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# IRAN

## Human Rights Violations against Shi'a Religious Leaders and their Followers

### 1. Introduction

Since the establishment of the Islamic Republic of Iran in 1979 serious human rights violations have continued. Victims have included a broad range of political opposition from members of left-wing groups to monarchists, as well as ethnic and religious minorities.<sup>1</sup> There has also been a pattern of restrictions placed on Shi'a religious leaders opposed to fundamental tenets of the Iranian political system such as *velayat-e faqih*<sup>2</sup> or governmental policies, and the arrest and detention of their followers.<sup>3</sup> This pattern has continued through the 1990s. For many years little was known outside Iranian religious circles about human rights violations against members of these groups. In recent years, however, divisions between certain Shi'a religious leaders and the state appear to have deepened, and information about human rights violations against them and their followers has reached a wider public.

Dozens, if not hundreds of followers of religious leaders, have reportedly been arrested in recent years, and more particularly since 1995. At least three senior religious figures are also reportedly held under house arrest. Some of those detained are said to have been tortured or ill-treated. A few have been sentenced to prison terms, sometimes accompanied by flogging, after unfair trials before special courts which operate outside

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<sup>1</sup>For details of the persecution of various religious minorities such as Christians, Sunnis and Baha'is, see Amnesty International documents such as *Iran: Official Secrecy Hides Continuing Repression* (AI Index: MDE 13/02/95) and *Iran: Dhabihullah Mahrami: Prisoner of Conscience* (AI Index: MDE 13/34/96) as well as the annual *Amnesty International Report*.

<sup>2</sup>Literally "Leadership of the learned man" - see section 2 below.

<sup>3</sup>Figures in the Shi'a religious establishment are not the only ones to have challenged the involvement of the religious establishment in the political system and to have suffered persecution as a result. At least 10 members of the Mohajerin group who are followers of Dr Ali Shariati, whose writings challenged the traditional Shi'a establishment are believed to have been in prison since the early 1990s despite official denials. Others have been executed (see for example *Iran: Amnesty International concerned at continuing political executions* AI Index: MDE 13/WU 08/92). More recently, Dr Abdolkarim Soroush, a university lecturer, has been subject to attacks by *Hezbollah* members during lectures, for his advocacy of the running of government on the basis of rationality and not religious jurisprudence.

the normal judicial framework. Others are still detained without trial, and the fate of some is unknown. Many, if not all, may be prisoners of conscience.

On numerous occasions, Amnesty International has sought clarification from the Iranian Government of the reasons for the arrest and detention of such people, and their legal status. The organization has called for the immediate and unconditional release of prisoners of conscience; for prompt and fair trials of others; for impartial investigations into allegations of torture and ill-treatment; for the prosecution of anyone found to have been responsible for abuses; and for compensation to be given to victims of torture or ill-treatment. The authorities have responded to a number of the cases which Amnesty International has brought to their attention, and their responses have been reflected in this report. However, the information provided is usually of a very general nature, and is insufficient to allay Amnesty International's concerns.

## **2. Background**

The official state religion in Iran is Twelver Ja'fari Shi'a Islam. Its adherents believe that following the death of the Prophet Muhammad, there were 12 Imams who were the rightful spiritual and political leaders of the community of Muslims. The twelfth Imam is believed to have grown up in hiding and to have gone into occultation some 300 years after the death of the Prophet Muhammad, but is expected to return one day to resume his leadership.

In the absence of the Twelfth Imam, political and religious authority became separated in practice. In Iran, there were a number of royal dynasties which wielded political power, while religious authority remained with the *ulema* (clergy) and in particular in the concept of the *marja-ye taqlid*, or source of emulation. A *marja* must be a very learned and holy man who has attained the level of *mojtahed*<sup>4</sup> in Islamic law. Following the death of a *marja*, a new one is elected from among his followers. Other Shi'a Muslims then begin to seek to emulate the new *marja*, and treat his *fatwas* (Islamic legal edicts) as binding upon themselves. At any one time, there are usually a number of *maraji-ye taqlid* based in Shi'a communities around the world.

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<sup>4</sup>A *mojtahed* is a student of Islamic Law who has attained the level of *ijtihad* ie the ability to derive Islamic Law from its sources.

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Grand Ayatollah Ruhollah Khomeini, the founder of the Islamic Republic of Iran, himself a *marja-ye taqlid*, developed in his writings the political concept of the absolute authority of *velayat-e faqih*, or the leadership of the learned man, whereby overall political authority lies with the Leader, who must be a holy and pious man, as well as an expert in Islamic law and a *marja*. The concept of *velayat-e faqih* was enshrined as part of the Constitution of the Islamic Republic of Iran adopted in 1979<sup>5</sup>, and Grand Ayatollah Khomeini became the first *vali-ye faqih* or Leader of the Islamic Republic of Iran, thereby uniting absolute religious and political authority in Iran in one person for the first time for centuries. Shortly before his death in 1989, Grand Ayatollah Khomeini issued a directive to amend the Constitution to separate these two functions on the grounds that there was no-one suitable to succeed him who possessed the political qualities necessary to be the Leader as well as being a *marja*. Although this amendment had not been passed at the time of Grand Ayatollah Khomeini's death, the then President, Sayed Ali Khamenei, who was only a Hojjatoleslam at the time, but who was swiftly elevated to the rank of Ayatollah, was elected to the position of Leader by the 80-strong Assembly of Experts. The amendment<sup>6</sup> was ratified later in July 1989 in a referendum which also confirmed Ayatollah Khamenei's appointment as Leader.

Not all other senior religious figures necessarily agreed with the concept of *velayat-e faqih* or in the way it was implemented. Other government policies, including the eight-year war with Iraq and human rights violations by the authorities, have also met with opposition. This has led to divisions between certain sectors of the religious hierarchy in Iran. The appointment of Ayatollah Sayed Ali Khamenei as Grand Ayatollah Khomeini's successor did nothing to heal these divisions. Although now the current Leader with supreme political authority, Ayatollah Khamenei did not meet with the approval of several more senior figures in the religious hierarchy who regarded him as lacking religious credentials at the time of his appointment. Since then he has on several occasions sought the endorsement of all other senior Iranian religious figures (and at times of Shi'a leaders outside Iran) as being the most senior religious figure in Iran or in Shi'a Islam, whose rulings would be binding on all others, including other *marjas*. Such

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<sup>5</sup>The original Constitution defined the necessary qualifications for the position of Leader as "a) The scholarship and piety required for giving rulings and acting as *marja*; b) Political and social vision, courage, and adequate capacity and administrative ability for Leadership."

<sup>6</sup>In this amendment, while the requirement of being a *marja* was dropped, the political powers of the Leader were greatly enhanced. They include: defining the general policies of the state; supervision of the proper execution of policies; resolving differences between the three branches of the state and regulation of their relations; and resolving problems unresolvable by conventional means through the Assembly for Determination of Exigencies of the State (*Majma-ye Tashkhis-e Maslahat-e Nezam*).

support has not been forthcoming from all quarters. It is within this context that the human rights violations against religious leaders and their followers described below have occurred.

