

# IRAN HUMAN RIGHTS REVIEW: VIOLENCE

Edited by Tahirih Danesh and Shadi Sadr

Foreword by Professor Payam Akhavan



## **Iran Human Rights Review: Violence**

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## **Foreword: Towards a Culture of Human Rights in Iran** Payam Akhavan

The common misconception of extreme violence is that it is committed by cruel and malicious rather than 'normal' people. It is true that throughout history, authoritarian rulers have enlisted mentally unstable and criminal elements as torturers in order to execute their diabolical designs. But history also teaches us that beyond deviants at the margins of society, large-scale systematic violence depends exactly on the willingness of 'normal' people to dehumanise their fellow human beings. In proposing the now famous expression 'banality of evil', Hannah Arendt remarked that the Nazi executioner of the Holocaust, Adolf Eichmann, was not at first glance the monster many had imagined:

The trouble with Eichmann was precisely that so many were like him, and that the many were neither perverted nor sadistic, that they were, and still are, terribly and terrifyingly normal. From the viewpoint of our legal institutions and of our moral standards of judgment, this normality was much more terrifying than all the atrocities put together.

Like other totalitarian regimes, the Islamic Republic of Iran consolidated its power through constructing an ideology that legitimised and normalised violence. From the Khmer Rouge extermination of 'class enemies' in the killing fields of Cambodia, to the 'ethnic cleansing' of Bosnian Muslims by Serbian forces, to the genocide of Tutsi 'cockroaches' by Hutu extremists in Rwanda, radical evil has always been justified in the name of a greater good. The discourse is always that of purification, justice, and heroism. In order to mobilise the masses in furtherance of such designs, the intended victims must first be dehumanised, so that violence against them is justified, and even celebrated. Similarly, through a steady diet of hatred and propaganda, the Islamic Republic elevated rape, torture and murder of dissidents to an act of worship, an expression of faith, homage to the divine. In order to perpetuate institutionalised violence, the modern state must also create a culture of violence. A paradigmatic image are the public hangings in Iran's streets and squares, a horrifying spectacle reminiscent of the medieval torture rituals in European cities that were meant to instil fear and obedience to the sovereign. As lifeless bodies hang from cranes, the 'normal' citizen is made to believe that human life is worthless, that justice is the equivalent of violence, and that it is aggression rather than reason that is the arbiter in society. This process of internalization has a profound effect. The 'role model' provided by the Iranian leadership in turn percolates through successive strata of social life, from the political space, to the work place, to the school, to the family, such that there is a direct line connecting the wife-beating man with the violent institutions of the state.

Consistent with its pedigree, the security state in contemporary Iran continues to be inherently based on violence, whether actual or potential. The Islamic Revolutionary Guard Corps (IRGC), the Basij militia, the judiciary, the prison system, the state media, are all part of a single transaction of intimidation and violence, an Orwellian equation in which torture and hanging is equated with justice and progress. The democratic transformation of Iran thus cannot be reduced to mere 'regime change' whereby one group of tyrants replace another, only to perpetuate the same status quo, perhaps in a different ideological or polemical guise. The real and lasting change is what we have witnessed in the emergence of the most vigorous civil society in the Middle East, embracing a remarkably diverse cross-section of Iranian society at the grassroots level, as ordinary people awaken and begin to re-define what it means to be an Iranian citizen, and what it means to be a human being. In effect, the struggle for human rights in Iran is a struggle to reclaim a lost humanity, to normalise non-violence instead of violence.

As the Iranian people undergo this historical transition, as they labour to build a new culture of human rights, a new national identity based on shared values and dialogue rather than violence, the international community must stand in solidarity with them. Even if decision makers are not particularly interested in the suffering of the Iranian people, they should be aware that a government defined by systematic hatred and violence, is neither a reliable nor stable member of the community of nations. For years, the nuclear question has eclipsed human rights, and today the exclusive focus on this issue threatens to remove human rights from the UN agenda altogether. Yet it should be blindingly obvious that the demilitarization of the political sphere and the re-imagining of the Iranian national interest in light of the daily civil needs of 'normal' people in a non-violent society are inextricably tied with the progressive dismantling of the patterns of violence and abuse that have brought the Iranian people to this difficult juncture.

There is, in other words, an imperative need to embrace a new conception of power, one based on the consciousness that violence and denial of our human essence is the ultimate form of weakness.



## Introduction

Tahirih Danesh  
Shadi Sadr

The Islamic Republic is not just another Islamic state, but the sole theocracy in the modern world. Its birth was marked by a revolution, the first signs of which involved random acts of violence. Soon violence erupted throughout the entire country. Nothing unusual for revolutionary times, but with one exception, the emerging revolutionary party and subsequent powers defined violence as an expression of faith, clothed in the robe of justice delivered through religious, in this case, Islamic Sharia codes and laws. This has been institutionalized through Islamic revolutionary courts and guards who have raised Iran to the top of the executions charts over the past three decades.

