend a seminar in Spain. **Emadeddin Baghi**, the founder of the now-banned Association for the Defence of Prisoners' Rights, has been unable to leave the country since a travel ban was imposed on him in 2004. He was unable to receive the prestigious Martin Ennals Award for human rights in person in 2009 because of this ban – the first laureate not to be able to collect the award personally.

## RIGHT TO A FAIR TRIAL (ARTICLE 14)

In the past 18 years, few steps have been taken to ensure fair trials, and violations of almost every provision in Article 14 occur regularly. Men and women are not treated equally under the law; nor are Muslims and non-Muslims, or the clergy and non-clergy. Sentences can be passed for “offences” which are not provided for in law, as judges are required to use their knowledge of Islamic Law to rule in cases where no codified law exists.<sup>83</sup> For some offences, including “adultery” and “sodomy” for which the death penalty may be applied, judges are permitted to use their own “knowledge” which can be their subjective opinion to rule on a case (see the case of Makwan Moloudzadeh above). Defendants, particularly in political or security-related cases, are routinely denied access to a lawyer in the pre-trial investigative phase, and may be denied a lawyer during the trial itself. Defendants are frequently coerced – often during extended incommunicado detention – to make “confessions”, which are often accepted as evidence in court. In some cases, defendants have no right of appeal to a higher tribunal, a particular problem for those convicted under the Anti-Narcotics law.

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<sup>82</sup> See Amnesty International, *Iran: Case sheet: Ahmad Zeidabadi*, Index: MDE 13/042/2010, 3 May 2010, <http://www.amnesty.org/en/library/info/MDE13/042/2010/en>.

<sup>83</sup> Article 167 of the Constitution and Article 214 of the Code of Criminal Procedures. This discretion is further expanded under the Procedure Code for the Special Court for the Clergy which states in a footnote to Article 42: “*On exceptional subjects, and subjects for which Sharia' and Iranian law have not specified punishments, the Judge can take action to issue a sentence based on his own viewpoint, within reason.*” The code can be read at <http://www.princeton.edu/irandataportal/legislation/scc/>.

Pastor **Yousef Naderkhani**, a pastor in a 400-strong house church calling itself the Church of Iran, has been held in Rasht, Gilan Province in October 2009 after a protest he made to the local education authorities following his discovery that his child was being forced to read from the Qur'an at school. His wife, **Fatemeh Pasandideh**, was also arrested in June 2010 in an apparent attempt to pressure him to give up his faith. She was released in October 2010.

**Yousef Nadarkhani** was sentenced to death for "apostasy" by the Rasht Provincial Criminal Court in September 2010 on the basis of religious writings by Shi'a clerics, including Ayatollah Khomeini, the founder of the Islamic Republic of Iran, despite the fact that there is no offence of "apostasy" in the Penal Code. In June 2011, the Supreme Court of Iran ruled that a lower court should re-examine some procedural flaws in the case. Under this verdict, the local judges have the power to decide whether to release, execute or retry Yousef Nadarkhani. The verdict includes a provision for the sentence to be overturned should he recant his Christian faith.

### REVOLUTIONARY COURTS

The Revolutionary Courts still function and are used to prosecute national security offences and offences under the Anti-Narcotics Law. All offences under the Anti-Narcotics Law also fall under the competence of the Revolutionary Courts (see above for statistics on executions for drugs offences).

Procedures before General and Revolutionary Courts are provided for under the Code of Criminal Procedures, but there are some important differences between the two categories of Court. Charges for which the penalty is *qesas* (retribution), of life or limb, stoning, execution and life imprisonment are under the jurisdiction of Provincial Criminal Courts, which are branches of the Appellate Court in each province, and are presided over by a judge with four advisers. However, all branches of Revolutionary Courts – which can pass death sentences for certain national security and drug-related offences – have only a single judge. Revolutionary Court judges increasingly appear to pass sentences preordained by interrogators and lack independence. According to Amnesty International's records, over 75% of the executions acknowledged by the authorities to have been carried out in 2010 are believed to have been the result of convictions in Revolutionary Courts and therefore were the result of death sentences passed by single judges. Other NGO reports submitted to the Committee have referred to concerns regarding the independence of the judiciary (Question 20), particularly in Revolutionary Courts, and Amnesty International concurs with these concerns.

Trials before Revolutionary Courts are frequently held *in camera*, and those trials which are open often appear to be nothing but "show trials", selected extracts of which may be broadcast nationally, apparently as a warning or deterrent to others. One of the major shortcomings of the judicial system is the routine lack of access of pre-trial detainees to a lawyer, under a restrictive interpretation of a note to Article 128 of the Code of Criminal Procedures. In Amnesty International's view, repeal of this note would be crucial in reducing the extremely high numbers of arbitrary arrests, help protect individuals from torture or other ill-treatment and contribute towards fairer trials in Iran. Furthermore, judges have the discretion to exclude lawyers from court hearings in "sensitive cases". Amnesty International frequently receives reports of trials where defendants have not been granted the right to a lawyer during court hearings, particularly in cases heard in the provinces.