### **3. The Special Court for the Clergy<sup>7</sup>**

The Special Court for the Clergy (*Dadgah-e vizhe-ye Rouhaniyat*) was established on the basis of a letter from Grand Ayatollah Khomeini dated 25 Khordad 1366 (15 June 1987)<sup>8</sup> which appointed Ali Razini as Judge (*Hakem-e Shar'*) and Hojjatoleslam Ali Fallahian as the Prosecutor for the Special Court for the Clergy. The functions and scope of the new court were described by Hojjatoleslam Fallahian in a press interview published in several newspapers on 7 July 1987. He stated that the court would "*investigate crimes such as counter-revolution, corruption, fornication, unlawful acts, accusations which are incompatible with the status of the clergy, and all crimes committed by 'pseudo-clergy', both in terms of the ugly acts they commit and the effect they have on the reputation of the clergy*". The courts were to be set up in Tehran, Mashhad, Tabriz and Shiraz, and later in other cities as necessary.

Following the issuance of this letter, work began on drafting legislation relating to the new court. The Regulations governing the Prosecutors' Offices and Special Courts for the Clergy [the Regulations] were published in the Official Gazette of 7 October 1990, accompanied by a note dated 6 August 1990 from the Secretariat of the Leader to Hojjatoleslam val-moslemin Mohammadi-Reyshahri, the then Prosecutor of the Special Court for the Clergy. The note stated:

*"...A copy of the Law concerning the organization of the Prosecutors' Offices and Special Court for the Clergy, together with the scope of their jurisdiction and procedural regulations - which has been sanctioned by the eminent Leader - is sent to you to take the necessary action. The*

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<sup>7</sup>The word clergy is being used here to translate the Farsi word "Rouhaniyat" or the institution of the religious system in Iran.

<sup>8</sup>Some sources suggested at the time that, despite official denials, the Court was established in order to try Mehdi Hashemi, a cleric and the brother of a son-in-law of Grand Ayatollah Montazeri (then the designated successor to Grand Ayatollah Khomeini). He was said to have been formerly connected with the World Liberation Movement, reportedly involved in "exporting the Islamic Revolution". He was believed to have been involved in leaking news of Iranian-US contacts in 1986, (which became known as the Iran-Contra scandal in the United States), which was highly embarrassing to the Iranian leadership at the time. He was arrested and made a televised confession to a number of crimes including murder, kidnapping and "sabotaging foreign relations". His trial, which took place in August 1987, was one of the first to take place before the new Special Court for the Clergy. He was accused of being "at enmity with God" and "corrupt on earth", was sentenced to death, and executed.

*eminent Leader prescribed the following at the bottom of the text of the laws:*

*'In the name of the Almighty. The [procedures stipulated] for the Prosecutors' Offices and Special Court for the Clergy are hereby approved. May the Almighty grant you success. 14 Mordad 1366 (5 August 1990)''*

When laws which have been considered in the Islamic Consultative Assembly (Majles), Iran's parliament, are published in the Official Gazette, the date of approval in the Majles is stated. It is clear from the above, therefore, that this law was never considered by the Majles, an indication of the power the Leader has to pass legislation. This court also operated from June 1987 until October 1990 before becoming established in law, in violation of international standards for fair trial.

Under Article 1 of the Regulations, the court is under the supreme supervision of the Leader, who also appoints the Chief Prosecutor (Article 3) and the Judge of the First Branch of the court (*Hakem-e Shar'*) (Article 10). Other judges are appointed with the consent of the Leader (Article 11). The competence of the Court is defined in Article 13 as:

- a) all general offences committed by clerics
- b) all acts which are incompatible with the status of the clergy
- c) all local disputes which can undermine public security when one of the parties to the dispute is a cleric
- d) all affairs which the eminent Leader has assigned the special courts to deal with.

The last clause means that, theoretically, the competence of the court is unlimited, as the Leader who has absolute authority, can choose to assign any case to the courts. Criminal and civil cases against clerics should usually be tried in criminal or civil courts, unless the Chief Prosecutor decides that the Special Court for the Clergy is more suitable (Article 14). Article 15 then states that other prosecutors' offices are not allowed to investigate and prosecute cases relating to the clergy over which it has been decided they have no jurisdiction, without special permission. However, non-clergy may also be tried before the court, under Article 31 which allows the prosecution of partners, accomplices and associates of clerics also charged before the court.

Under Article 26, the Prosecutors' Offices of the Special Court for the Clergy have, among other things, the responsibility for:

- prosecuting those accused
- issuing search and arrest warrants
- issuing charge sheets
- carrying out the rulings (*ahkam*) of the court.

According to Articles 21-23, the police are required to undertake the necessary law enforcement in relation to cases before the Special Court for the Clergy. However, Article 25 stipulates that the Prosecutors' Office is authorized to take independent



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action to employ individuals to carry out investigation and execute the verdicts and sentences of the court. This may explain reports that the Special Court for the Clergy has its own prisons, usually in the courthouse, and its own security forces who carry out arrests and interrogate prisoners, who are responsible directly to the Leader outside the ordinary law enforcement framework.

Furthermore, Article 34 states that “[w]rits and warrants issued are final after receiving the approval of the prosecutor and shall be conveyed to the defendant immediately”. This would appear to imply that a detention warrant, which may be issued in circumstances defined in Article 35 (including broadly defined categories such as “counter-revolutionary crimes”<sup>9</sup> and “instances where the freedom of the accused may cause corruption, such as violation of the honour and integrity of the [political] system and the clergy”) could not be challenged by the defendant, or be subject to any kind of judicial review. This raises the prospect of possible long-term pre-trial detention or detention without trial of prisoners of conscience and political prisoners, without allowing them recourse to safeguards such as *habeas corpus* or *amparo*, or similar mechanisms, in clear violation of the most basic international human rights standards. It also appears to be borne out in practice, as Amnesty International has received reports of detention without trial by the Special Court for the Clergy of periods of over 18 months of people who may be prisoners of conscience.

Offences which may be dealt with by the court are very broadly defined in Article 18 as “any act or failure to carry out an act which according to the law or the tenets of religious law is either punishable or otherwise necessitates corrective and reformative steps...”. A note appended clarifies this further, stating that: “For the members of the clerical community, acts which by norm and convention cause damage to the integrity of the clergy and the Islamic Revolution shall be considered as a crime.” The application of this article would appear to allow peaceful political opposition to the government by clerics being considered as a crime.

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<sup>9</sup>Although Article 35 specifically mentions “counter-revolutionary crimes” as one of the instances when a detention warrant may be issued, “counter-revolutionary crimes” are not defined as such in the Penal Code, which would appear to give a wide scope to the possible detention of suspects. Crimes which might be considered as “counter-revolutionary” appear to be covered by Articles 183 to 188 of the Penal Code which refer to the crime of *moharebeh* (being at enmity with God) and *ifsad fil-Arz* (corruption on earth) which includes attempts to overthrow the Government by force and use of arms to cause fear or disturb public security. It is frequently punished by execution. Articles 498 to 512 of the Penal Code deal with crimes against the internal and external security of the country. Several of these articles and eight others also in the section dealing with *Ta'zirat* punishments specify punishments of prison terms for crimes when the defendant “is not considered to be a *mohareb*”.

It is not clear to what extent verdicts and sentences from the Special Court for the Clergy may be appealed. Article 44 states that the verdicts are definite and binding unless:

- the judge in the case realizes he committed an error
- the Chief Prosecutor determines that the verdict is contrary to “laws (*qavanin*) and rulings (*ahkam*)”
- the presiding judge did not have the competence to deal with the case.