The slogan 'independence, freedom and Islamic Republic,' which symbolised the democratic society the revolutionaries were in search of, was soon replaced by a post-revolutionary state that enveloped the nation in a culture of violence. Almost immediately after victory, waves of arrests, torture and executions swept across the nation and the burgeoning administration was symbolised by both a culture of violence manifested by the mistreatment of minorities, women and dissidents, and a body that perpetrated violence, the Islamic Revolutionary Guards Corps (IRGC). According to the Republic's constitution, the IRGC 'have responsibility not only for safeguarding the frontiers, but also for a religious mission, which is Holy War (JIHAD) along the way of God, and the struggle to extend the supremacy of God's Law in the world.'<sup>1</sup>

Authoritarian states rest on a pillar of vague laws and codes that give ruling elites the power to exercise selective justice against those who would challenge their absolute power. The Islamic Republic uses vague laws and codes that breed violence as the dominant feature of its power structure and the way of life in Iran. In its earlier years, the Republic judiciary's few minute-long hearings branded citizens of all strata with the charge of 'corruptor on earth'<sup>2</sup> before sending them to firing squads. This would be followed by publishing images of their bullet-riddled bodies in national papers as a further means of breeding violence. It set a trend for the state to ignore its own laws and constitution through waves of arbitrary arrests, the denial of due process and summary executions. More recently, increasingly and worryingly, the judiciary uses other vague charges of 'acting against state security' and 'propaganda against the system'. Those sentenced to death are not always shot behind prison gates but they can be killed in the spectacle of public executions, where the government rallies the masses, both young and old, to witness the most prolonged and painful form of death by hanging.

Furthermore, vague laws and concepts accommodate the conservative faction and clerics associated with the state to employ 'Islamic criteria'<sup>3</sup> as a condition to block access to civil rights. Activists, dissidents, journalists, artists, and ordinary citizens are censored, harassed, tortured or even executed based on the loose interpretation and application of 'Islamic criteria' to their basic rights. This can lead to violent tensions between the increasing monopolisation of power amongst a few and the deprivation of the most basic rights for a significant portion of the population, particularly among women, children, and ethnic and religious minorities.

In the Iran of today, through legislation and state-sponsored propaganda, both institutional and symbolic forms of violence dominate the relationship between the state and citizens. At the level of the state, political, civic, economic, cultural and social policies have been infused with an intense element of violence. At the level of citizens, physical, sexual and verbal violence defines interactions and relationships. These dynamics have eroded the lives of all Iranian citizens and facilitated the transfer of the Islamic Republic's ideational approach to violence well beyond its borders by barring access to universal human rights in the name of cultural relativism or the narrow reading of Sharia laws endorsed by the Republic's constitution.

In effect, the Islamic Republic's machinery can be described as a surveillance state that shows no regard for civilian life. As a result of a rational calculus, its policies generate a cycle of violence that have, in turn, gradually shifted cultural values and consequently bred domestic violence and contention. This cycle rests on both state actors and particular populations that adhere to violence irrespective of state action, such as religious figures like Friday Prayer leaders<sup>4</sup> or media moguls<sup>5</sup>.

<sup>1</sup>Alavi and Associates, English Translation of the Constitution of the Islamic Republic of Iran <http://www.alaviandassociates.com/documents/constitution.pdf>

<sup>2</sup>The Arabic/Islamic term was 'Mofsed fil Arz'

<sup>3</sup>Article 4 of the Islamic Republic constitution states: "All civil, penal, financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria."

<sup>4</sup>The recent case of alleged murder of a member of the Baha'i minority, Ataollah Rezvani, happened a day after the local Friday prayer leader included anti-Baha'i comments in his sermon.

At a time when the international community is focussed on the issue of security symbolised by the nuclear negotiations with the Islamic Republic authorities, this issue of Iran Human Rights Review seeks to draw attention to the underlying problem that affects both access to nuclear energy, as well as Iran's more universal challenge, the systematic and on going violation of human rights. It is hoped that by shining a spotlight on the culture of violence, this current issue of Iran Human Rights Review may serve as a tool to remind decision makers that human rights is not a soft issue for a few zealous citizens. The epidemic nature of violence in the form of gross violations of the rights of children, youth, women and men living in the Islamic Republic implies that human rights should be at the heart of international relations, negotiations and policies regarding the Islamic Republic. Looking at the examples of South Africa or Argentina, it is only when universal human rights take the place of violence that states are able to commit to security at national and international levels.

The aim of this issue is to raise questions, encourage further consideration and highlight the need for experts to explore new approaches to their exchanges with Islamic Republic officials with the aim of replacing the current culture of violence<sup>6</sup> that is at the heart of a considerable portion of Iranian codes and laws with measures that lead to a primacy of non-violence. Historically, nonviolent movements are twice as likely to succeed than those with a violent agenda, a phenomenon that serves as a point of encouragement for those interested in investing in the future of Iran as a regional power.<sup>7</sup> It also draws attention to the need to address the moral and political crisis affecting the core of the Islamic Republic and the necessity of human rights-centric laws and values that result in the gradual transformation of its society and citizens.

This issue benefits from the insights of a number of voices from Iran with a great deal of experience at the grassroots level. It is also enriched by the contributions of two leading figures among Iranian human rights defenders. Furthermore, Professor Payam Akhavan framed the overall message of this issue in light of his experiences as a global expert on gross human rights violations often initiated and accompanied by horrendous expressions of violence.

Mahmood Amiry-Moghaddam and Tabassom Fanaian examine the application of the death penalty in Iran and argue that it is applied in such a way so as to instil fear in society. They argue that Iran has the highest number of public executions with numbers rising in recent years in the wake of the 2009 election protests. He also draws attention to the practice of secret executions, where both the family and legal representatives of those executed are not informed about what has happened. He draws attention to the way in which the death penalty is used as part of Iran's fight against drug trafficking, which receives international support, both in terms of the number of executions and extra judicial killings.

Musa Barzin Khalifelo explores the legal basis for the activities of the Islamic Revolutionary Guards Corps (IRGC) and their subsidiary, the Basij. He examines the origins of both organisations and how their roles have expanded over time to underpin the theocratic priorities of the Iranian state, both at home and abroad. Khalifelo explores the role of these organisations in enforcing public morality codes and the suppression of opposition activity in Iran. He argues that fear and violence are at the heart of their activities and these tactics are rooted in Iran's laws and constitution.