The few steps which have been taken to try to protect individuals' rights (such as the Law on Respect for Legitimate Freedoms and Protection of Citizens' Rights) have been, to a large extent, ignored. Many of the individuals whose cases have been highlighted in this report have received grossly unfair trials.<sup>84</sup>

**Ulmaz Mamatkhanov** from the southern Kyrgyz region of Jalal-Abad, was arrested in 2009 at Mashhad International Airport as he was about to fly to Bishkek. He was subsequently found guilty of espionage and sentenced to 20 years imprisonment. In June 2011, the Kyrgyzstan Ombudsman said that he had recently come across Ulmaz Mamatkhanov during a visit to Iran, and that he had told him that he had not been present in the courtroom when his trial was held. Other reports have suggested that Ulmaz Mamatkhanov was tortured or otherwise ill-treated in detention to force him to "confess" and that he had no access to a lawyer or consular assistance at any point before or during his trial.<sup>85</sup>

#### SPECIAL COURT FOR THE CLERGY (SCC)

The state report fails to mention that the SCC, which tries all cases of Muslim clerics, as well as non-clerics accused of crimes relating to clerics or the clergy, operates outside the general framework of the Judiciary, as a separate organization with its own budget under the direct control of the Leader who can refer any case he chooses to it, including issues which are not defined as offences under the law. It was established by a directive of Ayatollah Khomeini, the first Leader of the Islamic Republic, and has no basis in the Constitution. Although it is not part of the Judiciary, bailiffs of justice, prosecutors and judges in the Judiciary are obliged to cooperate with it. The SCC may sentence defendants to death.<sup>86</sup> The existence of this court means that Muslim clerics – whether Shi'a or Sunni - are not treated equally under the law.

Defendants can only be represented by other clerics who have been approved to stand before the SCC and are permitted to defend those who appear before it. Amnesty International has documented cases of clerics who have been unable to find any one prepared to represent them, such as **Hojatoleslam Ezimi Qedimi** (see above). The UN Working Group on Arbitrary Detention has remarked that the SCC is incompatible with Article 20 of the Constitution which provides for equality of citizens before the law and recommended its abolition.<sup>87</sup>

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<sup>84</sup> Further information on violations of the right to a fair trial in the post-election period may be found in Amnesty International's two reports on this period: *Iran: Election Contested, Repression Compounded* and *From Protest to Prison: Iran one year after the election* (op. cit).

<sup>85</sup> See BBC Monitoring report of Argumenty i Faktly Kyrgyzstan, Bishkek, 22 June 2011 and "Kyrgyzstan Says Kyrgyz Man's Rights Violated In Iranian Jail", Radio Free Europe/Radio Liberty, 1 June 2011, [http://www.rferl.org/content/kyrgyzstan\\_says\\_kyrgyz\\_mans\\_rights\\_violated\\_in\\_iranian\\_jail/24212630.html](http://www.rferl.org/content/kyrgyzstan_says_kyrgyz_mans_rights_violated_in_iranian_jail/24212630.html)

<sup>86</sup> For more information about the Special Court for the Clergy, see Amnesty International, *Iran: Human rights violations against Shi'a religious leaders and their followers*, Index: MDE 13/018/1997, 2 June 1997, <http://www.amnesty.org/en/library/info/MDE13/018/1997/en>. The regulations were revised in 2005, under which the right of appeal was introduced.

<sup>87</sup> See Report of the Working Group on Arbitrary Detention, Addendum, Visit To The Islamic Republic Of Iran (15-27 February 2003), UN doc. E/CN.4/2004/3/Add.2, paras 57 and 65.

#### THE OFFICE OF FOLLOW UP AND SUPERVISION

In 2000, the Head of the Judiciary, previously an administrative post, became a judicial official. The Office of Follow-up and Supervision, a branch of the Office of the Head of the Judiciary set up after these changes, is mandated to review sentences where convicted individuals have requested it, to determine if the ruling was contrary to Shari'a law. In the event that a ruling was found to be faulty, it would be referred to the "competent authorities" – usually the Supreme Court, for verdicts issued by General or Revolutionary Courts.

A 2005 amendment to Article 18 of the Law on the Establishment of General and Revolutionary Courts places the responsibility for determining whether a verdict is contrary to Islamic law on the Head of the Judiciary, but also requires the Prosecutor General, the Head of the Judicial Organization of the Armed Forces and Provincial Judiciary Heads to inform the Head of the Judiciary should they discover problems with a ruling. The amendment provided for a commission to be established in each province to review applications for judicial review.

However, it appears that these provincial commissions and the central Office of Follow-Up and Supervision no longer exist. In November 2009, shortly after taking up the position of Head of the Judiciary, Ayatollah Sadegh Amoli Larijani issued new Executive Regulations to Article 18 of this law, which provides that the Head of the Judiciary was the only person authorised to order a review of a verdict if he found it to be contrary to Islamic law. The regulations, which many lawyers believe to be illegal, as the changes in law resulting have not been passed by parliament, therefore appear to limit the right of convicted persons to request a review of their cases, which in the past (as indicated in the state report) have led to pardons, lower sentences or halts to execution of sentences. In January 2010, it was reported that the Office was to be abolished, following the new Executive Regulations.<sup>88</sup>

Some lawyers have expressed concern as to how they will be able to get access to the Head of the Judiciary to request reviews under this new, contracted, process and have said that in their contacts with the Office of the Head of the Judiciary that they have been told to "build contacts" in the Office in order to facilitate such submissions. Such information raises concerns that the process for the request and granting of reviews of rulings may become increasingly arbitrary in the future.