In at least the first and second instances, if a verdict is found to be wrong, the case may be sent to the First Branch of the court for a re-trial by a different judge. In the second instance, if the dispute continues, the decision of the Chief Judge shall be final and binding (unless, presumably, this judge realises that he committed an error). In common with other courts in Iran, this could, in some cases, lead to a defendant being tried an unspecified number of times for the same offence until a verdict is reached which is not challenged on account of one of the three possibilities above. Although in 1993 a new Law on Appeals was introduced, which allows appeal against sentences of death, corporal punishment, or imprisonment for longer than six months issued by General, Revolutionary or Military Courts, this Law does not mention the Special Court for the Clergy, nor does it designate an Appeal Court for the Special Court for the Clergy. Therefore, there appears to be an extremely limited scope for review of verdicts by this court, and the defendant appears to have no right to appeal to a higher tribunal for a review of his or her conviction and sentence, in violation of international standards for fair trial.

All the indications are that this court operates as a separate institution outside the normal judicial framework. Article 45 of the Regulations stipulate that “[a]ll costs and expenditures of the Prosecutor for the Special Court for the Clergy shall be foreseen and provided for as an **independent organization** (emphasis added), by a special budget”. Further illustration of the extraordinary nature of this court is given by a debate in the Majles on 1 January 1997 of a bill to regulate the employment of officials of the Special Court for the Clergy, so that they are covered by the State Employment Bill. The Deputy Minister of Justice in charge of legal and parliamentary affairs is quoted in the official minutes as saying:

*“The Prosecutors’ Offices and Special Court for the Clergy, which were established on the orders of the late Imam... are still continuing their work. However, in view of the ambiguity surrounding the employment conditions of some of their personnel, the government has submitted to the esteemed Majles a bill in this connection. The personnel working for this part of the organization, **which of course is not affiliated to the judiciary** (emphasis added) but nonetheless constitutes an entity which has been established on the orders of the late Imam ... and still continues its work, do not enjoy a clear employment status...”*

The extraordinary nature of this court violates international human rights standards which provide the right for people to be tried by ordinary courts using established judicial procedures.

Defendants before the Special Court for the Clergy are also limited to representation chosen from among “a number of competent clergymen” designated by the court. There also appears to be no requirement for the representative to be a legally qualified lawyer.<sup>10</sup> Furthermore, there are persistent reports that, despite legislation and constitutional guarantees stipulating that all defendants should have the right to a lawyer, in practice people tried before the Special Court for the Clergy are rarely, if ever, granted access to a lawyer of their choice, further violating human rights standards. The Special Court for the Clergy can, in common with other courts in Iran, sentence people to cruel punishments such as flogging, or death.

#### **4. Violations against leaders and their followers**

There have been persistent reports of human rights violations against religious leaders opposed to government policies and their followers, although for many years, detailed information about these violations was difficult to obtain. The scarcity of information was exacerbated by the secrecy surrounding many of the procedures in use, as well as the refusal of the Iranian authorities to allow independent human rights monitors unhindered access to the country. For example, Amnesty International has not been permitted to visit Iran for fact finding, trial observation, or government talks since 1979. The UN Special Representative on the Islamic Republic of Iran was denied access between 1991 and 1996 and currently does not have access.

Violations reported include the house arrest of senior religious leaders; detention without trial and unfair trials of their relatives and followers; and torture and ill-treatment (including cruel punishments such as flogging). There has also been a pattern of actions taken against institutions such as schools or charitable organizations run by these leaders, for example closure and confiscation. In some cases, newspapers which have printed articles perceived to support these leaders have been closed down, and on occasions their editors have been arrested and tried.

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<sup>10</sup>For concerns about provisions for access to lawyers, including for defendants before the Special Court for the Clergy, see *Iran: Unfair trials of political detainees*, (AI Index: MDE 13/15/92).

#### 4.1 House arrest of Shi'a religious leaders

One of the first prominent Shi'a religious leaders believed to have been placed under house arrest in connection with his opposition to the government was **Grand Ayatollah Mohammad Taher Al Shubayr Khaghani**, who died in the late 1980s. An ethnic Arab from Khuzestan province in Southwest Iran, he was viewed by many of the Arab population there as their religious leader. After the establishment of the Islamic Republic of Iran, he supported certain political, economic and cultural rights for the Arab population of Iran. In July 1979, following clashes between his supporters and members of the Revolutionary Guards, and a series of bomb attacks, mostly against oil installations, by Arab opposition groups, which he strongly denounced, Grand Ayatollah Khaghani's house in Khorramshahr was attacked by Revolutionary Guards. He was taken away and eventually arrived in Qom. Government officials are reported to have said that he was there for "talks with religious leaders". According to other sources, he was placed under "unofficial house arrest". For example, Grand Ayatollah Shariatmadari, in an interview published in January 1980, replying to a question as to whether Grand Ayatollah Khaghani was still in Qom said,

*"Yes, he is here, and he is not allowed visitors. He is my friend. I tried to see him once, but was unsuccessful, but I will try to see him soon, because he is not going to be allowed out. He wants to keep quiet so they will not hurt him. But what will happen to him, God only knows".<sup>11</sup>*

**Grand Ayatollah Kazem Shariatmadari** himself was also later placed under house arrest. With many followers among the Azeri population of northwest Iran, he had been an important figure in the religious opposition during the period under the former Shah. Grand Ayatollah Shariatmadari had opposed Article 110 of the Iranian Constitution, passed in December 1979, which created the post of *vali-ye faqih*, apparently claiming that it contradicted the concept of the "national sovereignty of the people", also expressed in the Constitution. He was also reported to have repeatedly stated that the clergy should not participate in the political running of the country .

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<sup>11</sup>*The Middle East*, January 1980

In December 1979, unrest broke out in Tabriz after Grand Ayatollah Shariatmadari's house in Qom was attacked reportedly by supporters of Grand Ayatollah Khomeini, apparently on account of his objections to the Constitution. At least two of his supporters were reportedly killed. The unrest continued until January 1980. It was at about this time that Grand Ayatollah Shariatmadari was reported to have been placed under house arrest.<sup>12</sup> In 1982 he acknowledged on television (reportedly after the arrest of relatives including his pregnant daughter and two sons-in-law) of having been aware of a coup plot in which Sadeq Qotbzadeh, a former Foreign Minister, was implicated. Ahmad Abbasi, the Grand Ayatollah's son-in-law, was also tried in the same case and sentenced to eight months' imprisonment and ten years' house arrest. Sadeq Qotbzadeh, and up to 70 army officers, were later executed.<sup>13</sup> Grand Ayatollah Shariatmadari died in June 1986. His supporters were prevented from holding a public funeral and he was buried secretly in the middle of the night in a remote place.

These events led Grand Ayatollah Mohammad Reza Golpaygani to write the following to Grand Ayatollah Khomeini:

*"the true arbitration of [the quarrel] between Your Excellency and Ayatollah Shariatmadari ... is in the hands of Almighty God. I deem it necessary to express my intense regret over the events of the burial, which has occurred without the required ceremonies and paying of respects and the covert burial [of his body] in an unsuitable place. I expect now that you will personally provide recompense ... for the insults which have been directed at him and his position as marja-ye taqlid".<sup>14</sup>*

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<sup>12</sup>Keesings Contemporary Archives, 20 June 1980.

<sup>13</sup>See Amnesty International Report 1983

<sup>14</sup>Quoted by Shahrouh Akhavi: Elite Factionalism in the Islamic Republic of Iran in *The Middle East Journal* Vol. 41, No.2, p 190.

At least three other Grand Ayatollahs have reportedly been placed under “unofficial” house arrest. **Grand Ayatollah Sayed Hassan Tabataba’i-Qomi** is also reportedly critical of the concept of *velayat-e faqih* and in 1985 opposed the continuation of the war with Iraq which reportedly led to his house being invaded by angry *hezbollahis*<sup>15</sup>. He is also said to have criticised the authorities’ behaviour over the burial of Grand Ayatollah Shariatmadari and is reported to have been held under house arrest in Mashhad for more than 13 years, where he remains. He is said to be denied access to medical treatment for heart disease.