Mahnaz Parakand explores the issue of violence against political prisoners by the Iranian judicial, penal and security services. She examines the ways in which the arrest, detention and trial of political prisoners regularly does not comply with Iranian law or international norms, such as lack of access to legal representation, information about their case or family contact, in addition to issues of physical abuse and illegal prisoner transfers.

Justice for Iran (JFI) presents a review of the various forms of sexual torture devised and implemented by Islamic Republic leadership and prison authorities against women prisoners. It highlights one particular form of sexual torture, the raping of virgins prior to execution, primarily carried out in the 1980s. It further highlights the current state policies on sexual torture, hallmarked by physical violation of female political prisoners, including cavity searches, and accompanied by psychological mistreatment, such as post-detention harassment of citizens and their families.

<sup>5</sup> The Supreme Leader's representative and managing editor of state-backed Kayhan Newspaper, Hossein Shariatmadari, is one of the most controversial figures in spreading inflammatory statements through his publication.

<sup>6</sup> Iran ranks 137 out of 162 on the Global Peace Index, see: Vision of Humanity, Global Peace Index: Iran, June 2013 <http://www.visionofhumanity.org/#page/indexes/global-peace-index/2013/IRN/OVER>

<sup>7</sup> A study looking at movements between 1900 and 2006 found that while more than 50% of nonviolent movements succeeded only 25% of violent yielded results. Please see: Erica Chenoweth, Give peaceful resistance a chance, New York Times, March 2011, [http://www.nytimes.com/2011/03/10/opinion/10chenoweth.html?\\_r=0](http://www.nytimes.com/2011/03/10/opinion/10chenoweth.html?_r=0)



Hossein Raeesi's contribution explores the constitutional and legal basis for discrimination against non-Shia religious minorities and non-Persian ethnic minorities in Iran. He draws attention to a range of articles in the constitution that underpin the actions of government institutions in discriminating against minorities, where the public activities of minority faiths are often framed as action against the state. He also explores the role of language in excluding ethnic minority groups from participation in civic life, particularly looking at discrimination in the education system against those with mother tongues other than Persian.

The International Coalition Against Violence in Iran (ICAVI) examines the ways in which the actions of the Iranian state can be seen to promote violence against children. They focus on three main issues: the treatment of children in prison who are incarcerated with their mothers, the execution of minors and those who committed crimes as minors, as well as new provisions that enable legal guardians to marry the children who have been placed in their care.

Medeh Ghaderi explores the constitutional and legal foundations of discrimination against women in Iran and looks at what this means in practice. She focuses on issues such as the defined role of the man as head of an Iranian household and how this impacts on women in terms of domestic life, divorce, child custody, polygamy and inheritance matters.

Rouhi Shafii examines the way in which the Iranian state is seen as promoting violence against women. Her contribution focuses on systemic discrimination in family law matters, arguing that this is a contributory factor in why women murder their husbands as a means of escape. It looks at the challenges facing women who are the head of their family and women who are involved in prostitution or suffering from drug addiction.

Nasrin Afzali explores the evolution of how wearing hejab became enforced on Iranian women in the months and years following the 1979 Islamic revolution. She notes how pressure to conform developed from initial restrictions in accessing public institutions to its inclusion in the Penal Code from 1983. Afzali explores the role of the Basij and police force in both formally and informally ensuring compliance with Iran's laws on hejab in workplaces, government institutions and public spaces.

On the basis of the evidence provided in the articles included in this issue edition of the Iran Human Rights Review, it might be useful to consider a number of recommendations:

- The Islamic Republic authorities to look at reform of discriminatory laws affecting specific populations including women, religious minorities, ethnic minorities and sexual minorities
- Increase funding opportunities for human rights, women's rights and children's rights organisations as a means of facilitating the promotion of a culture of human rights that is accessible to the public in Iran online, through traditional media and other resources
- Encourage the rule of law and processes involving truth commissions and tribunals focussed on the victims of human rights violations, particularly among Iranian women and religious and ethnic minorities
- International policy makers could explore educational opportunities for civic actors in core and marginal communities in Iran involved with non-violence education
- Facilitate increased access among Iranian youth to educational and training opportunities focussed on the historical, theoretical and practical elements of a nonviolent culture through on-line education and edutainment
- Explore ways to hold Islamic Republic authorities and bodies to account that promote a culture of violence through state-sponsored media both inside and outside of Iranian borders
- Encourage the Islamic Republic authorities to sign international instruments including the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the UN Convention against Torture without reservation
- Facilitate increased international relations between global south leaders committed to universal human rights and the Islamic Republic authorities