#### **Amnesty International continues to urge the Iranian authorities to:**

- **ensure that all offences are defined narrowly and clearly in law, so as to remove current areas of ambiguity arising from the lack of or vague definition of crimes, and that this should be done with particular urgency where the penalties prescribed are severe;**
- **ensure that all trial procedures meet the requirements of Article 14, including by ensuring that the judiciary is fully independent and by ensuring that all arrested persons have access to a lawyer of their choice immediately following arrest including by repealing the note to Article 128 of the Code of Criminal Procedures;**
- **ensure that all foreign nationals held in Iran have prompt access to consular assistance and that where necessary, interpretation facilities are provided for them;**

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<sup>88</sup> See "Akharin taghyir va tahavolat dar ghoveh-ye ghaza'yi", Tabnak, 23 January 2010, <http://www.tabnak.ir/fa/pages/?cid=82646>.

- abolish Revolutionary Courts and the Special Court for the Clergy;
- ensure that no one is coerced to testify against themselves or others or to confess guilt and that no such “confession” is accepted as evidence in court, including as a basis for a judge’s “knowledge” of the case, except against a person accused of torture or other ill-treatment as evidence that the “confession” or other statement was made.

## FREEDOM OF EXPRESSION (ARTICLE 19)

The Committee, in its 1993 concluding observations expressed concern at the extent of limitations to the freedom of expression, assembly and association, noting that self-censorship was widespread in the media, and that severe limitations had been placed upon the exercise of freedom of assembly and of association. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has also highlighted his concern at the numerous provisions in the Penal Code and the Press Law which restrict freedom of opinion and expression.<sup>89</sup>

In a report published in December 2001, Amnesty International presented and illustrated in detail its concerns about laws which curtail the right to freedom of expression<sup>90</sup>. Since then, the violations detailed have continued unabated. The Iranian authorities have continued to ban the use of satellite dishes, ban books, and restrict the paper supply for certain publishers which makes it difficult for them to publish their books. Publications have been banned, mostly temporarily by the Press Supervisory Board, pending decisions by the courts. Some are said to have been closed under the 1960 Preventive Restraint Law<sup>91</sup>. Journalists have been targeted for arrest and countless Iranians have been harassed and persecuted for expressing their views, whether in writing or orally, in print or on the internet.

**Mehdi (Oxtay) Babaei Ajabshir**, a member of the Azerbaijani minority, was arrested in July 2006 prior to his planned attendance of an annual Iranian Azerbaijani cultural gathering, and sentenced in September 2006 to six months of imprisonment for “membership of illegal opposition groups aimed at harming national security”. The evidence against him included “sen[ding] several e-mails to the *Gamoh* website to protest, as he alleges, their action of preparing a new flag. In addition he visited other ethnic nationalist websites and forwarded some of their items to his friends”.

Legal measures have progressively restricted the space for freedom of expression. Although Press Court juries were reintroduced in 2005, their composition has been criticised by some journalists in Iran as not being independent. Many steps have been taken to limit access to

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<sup>89</sup> Report by the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo, on his visit to Iran, E/CN.4/2004/62/Add.2, 12 January 2004.

<sup>90</sup> See Amnesty International, *Iran: A legal system that fails to protect freedom of expression and association*, Index: MDE 13/045/2001, 21 December 2001, <http://www.amnesty.org/en/library/info/MDE13/045/2001/en>.

<sup>91</sup> This law was apparently only intended to be used in exceptional cases to prevent “hooliganism” or murder. See Article 19, Memorandum on Media Regulation in the Islamic Republic of Iran, March 2006, <http://www.article19.org/data/files/pdfs/analysis/iran-press-law.pdf>.

the internet. In 2006, the authorities announced plans to filter internet sites, and to restrict bandwidth speeds, a technical measure which since implementation has severely restricted the ability of Iranians to download information from the Internet. New regulations were introduced requiring all websites to register with the Ministry of the Interior, although they are believed to be widely flouted.

In December 2008, the Office of the Tehran Public Prosecutor announced the formation of a “special office to review Internet- and SMS-related crimes and violations”, stating that the office would review election campaign violations and “offensive remarks” sent by SMS. An amendment was made in early 2009 to Article 1 of the Press Law, bringing internet publications – which some consider to include personal weblogs - under its remit. Many felt these measures were intended to ensure that opposition candidates in the presidential election of 2009 would be limited in their use of the internet. Further to this, a “Law on Cyber Crime” was introduced in July 2009, which places further severe restrictions on internet usage in Iran, which is already controlled through filters and limits on band width imposed by the authorities.<sup>92</sup>

**Ashkan Delanvar**, a student banned from further education for his political views had his sentence of four month’s imprisonment for distributing software designed to circumvent restrictions placed on internet access by the Iranian Government and six month’s imprisonment for providing training into how to use such software upheld by Branch 27 of the Appeal Court in Tehran in late June 2011. He had been arrested in July 2010 when he was held for about 14 days and reportedly ill-treated. Ashkan Delanvar undertook these activities to get round the Iranian authorities’ sweeping restrictions on access to the internet. This is the first such conviction which has come to Amnesty International’s attention based on the 2009 “Law on Cyber-crime”. He was believed to be at liberty at the time of writing in September 2011, but if imprisoned to serve this sentence, Amnesty International would consider him a prisoner of conscience and would call for his immediate and unconditional release.<sup>93</sup>

In 2008, a law on audio-visual crime came into force which prescribes the death penalty for producers of “obscene” products; producers of such products “intended for sexual abuse”; and the principal perpetrators of those products, as they are to be considered “corrupt on earth” (Article 3). Under Article 4, persons who use such products to blackmail others “to fornicate with them” will be charged with rape under the zena laws, for which there is a mandatory death sentence.