**Grand Ayatollah Sayed Mohammed Sadeq Rouhani** has also been held under house arrest in Qom for more than 12 years. He is also opposed to the concept of *velayat-e faqih* and to certain government policies, about which he has written a number of open letters. For example in 1989 when the Constitution was about to be amended, he wrote a letter that advocated limiting the power of the Leader so that the position could not be abused; allowing the investigation of misconduct by the Leader; non-appointment of members of the Assembly of Experts to prevent their being manipulated by the Leader; and advocating that the people be given the right to criticise and protest. Most recently, he came under pressure from the authorities in mid-1995 after he wrote an open letter to President Ali Akbar Hashemi Rafsanjani, in which he criticized restrictions on traditional religious rites during the mourning period of Ashura<sup>16</sup>; and human rights violations against those who participated in such rites, including arrests and imprisonment of large numbers of people; and the exile, beatings, and reported killings of some. He also complained that he had been held under house arrest for more than 10 years, and complained of insults which he said had been directed against high-ranking religious figures and which had been broadcast by the state-controlled media.

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<sup>15</sup>Members of a grass-roots organization known as *Hezbollah*, and its offshoot *Ansar-e Hezbollah* known to carry out attacks against people or institutions deemed as “unIslamic” or “against the line of the Imam [Khomeini]”. It receives support from Ayatollah Ahmad Jannati, a member of the Council of Guardians and Head of the Islamic Propagation Organization, who in August 1995 recommended in a Friday sermon that “officials not reprimand young Hezbollah members when ... they carry out their duty”. His comments followed the firebombing of a publishing house, which had published a book some deemed immoral. The authorities are not known to have taken any action against *Hezbollah* members believed to have carried out acts of violence.

<sup>16</sup>These rites include self-mutilation.

**Grand Ayatollah Hossein Ali Montazeri**, at one time the declared successor to Grand Ayatollah Khomeini, was openly critical of the mass executions of political prisoners which began in 1988. There are also reports that he did not support Grand Ayatollah Khomeini's *fatwa* against Salman Rushdi. Following this opposition, and his links to Mehdi Hashemi (see above) he was replaced as successor, and told by Grand Ayatollah Khomeini to clean his house of those who "pretend to be Muslims while they are not". Since then

there have been repeated reports that he has been held under "unofficial" house arrest, although it is not clear if he is currently so restricted.

In February 1993, Amnesty International wrote to the Iranian authorities following reports that Grand Ayatollah Montazeri and about five of his associates and relatives had been arrested in the wake of a critical statement Grand Ayatollah Montazeri made against Ayatollah Khamenei, the Leader of the Islamic Republic (see below) and that they remained detained or subject to house arrest or similar physical restrictions. Amnesty International sought clarification of the legal situation of all of those concerned and the precise reasons for any measures taken against them. It urged that they be immediately and unconditionally released if held solely for the non-violent expression of their conscientiously held beliefs. In response, the Iranian Embassy in London stated that "*His Holiness [Grand Ayatollah Montazeri] and the [five] others ... like other Iranian citizens, are completely free and live under no restriction in the Islamic Republic of Iran*".

In August 1995, Amnesty International sought clarification from the Iranian authorities about Grand Ayatollah Rouhani's statement that he had been held under house arrest for more than 10 years, and about other reports that Grand Ayatollah Tabataba'i Qomi and Grand Ayatollah Montazeri were also subject to similar restrictions.

Amnesty International has further expressed concern at reports that Grand Ayatollah Rouhani has been refused permission to see a doctor to provide treatment for a stomach ulcer. Amnesty International had received no response to any of these concerns at the time of writing in April 1997.

#### **4.2 Arrests and torture of Ayatollah Mahdavi-Damaghani**

**Ayatollah Mahdavi-Damaghani** is reported to have been arrested several times, apparently for opposition to the authorities. The first time was said to have been in the mid-1980s following the death of Grand Ayatollah Abdullah Shirazi in Mashhad. He is reported to have said following his release that when he was arrested, he was taken to a room by the security forces where he was punched and kicked by about 12 people before being released.

He was reportedly arrested again in the early 1990s, and held for some time, along with several other people, one of whom is reported to have been named Hojjatoleslam val moslemin Fasih.



### 4.3 Detention of Grand Ayatollah Ya'sub al-Din Rastgari

**Grand Ayatollah Ya'sub al-Din Rastgari**<sup>17</sup>, in his 70s, was close to the late Grand Ayatollah Shariatmadari. Grand Ayatollah Rastgari is said to have been critical of governmental interference with the religious institutions in Qom, and of the functions of the Special Court for the Clergy. Grand Ayatollah Ya'sub al-Din Rastgari has been arrested several times apparently in connection with activities related to his opposition to government policies. Amnesty International has been unable to obtain details of all his arrests. However, he was reportedly arrested after holding a mourning ceremony for the late Grand Ayatollah Shariatmadari shortly after the latter's death, and sentenced to two-and-a-half years' imprisonment, apparently on charges relating to support for Grand Ayatollah Shariatmadari and opposition to the government. He was also reportedly arrested in about 1994 and sentenced to one year's imprisonment, possibly on charges of having performed a public prayer without the requisite permission from the authorities. He is said to have denied this in an open letter written after his release.

Grand Ayatollah Rastgari was arrested again in late February 1996, when security forces came to his house in Qom. Some of his possessions were also said to have been seized at the time of his arrest. He was held in incommunicado detention reportedly mainly in Tawhid and Evin Prisons in Tehran until about July 1996, when he reportedly received a family visit for the first time. At about the same time, unconfirmed reports suggested that he was transferred to a hospital in Tehran, where he received treatment for ailments said to have resulted from, or to be exacerbated by, torture. Unconfirmed reports suggested that in about August 1996 he was sentenced to three years' imprisonment after a summary trial lasting only a few minutes, in which he had no access to a lawyer and was not allowed to defend himself.

In November 1996, some members of the Amnesty International Urgent Action Network, who had written to the Iranian authorities about Grand Ayatollah Rastgari, received a letter from the Iranian Embassy in Canada (see Appendix A) which stated that he had been "*arrested for misinforming (sic) and activities against the security and public order of the country. First he was sentenced to ten years of supervised residence inside Iran and was pardoned and released later. Again he committed the same crimes and was convicted to five years' supervised settlement in Yazd ... He escaped from his residence without authorization. Therefore he was sentenced to two years' imprisonment and he will stay until the termination of his conviction term*". Other

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<sup>17</sup>He is reported to have attained the rank of Grand Ayatollah in recent years.

sources close to the Grand Ayatollah are reported to have denied that he had previously been sentenced to periods of supervised residence, or to internal exile.

Grand Ayatollah Rastgari was reportedly released early from prison on 21 December 1996, and was said to have immediately been placed under house arrest in Qom. The terms of his release are not known to Amnesty International

The charges against Grand Ayatollah Rastgari referred to in the letter from the Iranian Embassy in Canada are very imprecise. Amnesty International believes that he is very likely to be a prisoner of conscience, held under house arrest solely on account of his non-violent activities or beliefs. If so, all restrictions on him should be lifted immediately and unconditionally. Otherwise, if his restriction relates to his prison sentence, his case should be reviewed with the aim of ensuring he receives a fair trial, if he is not to be released. In any event, he should be granted immediate and regular access to a doctor of his choice, in order to receive treatment for his ailments, which are reported to include diabetes and heart disease.