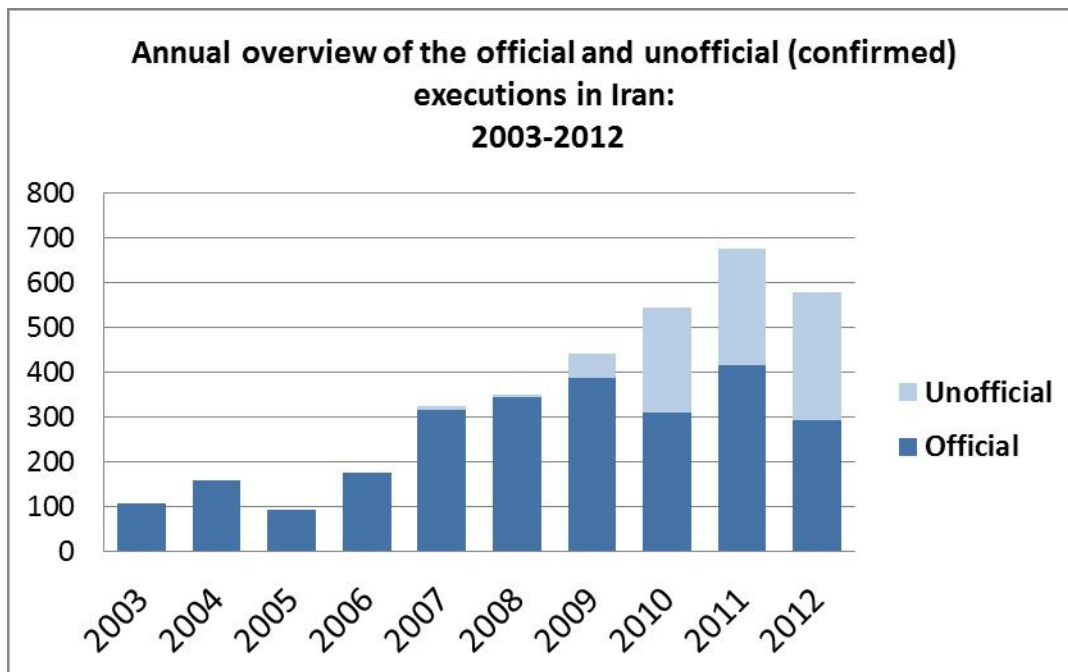
## The death penalty in Iran: Fighting crime or an instrument to spread fear?

Mahmood Amiry-Moghaddam  
Tabassom Fanaian

After China, Iran is the country with the highest number of executions. According to reports from human rights NGOs, several hundred people are executed in Iran every year. However, there are credible indications that the actual number of executions is much higher than reported. According to the Iranian penal law, charges such as drug trafficking, murder, rape, kidnapping, treason, espionage, Moharebeh (armed struggle against the authorities), terrorism, sodomy and adultery are all offences that carry the death penalty. Although most of those executed in Iran are convicted of common crimes such as murder, rape and possession and trafficking of narcotic drugs, a meaningful correlation has been shown between political events and the number of executions. Moreover, Iran is the country with the *highest number of public executions*. Critics believe the Iranian authorities use the death penalty as an instrument to spread fear in society. This article gives an overview of execution trends in recent years and touches upon a few other aspects of the death penalty in Iran. Although Iran still practices the death penalty for juvenile offenders, homosexual acts, apostasy and stoning for adultery, these issues will not be discussed here.

### Execution reports

An overview of published reports on the death penalty in the last 10 years in Iran shows an increasing trend towards executions.<sup>1</sup> These reports are mainly based on cases announced by the Iranian authorities and since the authorities do not announce all executions, there is uncertainty about the actual number of death sentences carried out each year in Iran. However, in the last three years, an increasing number of unannounced executions have been confirmed by human rights NGOs. This can only partly explain the increase in the number of executions in Iran. A look at the official number of executions confirms the increasing trend (see Figure 1 below).



**Figure 1:** Chart showing the execution trends between 2003 and 2012 based on annual reports published by Amnesty International (2003-2007) and Iran Human Rights (2008-2012). The unofficial numbers represent the confirmed executions not announced by the Iranian authorities.

### Public executions

As mentioned, Iran is the country with the highest number of public executions. Public executions are often carried out in the morning in the central parts of cities, using cranes.<sup>2</sup> The prisoner is pulled up by the crane leading to death by suffocation. Sometimes it takes up to 15 minutes until death occurs. This type of

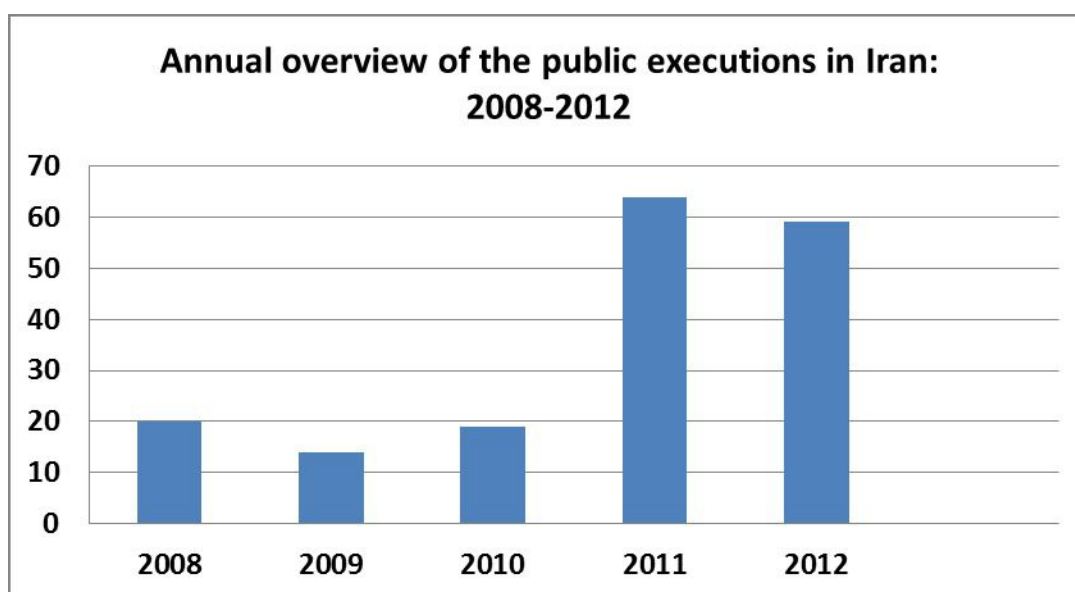
<sup>1</sup> March 2013 report by Dr. Ahmed Shaheed, UN Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, <http://shaheedoniran.org/english/dr-shaheeds-work/latest-reports/special-rapporteur-s-february-2013-report-on-the-situation-of-human-rights-in-the-islamic-republic-of-iran/> and Iran Human Rights, Annual Report on the Death Penalty in Iran 2012, April 2013, <http://iranhr.net/spip.php?article2740>