#### FREEDOM OF EXPRESSION OF PARLIAMENTARIANS

Article 84 of the Constitution gives parliamentarians the right to express views on all internal and external affairs of the country. Article 86 further provides that members of parliament are “completely free in expressing their views and casting their votes in the course of performing their duties as representatives, and they cannot be prosecuted or arrested for opinions expressed in the Assembly or votes cast in the course of performing their duties as

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<sup>92</sup> See Amnesty International, *Iran: Amnesty International concerned at increasing censorship*, Index: MDE 13/133/2006, 6 December 2006, <http://www.amnesty.org/en/library/info/MDE13/133/2006/en>.

<sup>93</sup> See Amnesty International, *Iran: New arrests and convictions highlight ongoing repression of basic freedoms*, Index Number: MDE 13/069/2011, 28 July 2011, <http://www.amnesty.org/en/library/info/MDE13/069/2011/en>.

representatives". However, in some cases, former members of the Majles have been detained apparently in connection with their activities as MPs.

**Sayed Ali-Akbar Mousavi-Kho'ini**, who served in the sixth Majles, was beaten and arrested in June 2006 during a demonstration calling for an end to legalized discrimination against women. After his release on bail over four months later, he said that of his 130 days under interrogation, only the first 10 days were concerned with his participation in the women's rights demonstration. For the rest of the time, he was interrogated about his activities as a human rights defender during his time as a member of the Majles and his activities in the Graduates' Association of Iran..

A new law introduced into parliament in 2011 could pave the way for MPs to be prosecuted for their criticism of the government. The "Bill for Supervision over Members of Parliament", if it passes into law, seems likely to violate Articles 84 and 86 of the Constitution as it appears to remove the legal immunity of Members of Parliament provided by those articles in fulfilling their duties as representatives. The Bill envisages a six-person committee to scrutinise and, in some cases, issue verdicts in regard to alleged offences by MPs relating to their financial and moral affairs, national security, lateness and absence from Parliament meetings, and lack of transparency in reporting sources of income and funding electoral expenses, despite the fact that parliamentary regulations only allow lateness and absence to be prosecuted within parliament. The addition of offences against national security to those which can be investigated in relation to MPs causes serious concerns that one of the intentions of this Bill is to impose restrictions on the freedom of expression of MPs which are incompatible with Article 19 of the Covenant, particularly in light of the vagueness of laws relating to national security offences, and the long history of the use of such laws to violate the rights to freedom of expression, association and assembly in Iran .<sup>94</sup>

#### FREEDOM OF EXPRESSION OF ACADEMICS AND STUDENTS

After the disputed presidential election, the Iranian authorities launched a purge of universities, particularly in relation to the teaching of social sciences. In late August 2009, the Supreme Leader made a speech to university administrators in which he described the popularity of the social sciences – which are studied by over two million of the three and a half million university students – as a "worrying" trend and said that "instruction in these human sciences in the universities will lead to reservations and doubts in religious principles and beliefs." His speech echoed the apparently forced confession of Saeed Hajjarian during a mass "show trial" in August 2009, who said "theories of the human sciences contain ideological weapons that can be converted into strategies and tactics and mustered against the country's official ideology."

Ayatollah Ali Khamenei's speech led to calls by various officials for an end to the teaching of social sciences in universities<sup>95</sup>.

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<sup>94</sup> A fuller discussion of the Bill may be read at Arseh Sevom, *Islamic Republic of Iran Forcefully Targets Civic and Democratic Organizations*, 4 May, 2011, <http://www.arsehsevom.net/2011/05/islamic-republic-of-iran-forcefully-targets-civic-and-democratic-organizations/>.

<sup>95</sup> Ayatollah Mohammad Emami-Kashani, a member of the Assembly of Experts, declared in a nationally televised sermon on 4 September 2009 that the human sciences should not be taught in the Western



In October 2009, five prominent university professors from Alameh Tabatabai University's law school were said to have been banned from teaching. Among them was Dr Mohammed-Reza Bighdeli, a renowned professor of international law, who is not known to have commented on political affairs. Since then, many other university teachers have reportedly been fired or forcibly retired and plans have been made to change university course to make them more Islamic. For example, in May 2011, 150 senior professors of business administration, sociology, economics, communications, law and political science at Alameh Tabatabai University in Tehran were said to be facing dismissal or early retirement<sup>96</sup>. Earlier the same month, Deputy Minister of Science for Research and Technology, Mohammad Mehdi Nejad Nouri, said at least 36 courses would be changed by September 2011 after revision by a group of university and seminary experts<sup>97</sup>.

Academics have also been persecuted for attending conferences abroad and for their links with other professionals in their field.

Renowned HIV/AIDS physician **Dr Arash Alaei**, released in August 2011. He had served three years of a six-year sentence, having been convicted of "cooperating with an enemy government" after months in pre-trial detention without access to a lawyer and an unfair trial in which secret evidence was produced which he was not allowed to see or challenge. His arrest, along with that of his brother Kamiar, also a physician, was believed to be related to their links with foreign academics and civil society organizations, including in the USA.

Student activists who have expressed views opposing the government or its policies have faced harassment, arrest and bans on continuing their education, both temporary and permanent.