Amnesty International is further concerned at reports that Grand Ayatollah Rastgari has been tortured while in detention. These allegations should be immediately investigated in an independent investigation, the methods and findings of which should be made public. Anyone found responsible for abuses should be brought to justice and compensation provided.

#### **4.4 Detention, torture, unfair trials and executions of followers of religious leaders**

Relatives and followers of religious leaders have also been subjected to human rights violations often apparently in an attempt to put pressure on the leaders to support the government or at least to mute their opposition.

##### **4.4.1. Followers of Grand Ayatollah Montazeri**

From time to time, relatives and supporters of Grand Ayatollah Montazeri have been arrested. Some have reportedly been executed. For example, in late 1988, it was reported that at least 240 supporters of Grand Ayatollah Montazeri had been arrested in the preceding months, at least 12 of whom were executed. The Special Court for the Clergy apparently confirmed that six members of the clergy were among nine people executed after conviction of "corruption". Some officials claimed that all those arrested had been associated with Mehdi Hashemi (see footnote 8 above); other sources denied this, and said that the reason for the arrests had been support for Grand Ayatollah Montazeri.

In April 1989, following the dismissal of Grand Ayatollah Montazeri as successor to Grand Ayatollah Khomeini, demonstrations reportedly broke out in various towns and

cities. He was said to have urged his supporters not to demonstrate, as this was perceived as being “unIslamic”, but shortly afterwards, his son, daughter and her husband were reportedly arrested and held briefly.

In late 1991, **Hojjatoleslam Hashemian**, a deputy Speaker of the Majles, was reportedly summoned before the Special Court for the Clergy on suspicion of “conspiring against the instructions of the Imam”. *Salam* newspaper reportedly stated that this followed a meeting between Hojjatoleslam Hashemian and Grand Ayatollah Montazeri. Another Majles deputy, Morteza Alviri, reportedly defended the former, and stated that the evidence available suggested that the sole reason for the summons related to the meeting with Grand Ayatollah Montazeri.<sup>18</sup>

In February 1993, five relatives and supporters of Grand Ayatollah Montazeri were reportedly arrested in the wake of demonstrations against him in Qom. Initial reports had suggested that Grand Ayatollah Montazeri had also been arrested. He later denied this but his office reportedly acknowledged the arrest of the other five, although this was denied by the authorities (see above). The demonstrations were reportedly sparked off by a critical statement Grand Ayatollah Montazeri made against Ayatollah Khamenei, the Leader of the Islamic Republic. According to the official Iranian news agency, IRNA, a statement by an official in Qom denied that Grand Ayatollah Montazeri or anyone linked to him had been arrested (see 4.1 above). It also reportedly observed that it was “*possible that roadblocks previously erected by the local municipality on a city street leading to [Grand Ayatollah Montazeri’s] residence and the consequent traffic congestion there had ... led to rumours to that effect*”. In April 1993, according to *Salam* newspaper, the Special Court for the Clergy banned the magazine *Rah-e Mojahed*, said to support Grand Ayatollah Montazeri, after it published statements by his aides condemning the arrests in February.

In April 1993, an official of the Special Court for the Clergy said that the houses of Grand Ayatollah Montazeri’s son-in-law, Hadi Hashemi, and several others had been searched following the arrest of five or six alleged followers of Hadi Hashemi’s brother, Mehdi. The searches were said to have led to the seizure of five truckloads of leaflets “insulting the Imam [Khomeini]”. The official also implicated Grand Ayatollah Montazeri’s office in some of the alleged activities. Amnesty International does not know whether any judicial proceedings took place in connection with these events although it did receive unconfirmed reports in September 1993 that **Mahmoud Kheirollahi** had been sentenced to nine years’ imprisonment and 70 lashes by the Special Court for the Clergy in Isfahan after conviction of charges of supporting Mehdi Hashemi’s group. The prosecutor was said to have alleged that Mahmoud Kheirollahi had insulted officials and, after the removal of Grand Ayatollah Montazeri from the

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<sup>18</sup>Echo of Iran November 1991 p 13

leadership succession, had distributed books and leaflets about Grand Ayatollah Montazeri. Mahmoud Kheirollahi was also said to have been sentenced in 1992 to six months' internal exile in Yazd on unknown charges which were apparently related to his support for Grand Ayatollah Montazeri.

In June 1993, there were reports that 150 supporters of Grand Ayatollah Montazeri were arrested by Iranian security forces under the auspices of the Special Court for the Clergy, and that 70 others had been prevented from travelling to Mecca to perform the Hajj (pilgrimage).<sup>19</sup>

In August 1993, there were reports that **Abbas Abdi**, the editor of *Salam*, had been arrested, after publication of reports critical of the government, apparently including an article in the newspaper alleging governmental opposition to the hospitalization of Grand Ayatollah Montazeri in Tehran, rather than Qom. Amnesty International sought clarification from the government of his situation, including any charges against him and also sought assurances that he had been granted access to a lawyer and to members of his family, expressing concern that he may be held as a prisoner of conscience. No response was received. Abbas Abdi was reportedly tried in December 1993 before an Islamic Revolutionary Court, apparently for offences "against national security" and was sentenced to nine years' imprisonment and a suspended sentence of 40 lashes.<sup>20</sup>

In March 1994 there were unconfirmed reports of the arrest of several clerics said to be either supporters of Grand Ayatollah Montazeri, or of Grand Ayatollah Mohammad Rouhani, the elder brother of Grand Ayatollah Mohammad Sadeq Rouhani. Their names were reported as **Sheikh Mohammad Reza Mamaghani, Sheikh Hassan Aram, Sheikh Safa Khatib, Sayed Abolghasem Mojtahed-zadeh** and **Ayatollah Misbah**. There was speculation that the arrests were connected to opposition to an attempt by Ayatollah Khamenei to have himself recognized as a Grand Ayatollah by ordering that Ramadan should end for all Muslims on one particular day. At the time it was unclear as to who should be regarded as the most senior *marja* following the death of Grand Ayatollah Golpaygani in late 1993.<sup>21</sup> The fate of those reportedly arrested is unknown to Amnesty International.

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<sup>19</sup>Al-Hayat, 6 June 1993

<sup>20</sup>See Amnesty International Report 1994

<sup>21</sup>Al-Hayat 16 March 1994

At least nine followers of Grand Ayatollah Montazeri were said to have been arrested in October 1994 reportedly on charges of inciting unrest. They were said to have been distributing copies of an open letter written by Grand Ayatollah Montazeri, which reportedly contained criticisms of the authorities.<sup>22</sup> Their fate is unknown to Amnesty International.

While Amnesty International is aware that Mehdi Hashemi was convicted of extremely violent offences, and that it has been alleged that some of Grand Ayatollah Montazeri's followers have supported Mehdi Hashemi, the organization notes that the accusations which appear to have been levelled against them (such as "insults to the Imam Khomeini") in many cases do not in themselves appear to contain any use or advocacy of violence. It thus fears that some or all of these people may have been arrested and detained in connection with the non-violent expression of their political or religious beliefs. Any follower of Grand Ayatollah Montazeri who remains detained or imprisoned solely on account of his non-violent political or religious activities related to Grand Ayatollah Montazeri should be released immediately and unconditionally. Any others imprisoned after unfair trials should have their cases reviewed with the aim of ensuring that they receive a fair trial if they are not to be released. In addition, the organization opposes the death penalty and cruel punishments such as flogging in all cases. Anyone sentenced to death or to flogging should have their sentences commuted.