<sup>2</sup> Iran Human Rights, Three prisoners Hanged Publicly in western Iran - Two Prisoners Hanged in the Prison- At Least 24 Executions in the Last 12 Days, September 2013, <http://iranhr.net/spip.php?article2878>

execution is known as prolonged suffocation by human rights groups. It is a humiliating punishment and is recognised as torture. Pictures of children watching public executions have led to international outrage.<sup>3</sup>

Big cities such as Shiraz, Tehran, Karaj and Isfahan have the highest number of public executions according to reports published in the last three years. Fars Province, where Shiraz is the capital, has been the province with the highest number of public executions in Iran. In 2012, 28 out of 60 public executions were carried out in this province.<sup>4</sup>

Following increased international attention, in January 2008 the Iranian Judiciary issued an order asking judges to limit the number of public executions.<sup>5</sup> According to this order all public executions had to be specially approved by the head of the Judiciary. This led to a decrease in the number of public executions in 2008 and 2009. But since the post-election protests in 2009 the number of public executions has been increasing. The number of public executions in 2011 and 2012 was more than three times higher than in 2009 (see Figure 2 below). The trend continues in 2013 as the public execution figures by September 2013 are higher than the whole year of 2012.



**Figure 2:** Public executions in the period 2008-2012. The numbers in 2011 and 2012 are three times larger than the annual numbers in the previous three years.

### Secret executions

As mentioned above, an increasing number of secret or unannounced executions have been reported in the past 4 years. The figures increased dramatically in 2010 when secret mass-executions were exposed in the Vakilabad Prison of Mashhad.<sup>6</sup> Given the widespread censorship, lack of transparency in the Iranian Judicial system and crackdown on civil institutions, it is very difficult to verify many of the execution reports. Despite this fact, Iran Human Rights (IHR) has managed to verify secret executions in 15 different prisons in the past two years. Secret or unannounced executions accounted for 49% of all confirmed executions reported in the Iran Human Rights Annual Report on the Death Penalty 2012. It is assumed that the number of secret or unannounced executions is much higher than reported.<sup>7</sup>

Most secret executions documented in the last 3 years have taken place in the Vakilabad Prison of Mashhad. These executions were first revealed by the late Ahmad Ghabel, the reformist scholar who was imprisoned

<sup>3</sup> Iran Human Rights, Children watching public executions in Iran: Iran Human Rights urges the international community to act immediately, October 2001, <http://iranhr.net/spip.php?article2319>

<sup>4</sup> Iran Human Rights, Nine Prisoners Executed in Shiraz (Southern Iran) Today- Six Executions Carried Out in Public, April 2013, <http://iranhr.net/spip.php?article2747>

<sup>5</sup> Ebtekarnews.com, Important circulars communicated to the Head of Judiciary and Judges of the Court, January 2008, <http://www.ebtekarnews.com/Ebtekar/News.aspx?NID=27494>

<sup>6</sup> Dubai, Iran's secret mass executions stir alarm, Al Arabiya, October 2010, <http://www.alarabiya.net/articles/2010/10/31/124378.html> and Amnesty International, Iran carrying out 'killing spree' of alleged drugs offenders, December 2011, <http://www.amnesty.ie/news/iran-carrying-out-%E2%80%98killing-spre-%E2%80%99-alleged-drugs-offenders>

<sup>7</sup> International Campaign for Human Rights in Iran, Iran's Secret Hangings: Mass Unannounced Executions in Mashad's Vakilabad Prison, January 2012, <http://www.iranhumanrights.org/2012/01/irans-secret-hangings/> and Iran Human Rights, 200 Death Row Prisoners Waiting to be Executed in Hormozgan (Southern Iran)- 14 Unannounced Executions in Hormozgan Prisons, June 2013, <http://iranhr.net/spip.php?article2799>

after the post-election protests in 2009.<sup>8</sup> Later, confirmed reports identified several mass executions in the summer of 2010, where 50-70 prisoners were executed at a time. In meetings with foreign diplomats the Iranian authorities confirmed one such mass execution which had taken place in August 2010, where 63 prisoners were executed in one day.<sup>9</sup>

Most of the executed were convicted of drug related charges. The executions were kept secret from the prisoners' lawyers and their families. The prisoners themselves were only informed of their pending executions a short time prior to them taking place. Moreover, a few hours prior to the executions, prison phone lines were cut and no visits were allowed.