**Sayed Ziaoddin Nabavi** (see above) is a member of the Council to Defend the Right to Education, a body set up in 2009 by students barred from further study because of their political activities or on account of their being Baha'is. He was arrested in June 2009. Sayed Ziaoddin Nabavi was sentenced to 15 years' imprisonment and 74 lashes in January 2010, which was reduced to 10 years on appeal in late May 2010. He says that he was beaten, kicked, insulted and humiliated during his interrogation. His particularly heavy sentence appears in part to be linked to the fact that he has family members based in PMOI-run camps in Iraq. He denies having any personal links to the PMOI. He has reported on prison conditions during his imprisonment (see above)

**Ashkan Zahabian**, a student activist who had been a member of Mehdi Karroubi's election campaign in the 2009 presidential election and was subsequently expelled from university, was arrested on 2 May 2011 after he answered a summons to go to the Office of the Ministry of Intelligence in Sari, northern Iran. Although facing a six-month prison term for "disturbing public order" and "inciting people to protest", he had never received a written summons to begin serving this sentence. He was first arrested in June 2009 and held for more than a month. He was subsequently tried and convicted in his absence by Branch 101 of the Revolutionary Court of Babol and sentenced to six months' imprisonment, upheld on appeal. He was arrested

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style in Iran. Two days later, the Institute for Humanities and Cultural Studies said it had been instructed by the Supreme Council for the Cultural Revolution to revise the human sciences curriculum.

<sup>96</sup> See "150 professors to be dismissed or forced into retirement", Radio Zamaneh, 22 May 2011, <http://radiozamaneh.com/english/content/150-professors-be-dismissed-or-forced-retirement>.

<sup>97</sup> See Mitra Amiri, "Iran to make university courses more Islamic", Reuters, 6 May 2011, <http://in.reuters.com/article/2011/05/06/idINIndia-56823020110506>.

for a second time on 4 November 2009, accused of "acting against state security by forming Islamic [student] Associations in the north of the country", shortly before Students' Day in December 2009. He was again released on bail, and could face a further prison term.

Such interference with university teaching and harassment of professors, academics and students breaches Iran's obligations under Article 19 of the Covenant.

#### INCITEMENT TO DISCRIMINATION AND HATRED (QUESTION 26)

The state report refers in paragraphs 677-679 to a 1977 law which prohibits the propagation of racial discrimination. Notwithstanding this law, Government spokespersons and leading Iranian political figures have made statements that are inconsistent with the state's obligations under Article 20 of the Covenant, and the particular responsibility of political leaders to respect, ensure and promote human rights and not to incite human rights abuses. They are not known to have been prosecuted for these statements, which may amount to "incitement to hostility, discrimination and violence".

President Mahmoud Ahmadinejad has also on several occasions since his election in 2005 made statements regarding the State of Israel which could directly or indirectly encourage hatred and violence or attacks on civilians, such as a statement that "the Zionist regime should be erased from the page of history" and denying that the Holocaust had taken place. In an interview given in January 2010, Mohammad Javad Larijani, Secretary General of Iran's High Council for Human Rights, referred to US President Barak Obama as a 'kaka siyah', the Persian equivalent of "nigger".<sup>98</sup>

Derogatory articles and other media pieces about ethnic minorities, which may amount to advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, are frequently published in state-run newspapers or broadcast by state-run television and radio stations. Such practices are of particular concern with relation to the Baha'i community. In June 2010, the Secretary General of Iran's High Council for Human Rights, Mohammad Javad Larijani, also equated the Baha'i faith to a 'cult'. He stated that "Bahaism is not recognized as a religion either by other Islamic countries or OIC because of the content of their cult, sectarian character and violations of human rights by their leaders."<sup>99</sup> The consistent expression and dissemination of such views may have contributed to the increase in recent years of reported attacks on Baha'i property, including cemeteries.

In May 2009, Hossein Shariatmadari, the editor of the Tehran daily newspaper, Kayhan, and an advisor to Supreme Leader Ali Khamenei, wrote an article which criticized an advisor to then presidential candidate Mehdi Karroubi and contained references to Iran's Baha'i community as a "cult" and a "political party ...

<sup>98</sup> See "Javad Larijani: Hashemi shaksiyat-e bozorg va pichideh-i ast. 23 January 2010, <http://www.asriran.com/fa/pages/?cid=98225>.

<sup>99</sup> Accessed at <http://www.agahsazi.com/article.asp?id=3391&cat=4>, although this link is no longer available.

[which is] Israel's fifth column with its espionage and terrorist activities" which appear to constitute incitement to racial discrimination<sup>100</sup>.

The Azerbaijani community has also been the subject of derogatory items in state-controlled national newspapers. For example a derogatory cartoon was published in a state-run newspaper in May 2006. It depicted a cockroach implying that it was a member of the Azerbaijani minority. The cartoon led to wide-spread demonstrations by members of the Azerbaijani minority, and – in the course of the demonstrations – to unlawful killings and mass arrests.

The Committee on the Elimination of Racial Discrimination (CERD) likewise expressed concern in 2010 at reports of racial discrimination in every day life and statements of racial discrimination and incitement to hatred.<sup>101</sup>

#### **Amnesty International calls on the Iranian authorities to**

- **ensure that no one may be detained or imprisoned solely for the peaceful exercise of the right to freedom of expression. Anyone so detained should be released immediately and unconditionally;**
- **review all relevant legislation to ensure that restrictions on freedom of expression are narrowly and clearly defined, and do not exceed those which are permissible under the Covenant;;**
- **guarantee academic freedom for all those involved in academia;**
- **ensure that parliamentarians are free in law and practice to express their views, including views which are critical of the government;**
- **take urgent steps to ensure that no one, including those holding the highest office, advocates national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence , and that anyone making such statements is brought to justice;**
- **implement the recommendation of CERD to “take appropriate steps to combat manifestations in the media, as well as in everyday life, of racial prejudice that could lead to racial discrimination and to adopt a media code of ethics that would commit the media to showing respect for the identity and culture of all communities in Iran, taking into account the possible intersection of racial and religious discrimination”.**

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<sup>100</sup> See Amnesty International's list of concerns to the 77<sup>th</sup> session of the Committee on the Elimination of Racial Discrimination, 25 June 2010, available at [http://www2.ohchr.org/english/bodies/cerd/docs/ngos/AI\\_Iran\\_cerd77.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/ngos/AI_Iran_cerd77.pdf).