#### **4.4.2. Followers of Grand Ayatollah Sayed Mohammad Sadeq Rouhani**

Following Grand Ayatollah Rouhani's June 1995 open letter to President Hashemi Rafsanjani criticizing governmental actions (see above), security forces raided Grand Ayatollah Rouhani's house in Qom, reportedly on 17 July 1995. They seized some papers and arrested his youngest son, Javad, then aged about 26, who had health problems relating to an earlier accident. **Sayed Javad Rouhani** was held in incommunicado detention until mid-September 1995, when he was allowed to meet a member of his family. He reportedly said that he had been sentenced to three years' imprisonment, later reduced to one year. According to the Iranian Embassy in Canada (see Appendix B), the charges included "*misinformation, agitation and handing over information to strangers and terrorist groups.*" However, it provides no information about the specific activities he was alleged to have carried out. This letter also states that he was tried and convicted on 16 July 1995, which is the day before Sayed Javad

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<sup>22</sup>In the letter, Grand Ayatollah Montazeri is said to have indirectly referred to a letter of protest signed by 53 people, saying that the current government had "recklessly squandered the capital of good will which the revolution had garnered since its inception". He also warned against governmental interference in religious affairs.

Rouhani was reportedly arrested. Sayed Javad Rouhani was also reported to have been denied his right to a defence lawyer. Amnesty International believes Sayed Javad Rouhani's trial was unfair and that he may have been a prisoner of conscience, held solely on account of his father's opposition to the government.

On 1 August 1995, at least 25 supporters of Grand Ayatollah Rouhani were also reportedly arrested when they gathered outside to protest against the measures taken against the Grand Ayatollah and his family. Despite repeatedly asking the Iranian authorities for clarification of their fate, Amnesty International has received no further news of them. If any followers of Grand Ayatollah Rouhani are still detained, information should be provided as to their precise legal status, including any charges against them. Anyone held solely for his non-violent support for Grand Ayatollah Rouhani should be released immediately and unconditionally.

#### **4.4.3. Followers of Grand Ayatollah Sayed Mohammad Shirazi**

Grand Ayatollah Sayed Mohammad Shirazi, born in Najaf, Iraq, comes from a family of well-known *marjas* and religious scholars of Iranian origin. He left Iraq for Kuwait in 1971 to escape persecution by the Iraqi Government. He then moved to Qom in Iran in 1979 after the establishment of the Islamic Republic. With many followers outside Iran, Grand Ayatollah Shirazi has maintained a stance of non-involvement in Iranian political affairs. However, he reportedly refused to accept that Ayatollah Khamenei was a *mojtahed* when the latter became the current Leader and has since reportedly refused to recognize Ayatollah Khamenei as the most eminent *marja-ye taqlid* in Shi'a Islam or even as a Grand Ayatollah.

Over the years, reports indicate that hundreds, if not thousands, of his supporters and relatives have suffered harassment, and scores, if not hundreds, have been arrested, some on more than one occasion. Many have reportedly been tortured. Some were released without charge, whereas others were sentenced to prison terms after unfair trials, believed for the most part to have taken place before the Special Court for the Clergy. Some of these cases from recent years are outlined below.

**Hojjatoleslam Sheikh Makki Akhound**, married with three children, was arrested in the first half of 1994 in Isfahan, reportedly without an arrest warrant. He was said to have been tortured during his initial incommunicado detention which is believed to have lasted about six months.

He was later tried before the Special Court for the Clergy, on charges which apparently related to having connections with, and supporting the views of, Grand Ayatollah Shirazi. He was reportedly sentenced to three years' imprisonment and 75 lashes. He is said to have had no access to a lawyer since his arrest. In early 1996 he was moved from Saheli prison in Qom to a prison clinic in Khorramabad (said to hold psychologically disturbed patients), making it more difficult for his family to visit him and reportedly increasing his sense of isolation. Sheikh Makki Akhound reportedly suffers from various ailments, including ulcers, heart disease, high blood pressure and nervous problems and was apparently not granted access to a doctor of his choice during his detention. In December 1996 he was released early from prison. Amnesty International members around the world had sent mass appeals on his behalf to the Iranian authorities.<sup>23</sup>

Up to 13 others were also arrested at around the same time in 1994, reportedly including Sheikh Makki Akhound's father, **Abdolamir**; his uncle **Abdolrasoul** (who is also his father-in-law); two of his brothers; seven cousins; his wife; and a sister-in-law. They were all held in solitary confinement for some time<sup>24</sup>, before being released, apparently without charge.

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<sup>23</sup>See Amnesty International News, June 1996

<sup>24</sup>Some of the men were reportedly held for up to one month

**Hojjatoleslam Sheikh Ja'far Ghani**, an Iraqi national, was arrested on 30 September 1995, and was reportedly held in incommunicado detention until early 1996. After a trial before the Special Court for the Clergy, he was sentenced to 15 months' imprisonment, but was released early in mid-1996. According to a March 1996 response from the Iranian Embassy in London (see Appendix C), he was convicted of offences including "...travelling illegally and repeatedly to foreign countries such as Iraq;...forging ID cards with Afghan identity and also forging Afghan passports;...membership of the illegal organization of Sayed Morteza Shirazi<sup>25</sup>;...[and]disseminating lies and rumours". Sources close to the Grand Ayatollah have denied that he was involved in forgery, or that he went to Iraq illegally, arguing that as an Iraqi national, he was allowed to travel there.

<p style="text-align: center;"><b>Hojjatoleslam Muhammad Saleh Hedayati</b></p>	<p style="text-align: center;"><b>Hojjatoleslam val moslemin Mohammad Taqi Dhakeri</b></p>	<p style="text-align: center;"><b>Hojjatoleslam 'Abdolrahman Ha'eri</b></p>	<p style="text-align: center;"><b>Hojjatoleslam val moslemin Sayed 'Abdolrasoul Musawi</b></p>
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<sup>25</sup>The son of Grand Ayatollah Shirazi



His arrest was followed by that of **Hojjatoleslam Muhammad Saleh Hedayati** on 17 October 1995. He was later reportedly sentenced to two years' imprisonment and banned from wearing the clothing of a cleric<sup>26</sup>, apparently in connection with his association with Grand Ayatollah Shirazi. The scale of arrests increased on 11 November 1995, when ten men, all prominent religious figures or businessmen known to be close to Grand Ayatollah Shirazi, were arrested, reportedly without arrest warrants by members of the security forces, from their homes in Qom and Tehran. They were **Hojjatoleslam val moslemin Mohammad Taqi Dhakeri; Hojjatoleslam 'Abdolrahman Ha'eri; Hojjatoleslam val moslemin Sayed 'Abdolrasoul Musawi; Hojjatoleslam val moslemin Taleb Salehi; Hojjatoleslam val moslemin Mohammad Fazel Mohammad al-Saffar; Hojjatoleslam val moslemin Mohammad 'Ali Ma'ash; Hojjatoleslam Fu'ad Fujian; Mohammad Ghaffari; Hadi Dhakeri and Iyad Fujian**. Most of them, and some of their relatives were also reportedly beaten during the arrests, which took place at night. The wife of Sheikh Mohammad al-Saffar reportedly had her hand broken, and the young son of Sheikh Mohammad 'Ali Ma'ash was said to have sustained an eye injury from a gun butt. Both reportedly received hospital treatment for their injuries.

On the following day, 12 November 1995, security forces reportedly raided the Martyr Ayatollah Sayed Hassan Shirazi religious school in Qom, arresting approximately 120 students. Most were released several hours later, but seven remained detained. Despite repeated requests to the Iranian Government for clarification, their fate is unknown to Amnesty International.