It is believed that several hundred prisoners were executed from February to October 2010. At least 226 secret executions were confirmed by more than one source and names of more than 100 of those executed were published later that year.<sup>10</sup> There were many Afghan citizens and some foreign citizens from Ghana and Nigeria among those executed. The embassies of Ghana and Nigeria later confirmed the execution of their citizens.<sup>11</sup>

The secret mass executions at Vakilabad were halted for a time after they received international attention<sup>12</sup>. In 2011 there were 133 reported executions in this prison.<sup>13</sup> But the executions resumed again in October 2012 and continued until at least February 2013.<sup>14</sup> During this period most of those executed had been sentenced to death for drug related charges. According to confirmed reports, during this period, executions have taken place twice a week normally on Wednesdays and Sundays, and each time at least 10 prisoners have been executed. Several reports indicate that there have been large numbers of Afghan prisoners among those executed in this period. It is estimated that at least 500 prisoners were executed across Iran in the period October 2012 to February 2013.<sup>15</sup>

### Executions for drug related charges

Drug related charges followed by rape, Moharebeh (see below) and murder are the major charges for which death sentences are imposed by the Iranian judiciary. However, drug related charges account for the majority of executions. Between 70-80% of all executions in the past 3 years have been related to drug charges.<sup>16</sup> Being the transit route between Afghanistan and Europe, drug trafficking and drug abuse is a major problem in Iran. Iranian penal law has strict rules for drug convicts. Possession of 30 grams of drugs such as heroin, morphine, cocaine, LSD, methamphetamine or similar drugs, carries the death penalty. And the death sentence issued for drug related charges cannot be appealed. Besides, the United Nations Office on Drugs and Crime ('UNODC') cooperates with Iran in fighting drug trafficking.<sup>17</sup> Iranian authorities have several times blamed the international war on drugs as the reason for high numbers of executions in the country. However, despite executing hundreds of people every year for drug related charges, there is no evidence to indicate that it has helped against drug trafficking. On the contrary, both drug trafficking and drug abuse have been on the increase in recent years.

Those sentenced to death in Iran for drug related charges are tried by the Revolutionary Courts behind closed doors. There are several reports of unfair trials, coerced confessions and torture. Besides, since the majority (about 70%) of those executed are not identified by name, one cannot rule out the possibility that some of those executed might have been held on other charges than claimed by the authorities. The Iranian-Dutch citizen Zahra Bahrami was arrested in connection with a protest in December 2009 and sentenced to death for Moharebeh (waging war against God) in 2010. Ten months later, while in

<sup>8</sup> International Campaign for Human Rights in Iran, Ahmad Ghabel Arrested For Revealing Vakilabad Mass Executions, Says Wife, September 2009, <http://www.iranhumanrights.org/2010/09/ghabel-arrested-vakilabad/>

<sup>9</sup> Amnesty International UK <http://www.amnesty.org.uk/press-releases/iran-new-report-reveals-surge-secret-executions-drugs-offences>

<sup>10</sup> Ibid.

<sup>11</sup> Enownow, Iran Executes Nigerian, Ghanaian Secretly, <http://www.enownow.com/news/printable.php?sno=7605> and The Nation, Iran executes Nigerian, Ghanaian, Nigeria Village Square, November 2010, <http://www.nigeriavillagesquare.com/forum/main-square/58978-iran-executes-nigerian-ghanaian.html>

<sup>12</sup> Amnesty International, Addicted to Death, December 2011, [http://www.amnesty.org.nz/files/Iranreport\\_Addictedtodeath\\_AmnestyInternational.pdf](http://www.amnesty.org.nz/files/Iranreport_Addictedtodeath_AmnestyInternational.pdf)

<sup>13</sup> Iran Human Rights, Secret Mass Executions Resume in Mashhad's Vakilabad Prison: Several Hundred Prisoners Possibly Executed In Past Four Months, February 2013, <http://iranhr.net/spip.php?article2707>

<sup>14</sup> Iran Human Rights, New Executions in Vakilabad- About 500 Executions in One Prison Since October 2012- IHR Urges the International Community to Intervene Immediately, February 2013, <http://iranhr.net/spip.php?article2729>

<sup>15</sup> Iran Human Rights, Ibid

<sup>16</sup> Iran Human Rights Documentation Centre, Human Rights Groups Welcome Decision of Danish Government to Stop Funding IRI Anti-Drug Enforcement, April 2013, [http://www.iranhrdc.org/english/news/press-statements/100000283-human-rights-groups-welcome-decision-of-danish-government-to-stop-funding-iri-anti-drug-enforcement.html#\\_UkWTqIzKOsO](http://www.iranhrdc.org/english/news/press-statements/100000283-human-rights-groups-welcome-decision-of-danish-government-to-stop-funding-iri-anti-drug-enforcement.html#_UkWTqIzKOsO)

<sup>17</sup> Patrick Gallahue, Roxanne Saucier and Damon Barrett, Partners in Crime: International funding for drug control and gross violations of human rights, Harm Reduction International, June 2012, [http://www.ihra.net/files/2012/06/20/Partners\\_in\\_Crime\\_web1.pdf](http://www.ihra.net/files/2012/06/20/Partners_in_Crime_web1.pdf)

prison, she was sentenced to death for possession of narcotics and executed in January 2011 for the same charge.<sup>18</sup> Execution of prisoners for their political activities leads to much stronger international reactions than executions for drug related charges. Moreover, it is believed that UNODC cooperate with the Iranian authorities in their war against drug trafficking which gives legitimacy to these executions.<sup>19</sup>

In recent years, many human rights organisations have urged UNODC to halt its cooperation with Iran or condition further cooperation upon a halt in executions.<sup>20</sup> Denmark, one of the countries contributing to program one of UNODC-Iran<sup>21</sup> cooperation ceased all its funding to the UNODC project, in order to prevent involvement in the 'executions of several hundred people every year.'<sup>22</sup>