<sup>101</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Islamic Republic of Iran, UN Doc. CERD/C/IRN/CO18-19, 27 August 2010, para. 10.

## FREEDOM OF ASSEMBLY AND ASSOCIATION (ARTICLES 21 AND 22)

### FREEDOM OF ASSEMBLY

Article 27 of the Constitution provides that “[p]ublic gatherings and marches may be freely held, provided arms are not carried and that they are not detrimental to the principles of Islam.” The latter provision, in particular, is open to broad interpretation as there is no definition in law of the “principles of Islam.” The 1981 Law on Political Parties, Societies, Political and Guild Associations, and Islamic or Recognized Minority Religious Associations, in Article 6, adds other provisions which further limit freedom of assembly. According to Article 6(2) of this law:

*A march may be freely held, provided that it is not detrimental to the principles of Islam as determined by the Article 10 Commission<sup>102</sup> and participants are unarmed . . . and prior notice is given to the Interior Ministry. Assemblies in public squares and parks are also free with permission from the Interior Ministry.<sup>103</sup>*

Once a request is made, the Article 10 Commission must determine whether or not the gatherings and demonstrations contravene the principles of Islam; if they do not, the Commission will issue the permit to hold the assembly.

This leads to severe limitations on the right of assembly, with the presumption being that Iranians cannot peacefully gather without someone having gained prior authorisation from the Article 10 Commission which is routinely denied to those expressing positions with which the authorities do not agree, and having notified the Ministry of the Interior.

The result – when frustrated individuals do gather on the street to protest and are met by heavy-handed security forces, including the volunteer Basij militia who may not be trained in policing – is often violent. Amnesty International has documented dozens of instances since 1993 when individuals have been injured by the security forces, or even killed during such demonstrations, such as those in the aftermath of the 2009 presidential election and more recently during environmental protests in north-west Iran, mainly by members of the Azerbaijani minority, at the ongoing, rapid desiccation of Lake Oroumieh<sup>104</sup>.

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<sup>102</sup> The Article 10 Commission is established under Article 10 of the Law. It is headed by the Interior Ministry, with two MPs and two representatives of the Judiciary. It oversees the issuing of permits to, and the dissolution of, political parties as well as issuing permits for demonstrations.

<sup>103</sup> Ibid.

<sup>104</sup> See “ADAPP Public Statement: Deaths, Injuries, and Arrests at Lake Urmia Demonstrations in Iran”, 30 August 2011, Association for the Defence of Azerbaijani Political Prisoners, [http://adapp.info/en/index.php?option=com\\_content&view=article&id=552&catid=36&Itemid=72](http://adapp.info/en/index.php?option=com_content&view=article&id=552&catid=36&Itemid=72).

## FREEDOM OF ASSOCIATION

Freedom of Association, guaranteed under Article 26 of the Constitution, is limited by a “claw-back” clause which provides that associations must not violate the criteria of Islam or the basis of the Islamic Republic. As a result, restrictions are placed on the activities of associations, under Article 16 of the Law on Political Parties, Societies, Political and Guild Associations, and Islamic or Recognized Minority Religious Associations, about which the Committee expressed concern in its 1993 Concluding Observations. The Article 10 Commission established by this law is reported to have drafted a revised law which is currently under consideration by the government which, it is feared, will further restrict freedom of association.<sup>105</sup>

Some political parties have been banned, such as the Freedom Movement, banned in 2000 although it has continued to operate. Many of whose members have been arrested in recent years, such as **Emad Bahavar**, the Head of its Youth Branch, who is serving a 10-year prison sentence after conviction of “membership in the Freedom Movement Organization, gathering and colluding with intent to harm national security, propaganda against the system and insulting the Leader.” Three other parties – the National Trust Party, linked to presidential candidate Mehdi Karroubi; the Islamic Iran Participation Front, linked to former President Khatami; and the Mojahedin of the Islamic Revolution Organization, which endorsed the candidacy of Mir Hossein Mousavi, have been banned since the 2009 presidential election.<sup>106</sup>

In addition to political parties, restrictions on freedom of association are also placed on independent trade unions, under the Labour law. Independent trade unions are not permitted and several independent trade unionists – such as **Ebrahim Madadi**, the Deputy Head of the Union of Workers of the Tehran and Suburbs Bus Company (Sherkat-e Vahed), are currently imprisoned for their trade union activities<sup>107</sup>.

Membership of the Bar Association, and approval for candidacy for elections to its board, is also subject to discriminatory vetting procedures which limit its independence by subjecting

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<sup>105</sup> See “Islamic Republic of Iran Forcefully Targets Civic and Democratic Organizations”, Arseh Sevom, 4 May 2011, <http://www.arsehsevom.net/2011/05/islamic-republic-of-iran-forcefully-targets-civic-and-democratic-organizations/>.

<sup>106</sup> The National Trust Party was banned in August 2009. On 15 March 2010, the Judiciary banned the activities of the IIPF and closed its offices. On 19 April 2010, the Article 10 Commission revoked the licences of the IIPF and the MIRO, alleging they had violated Article 16 of the Law on Political Organizations. Under this article, political organizations are prohibited from “slander, libel and spreading of rumours”, “violating national unity”, “efforts to create or exacerbate conflicts between people” and “violation of Islamic Republic’s Islamic principles”. The Judiciary spokesperson Gholam Hossein Mohseni-Ejei confirmed in October 2010 that the two parties had been ordered closed by a court.