<b>Hojjatoleslam val moslemin Taleb Salehi</b>	<b>Hojjatoleslam val moslemin Mohammad al-Saffar</b>	<b>Hojjatoleslam val moslemin Mohammad 'Ali Ma'ash</b>	<b>Hojjatoleslam Fu'ad Fujian</b>
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<sup>26</sup>One of the punishments that may be imposed by the Special Court for the Clergy, which prevents the person from carrying out his duties as a cleric.

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<b>Mohammad Ghaffari</b>	<b>Hadi Dhakeri</b>	<b>Iyad Fujian</b>
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On 21 November, **Hojjatoleslam val moslemin Sayed Morteza Shirazi**, the second son of Grand Ayatollah Shirazi, was arrested in Qom. Arrests continued in December and January. **Hojjatoleslam Sayed Abbas Musawi**, who works in the office of Grand Ayatollah Shirazi was detained in Qom on 6 December 1995. He was later sentenced to six months' imprisonment by the Special Court for the Clergy, also apparently on account of his association with Grand Ayatollah Shirazi. The brothers **Ahmad** and **Jalal Akhound** (relatives of Sheikh Makki Akhound, see above) were arrested in Tehran in early January 1996.

Arrests ceased for almost six months, but started again on 19 June 1996 with the arrest of **Hojjatoleslam Sayed Mehdi Shirazi**, the fourth son of Grand Ayatollah Shirazi, while in a car between Qom and Tehran. On the same day **Hojjatoleslam 'Ali Rumaythi**, a member of Grand Ayatollah Shirazi's staff, was arrested in Qom. On 20 June, **Hojjatoleslam Sheikh Hossein Dhakeri** (the brother of Sheikh Mohammad Taqi Dhakeri and Hadi Akhound Dhakeri), another member of Grand Ayatollah Shirazi's staff, was arrested, also in Qom. On 20 or 21 June, **Hojjatoleslam val moslemin Sheikh Azizollah Hassani** (aged about 60) was arrested in Tehran. Also in June, the **wife of Sayed Sadeq Fali**, a follower of Grand Ayatollah Shirazi said to have been exiled to Iranshahr in 1995 by the Special Court for the Clergy, was reportedly arrested in Qom following an argument with security forces surrounding an Islamic centre linked to Grand Ayatollah Shirazi, who are said to have beaten her in public. She was released on bail after a couple of days to await trial before the Special Court for the Clergy. Other members of the Fali family, who also follow Grand Ayatollah Shirazi, are reported to have been arrested, tortured and some sentenced to prison terms in previous years.

In September 1996, **Hojjatoleslam Sheikh Fazel Fazeli**, a follower of Grand Ayatollah Shirazi and a poet, was arrested from his home in Qom. According to unconfirmed reports, he was released shortly afterwards. Several others were arrested on 14 and 15 January 1997. They included **Hojjatoleslam val moslemin Sheikh Mohammad Amin Ghaffari**, a well-known religious figure and writer on Islamic themes, and **his wife**, and **Hojjatoleslam val moslemin Sayed Hossein Fali** who has reportedly been arrested several times before for association with Grand Ayatollah Shirazi. He is said to have been tortured during his previous detentions and to have undergone surgery as a result. Unconfirmed reports suggested that the latter three were all beaten during their arrests. Reports from detention have also indicated that they have been tortured during their detention.

Most of those listed above have been released at various times since July 1996. They include Hojjatoleslam val moslemin Abdolrahman Ha'eri; Hojjatoleslam val moslemin Sayed Abdolrasoul Musawi; Hojjatoleslam Taleb Salehi; Hojjatoleslam Mohammad 'Ali Ma'ash; Iyad Fujian; Hojjatoleslam Sayed Abbas Musawi; Ahmad and Jalal Akhound; Sheikh Hossein Dhakeri; 'Ali Rumaythi; Hojjatoleslam Sheikh Azizollah Hassani; Mohammad Ghaffari; and Mohammad Fazel al-Saffar. Sayed Morteza Shirazi was released for almost 48 hours between 21 and 23 October, after

which he was summoned back to prison. He was released again on 1 January 1997; his younger brother Sayed Mehdi had been released a few days earlier on 28 December 1996. Among those still held are Sheikh Mohammad Taqi Dhakeri; Hadi Dhakeri; Iyad Fujian; Sheikh Mohammad Amin Ghafoori; and Hojjatoleslam val moslemin Sayed Hossein Fali.

Most, if not all of those from Qom arrested in 1995 were transferred to Tehran for further interrogation. They were held in incommunicado detention, probably in Tawhid Prison in Tehran until early 1996, when most received at least one family visit.

During their detention, there have also been reports that most, if not all of the detainees referred to above, have been tortured. Methods are reported to include:

- ◆ beatings on different parts of the body, including prolonged beatings on the soles of the feet, after which the detainee is forced to walk on injured feet
- ◆ cigarette burns on the tips of the fingers and the soles of the feet
- ◆ burning with hot metal elements such as an iron, or hot liquids poured onto the body
- ◆ prolonged enforced standing (sometimes on one leg) including in the snow during winter
- ◆ detention in extremely confined spaces
- ◆ suspension by the hands, ankles or other body parts from the ceiling and occasionally from a ceiling fan which was rotated with beatings administered at the same time
- ◆ exposure to heat and cold for long periods
- ◆ the plucking of hair from the beard or the head (which causes severe humiliation to religious figures, as well as physical pain)
- ◆ shackling the arms in contorted and painful positions, such as the right arm behind the right ear and the left arm behind the back, and shackled at the wrist
- ◆ prolonged sleep deprivation, reportedly up to 16 days
- ◆ electric shocks, including in the mouth
- ◆ threatened execution by electrocution after telling the detainee to write his will and attaching electrodes to the body

- ◆ prolonged blindfolding for up to two months
- ◆ the playing of extremely loud music or screams of other people apparently being tortured
- ◆ stating that relatives of the detainee have been arrested and threatening to torture them.

At least one, Sheikh 'Ali Ma'ash, is reported to have required medical treatment after his release as a result of torture, including for a toe on his right foot which was broken and left untreated. At least one of the detainees is reported to have severe burn marks on his arms and neck, which is said to look like "a creased piece of material". There have also been reports that detainees were denied access to medical treatment and given inappropriate treatment in prison for illnesses such as diabetes.

Responses received by Amnesty International members or sections from Iranian Embassy officials concerning 11 of the detainees (see Appendix C) deny that they were "ill-treated", but give no information as to whether any investigation has been carried out into the allegations of torture of these and other detainees.

The responses from Iranian officials also outlined the main charges against the 11 detainees referred to. Among other charges, Sayed Morteza Shirazi is accused of setting up an illegal organization to pursue unlawful objectives such as disturbing public order; forging documents; dissemination of lies and rumours; insulting the country's officials and despatching unauthorized reports abroad. Other accusations included disturbance of public order and promotion of *ghameh zani*<sup>27</sup>, and making contacts with wanted criminals resident in foreign countries. The others were accused of a variety of offences including membership of Sayed Morteza Shirazi's organization; insults to the Leader of the Islamic Republic; forgery; helping people to leave the country illegally; dissemination of lies and rumours; possession of illegal material; and insulting officials.