### Political executions

One of the charges used by the Iranian Judiciary to issue death sentences against political opponents is Moharebeh. The term Moharebeh is taken from Islamic scripts and means 'waging war against God'. The term was introduced in the Iranian penal law after the Islamic revolution in 1979 and the charge was used against those who were involved in armed struggle against the authorities. However the charge has also been used against the relatives of those involved in such activities or for political opposition members not involved in violent activities.<sup>23</sup> In recent years, there has been an over-representation of ethnic minority groups amongst those executed on charges of Moharebeh<sup>24</sup>. There have been several Kurdish, Arab and Baluchi prisoners sentenced to death on the charge of Moharebeh.<sup>25</sup> There are also several reports of torture and forced confessions in cases where the prisoner is sentenced to death for Moharebeh.<sup>26</sup>

### The relationship between the death penalty and political events in Iran

Iranian authorities claim that the large number of executions is meant to combat crime as more than 80% of those executed are charged with drug trafficking, rape or murder. However, human rights groups believe that the main purpose of the death penalty in Iran is to spread fear in society in order to avoid socio-political unrest and protests. Recently, Iran Human Rights published a short report studying the relationship between the number of executions and political events in Iran from 2007 to 2013.<sup>27</sup> Only executions that have been announced by authorities were included in this analysis. The analysis showed a meaningful correlation between the number of executions and political events in the country. For instance, the number of executions in Iran dropped significantly in the weeks leading up to Presidential or Parliamentary elections (when the international media is present in the country and the authorities encourage participation in the elections). But execution numbers peaked in the months before and after the elections, and prior to when protests were expected, or right after an uprising. Although most of the executions are for common criminal charges, it seems that the Iranian authorities choose the timing of executions in a coordinated and non-arbitrary manner. In general, execution numbers are high when authorities fear protests and low when the world's focus is on Iran.

### Extrajudicial executions

Reports on the death penalty in Iran do not include cases of people being shot to death by the Iranian security forces. Every year scores of people are killed on the western and eastern borders of Iran<sup>28</sup>. Many of those shot in the border areas are the so called 'Kolbar' or porters, who make their livelihood by transporting (smuggling) different items over the border.<sup>29</sup> There are reports of porters being shot to death with their

<sup>18</sup> Amnesty International, Zahra Bahrami, dual Dutch-Iranian national, latest victim of Iran's killing spree of alleged drugs offenders, January 2011, <http://www.amnesty.nl/nieuwsportaal/pers/zahra-bahrami-dual-dutch-iranian-national-latest-victim-irans-killing-spree-alleg>

<sup>19</sup> Human Rights Watch, Iran: Donors should reassess anti-drug funding, August 2012, <http://www.hrw.org/news/2012/08/21/iran-donors-should-reassess-anti-drug-funding>

<sup>20</sup> Iran Human Rights, Human rights groups urge UN to cease anti-drug trafficking funding until Iranian authorities renounce use of death penalty for drug-related offences, October 2012, <http://iranhr.net/spip.php?article2593>

<sup>21</sup> Please see <http://www.unodc.org/islamicpublicofiran/en/country-programme-sub-prog1.html>

<sup>22</sup> Iran Human Rights, Denmark Stops Aid to Iran's Fight Against Drug Trafficking, April 2013, <http://iranhr.net/spip.php?article2743>

<sup>23</sup> Iran Human Rights, Execution of a journalist and civil society activist in Zahedan- Yaqub Mehrnehad (Mirnahad) and Abdolnaser Taheri were executed this morning, August 2008, <http://iranhr.net/spip.php?article576> and Human Rights Watch, Iran: Stop Execution of Ahwazi Arab Political Prisoners, January 2013, <http://www.hrw.org/news/2013/01/24/iran-stop-execution-ahwazi-arab-political-prisoners>

<sup>24</sup> Iran Human Rights, Annual Report on the Death Penalty in Iran 2012, April 2013, <http://iranhr.net/spip.php?article2740>

<sup>25</sup> FIDH, Iran / death penalty A state terror policy-Special edition for the 4th World Congress against the death penalty, March 2010, <http://www.fidh.org/Iran-death-penalty-A-state-terror> and Human Rights Watch, World Report 2012- Iran, January 2012, <http://www.hrw.org/world-report-2012/world-report-2012-iran> and Iran Human Rights, Annual Report on the Death Penalty in Iran 2012, March 2013, [http://www.iranhr.net/IMG/pdf/Rapport\\_iran\\_2012-GB-250313-BD.pdf](http://www.iranhr.net/IMG/pdf/Rapport_iran_2012-GB-250313-BD.pdf)

<sup>26</sup> Iran Human Rights, Report of the Special Rapporteur on the situation of the human rights in Iran: UN Special Rapporteur: Kurdish death row prisoners Zanyar and Loghman Moradi were tortured and threatened with rape, March 2012, <http://iranhr.net/spip.php?article2443>

<sup>27</sup> Iran Human Rights, Iran Human Rights Analysis: Relationship between political events and the death penalty trends in Iran, July 2013, <http://www.iranhr.net/spip.php?article2831>

<sup>28</sup> Annual Report on the Death Penalty in Iran 2012, April 2013, <http://www.iranhr.net/spip.php?article2740>

<sup>29</sup> Rojhelat, The May 2013 report by The Kurdish Human Rights Association in Europe,

hands tied. Little attention has been given to this issue in the media. The issue of extrajudicial killings on the Iranian sides of the borders must be made known to the countries which contribute to the UNODC programme on border cooperation between Iran and its neighbouring countries.