<sup>107</sup> For more information on concerns relating to independent trade unions, see Amnesty International *Iran: Determined to live in dignity: Iranian trade unionists' struggle for rights*, Index: MDE 13/024/2011, 10 June 2011, <http://www.amnesty.org/en/library/info/MDE13/024/2011/en>.

membership to approval by the judiciary<sup>108</sup>. The Bar Association has also been undermined by the introduction of so-called “legal advisers” (paragraphs 87-89 of the state report).<sup>109</sup>

Independent NGOs and civil society movements including most human rights organizations, such as the Centre for Human Rights Defenders, the Association for the Defence of Prisoners’ Rights, the Committee of Human Rights Reporters and the Kurdistan Human Rights Organization have faced obstruction and even closure in their work, and their members have been arrested.

The **Centre for Human Rights Defenders**, established by Shirin Ebadi and other prominent human rights lawyers, has never been granted legal registration since its formation in 2001. Its offices were forcibly closed by security forces in December 2008 though members have continued to meet and work, raising human rights concerns in Iran. They have faced repeated harassment, intimidation, arrest and imprisonment. Lawyer Mohammad Seyfzadeh, one of the co-founders, is serving a two-year prison sentence for his role in founding the centre.

In 2011, Fatemeh Masjedi and Maryam Bidgoli became the first women active in the **One Million Signatures Campaign** (see above) to serve prison sentences in which the campaign was designated as an illegal opposition group. They were each sentenced to six months imprisonment for “spreading propaganda against the system in favour of a feminist group (the Campaign) by distributing and collecting signatures for a petition to change laws discriminating against women, and for publication of materials in support of a feminist group opposed to the system”.<sup>110</sup>

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<sup>108</sup>These restrictions are laid down in the 1997 Law on the Requirements for Obtaining a Lawyer’s License, which requires lawyers to be practising Muslims, to believe in the ideological basis of the Islamic Republic, not to be monarchists, members of atheist or communist groups, “misleading denominations” [eg Baha’is] or opposition groups. In June 2009, the Head of the Judiciary approved new by-laws to the 1955 Law establishing the independence of the Iranian Bar Association which would give the Judiciary the power to approve membership of the Bar and lawyers’ licensing applications, thereby undermining the independence of the Bar. The by-laws, which do not need parliamentary approval, have been challenged by the Bar Association and have not yet been implemented. For further information, see Amnesty International, *Iran: Lawyers’ defence work repaid with loss of freedom: Joint statement*, Index: MDE 13/093/2010, 1 October 2010, <http://www.amnesty.org/en/library/info/MDE13/093/2010/en>.

<sup>109</sup> The 2001 Law on the Third Economic Social and Cultural Development Plan. Article 187 stipulates that the judiciary “shall be authorized to confirm the competence of the graduates of law who shall be granted licenses for the establishment of legal advisory institutes.” The advisors are authorized to present cases in court. See Amnesty International, *Iran: A legal system that fails to protect freedom of expression and association*, Index: MDE 13/045/2001, 21 December 2001, <http://www.amnesty.org/en/library/info/MDE13/045/2001/en>.

<sup>110</sup> For further information about the harassment of women’s rights defenders, see Amnesty International, *Iran: Women’s rights defenders defy repression*, Index: MDE 13/018/2008, 28 February 2008, <http://www.amnesty.org/en/library/info/MDE13/018/2008/en>.

The **Graduates' Association**, comprised mainly of former students who had been active in the Office for the Consolidation of Unity, a student organization, while studying and which in recent years has promoted reform and greater respect for human rights, said in May 2010 that over half of its members had been arrested since the 2009 presidential election. They include its Secretary-General **Ahmad Zeidabadi**, a journalist, who was arrested on 21 June 2009 and sentenced in November 2009 to six years' imprisonment, five years of internal exile, and a lifetime ban on all social and political activities city after appearing in sessions of the mass "show trial" in August 2009.

The operation and independence of NGOs, currently governed by the 2005 Executive Regulations Concerning the Formation and Activities of Non-Governmental Organizations will be further undermined should a Bill currently under discussion in parliament pass into law in its present form. The Bill on the Establishment and Supervision of NGOs would replace these regulations with a regulatory framework that would effectively wipe out all independent NGOs in the country, whether currently existing or those which wish to start their activities through the creation of an unaccountable body - the Supreme Committee Supervising NGO Activities. Chaired by the Interior Ministry, it will include representatives from the Intelligence Ministry, the Police, the Basij, the Revolutionary Guards Corps – all of which have proved themselves to be against freedom of expression, association and assembly - and the Foreign Ministry, among others, but will have only one member representing NGOs' interests. The committee will be empowered to issue and revoke registration permits for all NGOs, and have ultimate authority over their boards of directors.<sup>111</sup>