Amnesty International recognizes that activities such as forgery are criminal offences and that governments have a right to bring people accused of such acts to justice. However, despite repeated requests for full details of the charges against all the detainees, and the evidence against them, the Iranian authorities have so far failed to provide such information. In addition, in the Embassy responses, many of the charges

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<sup>27</sup>Beating oneself on the head with a knife or sword to cause the blood to flow on the anniversary of the martyrdom of Imam Hossein, a religious custom in Shi'a Islam which has been prohibited by Ayatollah Khamenei.

are extremely vaguely worded and would appear to allow the possibility that those so accused are being detained for what could be the non-violent expression of the internationally recognized rights to freedom of belief, expression and association. In the other cases, no information at all has been provided by the Iranian authorities about the nature of the charges against the detainees. In May 1996, newspaper reports suggested that Iranian officials were claiming behind the scenes that the reason for the arrest of Grand Ayatollah Shirazi's followers was their involvement in anti-government unrest in Bahrain, including forgery of documents and passports.<sup>28</sup> However, no public statement to this effect has been made by Iranian officials, and although forgery is mentioned in the Iranian Embassy response of March 1996, the only two foreign countries mentioned among the various charges are Iraq and Afghanistan.

Amnesty International therefore believes that the main, if not the sole, reason for the arrests of the followers and relatives of Grand Ayatollah Shirazi and the continued detention of some of them, is their association with him, and that these measures are intended to pressurize the Grand Ayatollah to change his views. If this is the case, then these detainees are prisoners of conscience and should be released immediately and unconditionally. Otherwise they should be charged with a recognizably criminal offence and promptly tried in accordance with international standards for fair trial.

## **5. International Standards**

### **5.1 House arrest**

Article 9(1) of the International Covenant on Civil and Political Rights (ICCPR), to which Iran is a state party, states that:

*“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law”.*

Article 9(3) of the ICCPR states that:

*“Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release...”*

The use of house arrest against individuals for the non-violent expression of their internationally guaranteed rights constitutes arbitrary detention in violation of this article.

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<sup>28</sup>*The Guardian*, 13 May 1996

If any of the Grand Ayatollahs mentioned above, or anyone else in Iran, is held under house arrest or is otherwise restricted because of the non-violent expression of his or her beliefs, then those restrictions should be lifted immediately. In addition, house arrest should not be used as a means of circumventing the judicial system. People restricted in this way who are not prisoners of conscience and are suspected of recognizably criminal offences should be charged and brought to trial promptly and fairly before ordinary courts using established judicial procedures (which excludes the Special Court for the Clergy), or have those restrictions lifted.

## **5.2 Torture**

The reports of torture described above, if confirmed, constitute grave violations of Iran's responsibilities as a state party to the ICCPR, Article 7 of which states that: *"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."* Under Article 9 of the UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *"[w]herever there is reasonable ground to believe that an act of torture ... has been committed ...[states must] promptly proceed to an impartial investigation even if there has been no formal complaint."* The UN Human Rights Committee has also stated in relation to Article 7 of the ICCPR (cited above) that *"[c]omplaints [about torture and ill-treatment] must be investigated promptly and impartially by competent authorities..."*.<sup>29</sup> Amnesty International therefore calls for a prompt, thorough and independent investigation in accordance with these standards into all allegations of torture or ill-treatment, the methods and findings of which should be made public. Anyone found responsible for abuses should be brought to justice. Victims of torture and ill-treatment should be granted compensation.

Amnesty International also considers judicial corporal punishments such as flogging to constitute torture or cruel, inhuman or degrading treatment or punishment, both prohibited internationally. In support of this view, the UN Human Rights Committee has stated that *"...[T]he prohibition [of torture or cruel, inhuman or degrading treatment or punishment in Article 7] must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime..."*.<sup>30</sup> Both Special Rapporteurs on torture have also taken this position. Peter Kooijmans, in his 1986 report stated that *"Corporal punishments as 'lawful sanctions' under domestic laws may constitute 'severe pain or suffering' under international law. Consequently, this kind of chastisement should be revised in order to prevent torture, particularly amputations,*

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<sup>29</sup>General Comment No. 20(44)(Article 7), UN Doc.CCPR/C/21/Rev.1/Add.3, page 3, para.14

<sup>30</sup>General Comment 20(5), (Article 7)Forty-fourth session, 1992

caning or flogging.”<sup>31</sup> Nigel Rodley, the subsequent Special Rapporteur stated in 1993, “No State should be allowed to perform acts as a lawful sanction which in any other form are generally condemned as a serious human rights violation.”<sup>32</sup> He reiterated his position in 1997, saying he took the view that “corporal punishment is inconsistent with the prohibition of torture and other cruel, inhuman or degrading treatment or punishment enshrined, *inter alia*, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment...”<sup>33</sup> This view was endorsed by the UN Commission on Human Rights’ Special Representative on the Islamic Republic of Iran, Maurice Copithorne, who said he agreed “with those who do not accept the argument that such [cruel and unusual] punishments can be deemed lawful simply because they may have been authorized in a procedurally legitimate manner”.<sup>34</sup>

### 5.3 Fair trial

Article 9(3) of the ICCPR (cited above) requires that anyone detained on criminal charges has the right to be tried within a reasonable time or be released. Article 9(4) requires that anyone deprived of liberty should have the right to a judicial review of the lawfulness of his or her detention.

Article 14 of the ICCPR lays out the minimum standards for a fair trial, including the right to a fair and public hearing by a competent, independent and impartial tribunal established by law; to be informed promptly of any charges; to have adequate time and facilities for the preparation of one’s defence and to communicate with a lawyer of one’s own choosing; and in the case of conviction, to have the right to a review by a higher tribunal of the conviction and sentence. In addition, Principle 5 of the UN Basic Principles on the Independence of the Judiciary states: “Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.” Principle 3 states that the judiciary shall have the exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law. In many of the cases outlined above, some or all of these standards have been violated. Indeed, as shown above, the regulations governing the Special Court for the Clergy are such that the

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<sup>31</sup>UN document: E/CN.4/1986/15. Para.48

<sup>32</sup>UN document: E/CN.4/1993/26, p. 131

<sup>33</sup>UN document E/CN.4/1997/7, p. 5

<sup>34</sup>UN document E/CN.4/1997/63, p. 12



court is inherently incapable of meeting the minimum internationally recognised standards for fair trial.

## **6. Amnesty International's Recommendations**

Amnesty International is concerned by the pattern of human rights violations against senior Iranian religious figures opposed to government policies, and their followers. The Iranian Government should take immediate steps to end these violations by:

- ◆ releasing all prisoners of conscience immediately and unconditionally, including those held under house arrest solely for their non-violent activities or beliefs
- ◆ permitting immediate and regular access of all those detained to family members, lawyers of their choice and to independent doctors
- ◆ promptly bringing all political prisoners currently detained (including any held under house arrest) to trial, in accordance with international standards for fair trial including access to a lawyer of the defendant's choice or otherwise releasing them or lifting the restrictions on them
- ◆ reviewing the convictions of anyone imprisoned after an unfair trial, including cases where defendants were not granted access to a lawyer, with a view to bringing them to a fair trial, or releasing them
- ◆ conducting immediate, thorough and independent investigations into all allegations of torture. The methods and findings of these investigations should be made public. Anyone found to be responsible for abuses should be brought to justice
- ◆ commuting all death sentences and cruel corporal punishments such as flogging
- ◆ clarifying the fate of all those detained whose fate is unclear, including any charges pending or of which they have been convicted
- ◆ reviewing the use of special courts such as the Special Court for the Clergy. Unless the court is reformed so as to bring law and practice into line with international standards for fair trial, it should be abolished as inherently incapable of providing the basic guarantees of due process which are any defendant's fundamental right
- ◆ compensating anyone found to have been arbitrarily detained or to have been subjected to torture or ill-treatment.