**Amnesty International continues to call on the Iranian authorities to:**

- **ensure that freedom of assembly and association is guaranteed to all individuals without discrimination and to release immediately and unconditionally anyone held solely for the peaceful exercise or their right to freedom of assembly or association, including students, teachers, human rights activists, lawyers and trade unionists.**
- **review laws and practices relating to the policing of demonstrations, ensuring that all security personnel deployed are instructed and trained to apply international human rights standards. In particular, they must be trained in and under orders to use non-lethal methods of crowd control whenever appropriate and to ensure that force is used only when strictly necessary, and to the extent necessary. The use of firearms must be prohibited except as a measure of last resort to protect life; and the use of the Basij to police demonstrations ended;**
- **ensure that legal restrictions on the formation and operation of political parties, and NGOs are lifted and that the Bill on the Establishment and Supervision of NGOs is not passed in its present form. Parties, NGOs and other organizations that have been forcibly closed should be permitted to reopen;**
- **lift all restrictions on the independent functioning of the Bar Association, including on membership and election to its board, and release all lawyers held solely for their defence of clients;**

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<sup>111</sup> See Amnesty International, *Iran: Parliament ignores concerns of independent civil society organisations over draft bill*, Index: MDE 13/044/2011, 10 April 2011, <http://www.amnesty.org/en/library/info/MDE13/044/2011/en>.

- **legislate to allow workers to exercise their right to form and join independent trade unions and to collectively bargain in line with Iran's obligations under the Covenant and other international standards, including by granting legal recognition to all independent workers' bodies and by ending harassment of their members for their peaceful exercise of their rights to freedom of association and their right to strike;**
- **end all victimization, discrimination, harassment and arbitrary arrest of human rights defenders, including women's rights activists, lawyers, and trade unionists who are seeking to uphold their own and others' rights.**

## **RIGHT TO TAKE PART IN CONDUCT OF PUBLIC AFFAIRS (ARTICLE 25)**

In addition to the restrictions placed on women, ethnic and religious minorities on the right to be elected or appointed to public office (see above), other individuals may be barred from standing on account of their political or other conscientiously held opinions.<sup>112</sup>

In 2008, 31% of parliamentary candidates were disqualified, including 19 sitting MPs.<sup>113</sup> It is likely that similar large-scale disqualifications on grounds of gender, ethnic identity,

<sup>112</sup> In the 2009 presidential election, all but four presidential candidates, including all women, were barred from standing after scrutiny by the Guardian Council.

<sup>113</sup> According to the Ministry of the Interior, 131 individuals were found to have had "a record of treason, fraud, or embezzlement"; and 329 persons "had a bad reputation in their neighbourhood". A further 188 individuals were deemed to have lack the requisite educational background or five years of senior professional experience. However, the bulk of those disqualified, the Ministry of Interior explained, had been disqualified for drug-related offences, "connections to the shah's pre-1979 government", "lack of belief in Islam and insufficient practice of Islam", being "against" the Islamic Republic, or "having connections to foreign intelligence services". Those disqualified included Ali Eshraghi, the grandson of the Founder of the Islamic Republic of Iran, Ayatollah Khomeini. He said, "*What saddens me most is the method of discernment used [by the Council of Guardians]. . . . They had asked my neighbours if I pray my daily prayers, or fast? Does my wife respect the Hijab? Do I shave? Or smoke cigarettes? What car do I drive, and do I dress in a suit!*" See "Noveh-ye Imam Khomeini (rh) salahiyat rad shod [Imam Khomeini's grandson disqualified]", Baharestan-e Iran, 6 February 2008, <http://www.baharestan8.com/ShowNews.php?670>. Another was Ayatollah Mousavi Tabrizi, a senior cleric who had previously been vetted and allowed to run for the Assembly of Experts, an elected body of clerics whose function includes appointing the Supreme Leader. He was disqualified on grounds of his alleged "lack of belief in law and in Islam." See "*Salahiyat-dar bara-ye 'Khobregan' va bi-salahiyat baraye 'Majles'*" [Qualified for the "Experts" and Unqualified for the "Parliament"], Noandish, 5 February 2008, <http://webcache.googleusercontent.com/search?q=cache:LDyP-2DWkgsJ:www.ghatreh.com/news/1517181.html+%D8%B5%D9%84%D8%A7%D8%AD%DB%8C%D8%AA+%D8%AF%D8%A7%D8%B1+%D8%A8%D8%B1%D8%A7%DB%8C+%D8%AE%D8%A8%D8%B1%DA%AF%D8%A7%D9%86&cd=3&hl=en&ct=clnk&gl=uk&client=firefox-a&source=www.google.co.uk>.

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religious belief and political opinion will take place in the parliamentary elections in March 2012 and presidential election in 2013.

The run-up to the 2009 presidential election campaign saw increased waves of arbitrary arrests and harassment targeting in particular members of Iran's religious and ethnic minority communities, students, trade unionists and women's rights activists. Some of those arrested were tortured or otherwise ill treated. Other individuals arrested previously were sentenced to death, in circumstances suggesting that the authorities wished to send a warning to others. In addition, several newspapers were closed down, and access to internet sites was restricted, including some relating to human rights or which were operated by international broadcasters. The authorities announced that they were monitoring material posted on the internet and sent via SMS for "election campaign violations" (see above). These measures may have been intended to stifle debate and to silence critics of the authorities in advance of the election.<sup>114</sup>

**Amnesty International continues to call on the Iranian authorities to:**

- **ensure that no one in Iran is excluded from standing as a candidate for public office solely on the grounds of their race, colour, sex, language, religion, property, birth or political or other opinion;**
- **fully respect and protect the rights to freedom of expression, association and assembly in relation to the conduct of elections, including the up-coming parliamentary elections in March 2012 and presidential election in 2013.**

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<sup>114</sup> See Amnesty International, *Iran: Ensure free presidential election*, Index: MDE 13/046/2009, 15 May 2009, <http://www.amnesty.org/en/library/info/MDE13/046/2009/en>.

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