### **Can international pressure help?**

Although executions have been increasing over the past decade in Iran, there are clear indications that pressure and focus by the international community can help limit the use of the death penalty. There are several individuals whose executions have been halted or death sentences removed as a result of such international pressure. Moreover, international reactions have led to some modest changes in the Iranian penal code. The international community has mainly focused on death penalty cases against women, children and political opponents, and it is in these areas where the number of executions has declined. The overall increase in executions in Iran is tied closely to an increase in the number of death sentences attributed to drug-related charges. The lack of international reactions to these executions, and especially the cooperation between the international community (UNODC) and Iranian authorities might contribute to this increasing trend. What is needed is sustained international focus and reactions to all cases of the death penalty, as well as conditioning UNODC cooperation on the removal of death sentences for drug related charges.





## Legal justification for the use of violence by IRGC and Baseej forces

Musa Barzin Khalifeloo

### Introduction

The inclusion and promotion of violence in a society is due to a number of different factors. One of the primary causes is the overwhelming support for and promotion of militarisation by the political system. In societies where the dominant political system is founded on both a specific ideology and arbitrary rule, the result is a rise in violence. This is due to the fact that such systems endeavour to secure their continuing existence through the use of military and paramilitary forces. Rules and laws provide the instruments for promotion of excessive militarism, resulting in violence. The Islamic Republic of Iran, as an ideological regime, provides institutional and legal support to military and paramilitary organisations such as the Islamic Revolutionary Guards Corps (IRGC) and its subsidiary the Baseej, which despite being operated by the state yield a great deal of political, administrative and economic influence within Iran. With regard to both agencies a good deal of research has been carried out<sup>1</sup> but none have addressed the legal grounds for their role in the creation and promotion of violence in Iranian society. Therefore, this brief article will examine the rules and laws that have opened the way for the IRGC and Baseej to propagate violence both inside and outside Iranian borders.

### A brief history of the IRGC

The nucleus of the IRGC was formed in the early days after the 1979 revolution. Its goals were to maintain order in cities and villages, prevent incitement, conspiracy or disruption inside government or national agencies, public centres and embassies, prevent the influence of opportunist and anti-revolutionary elements among the public and to implement government orders and sentences issued by the Islamic extraordinary courts.<sup>2</sup>

Soon after, in an order issued on 24 August 1979 to the Islamic Revolutionary Council, Ayatollah Khomeini formally announced the formation of this institution.<sup>3</sup> In addition, Article 150 of the Islamic Republic constitution formally recognised the Corps.<sup>4</sup> This militant organisation that operates under the guidance of the Supreme Leader has played an important role in Iran's military, economy<sup>5</sup>, politics and culture.<sup>6</sup> Since its inception it has not experienced many significant modifications to its structure until May 2008 when widespread changes began to take root. The following month saw structural changes. For instance, 31 provincial IRGC forces were inaugurated. Following the post-election upheavals in 2009, further extensive changes took place in the IRGC in light of security concerns. The formation of the intelligence agency was one such change.<sup>7</sup>

The IRGC is composed of five forces, the most important of which is the Qods force, a special section whose responsibility includes military activities outside of Iranian borders. This force was formed during military operations on Iraqi soil during the Iran-Iraq war. However, its military operations were not limited to Iraq, but included other countries. A number of terrorist activities outside Iran and obvious interference in the current Syrian conflict are among other instances of tasks carried out by the Qods forces.<sup>8</sup>

### A brief history of the Baseej

The Baseej was formed under the supervision of the Ministry of Interior in April 1981.<sup>9</sup> Two months later the Revolutionary Council described the function of this organisation and announced that it would operate under the supervision of the Supreme Leader in association with the office of the President.<sup>10</sup> Then, through the amalgamation of a number of other military and paramilitary forces, it was expanded at the national level.<sup>11</sup> Eventually, in 1981, the parliament approved a bill entitled 'Integration of the national Baseej

<sup>1</sup> For example See: Ostovar, Afshon P. (2009). 'Guardians of the Islamic Revolution Ideology, Politics, and the Development of Military Power in Iran (1979–2009)' (PhD Thesis). University of Michigan.

<sup>2</sup> Mohsen Sazegara, IRGC and Three Deviations, Sazegara.net, July 2006, [http://www.sazegara.net/persian/archives/2006/07/060723\\_154435.html](http://www.sazegara.net/persian/archives/2006/07/060723_154435.html)

<sup>3</sup> Islamic Revolution Document Centre, Formation of the Iranian Revolutionary Guards of the Islamic Revolution, April 1979, <http://www.irdc.ir/fa/calendar/19/default.aspx>

<sup>4</sup> Islamic Consultative Assembly Resource Centre, Constitution of Iran, [http://rc.majlis.ir/fa/content/iran\\_constitution](http://rc.majlis.ir/fa/content/iran_constitution)

<sup>5</sup> Saeed Ghasseminejad, The Role of IRGC in Iran's Economy, Rooz Online, July 2010, <http://www.roozonline.com/persian/news/newsitem/article/-49b7caea7c.html>

<sup>6</sup> Behrooz Khaliq, The Opportunities of IRGC and the Clerics in the Power Structure, Part III by Behrooz Khaliq, July 2006, <http://www.akhbar-rooz.com/article.jsp?essayId=4435> (see also <http://www.akhbar-rooz.com/article.jsp?essayId=4220>)

<sup>7</sup> Shahb Nikzad, IRGC and Its Structural Changes to Security Arrangements, BBC Persian, December 2012, [http://www.bbc.co.uk/persian/iran/2009/10/091028\\_op\\_sn\\_sepah.shtml](http://www.bbc.co.uk/persian/iran/2009/10/091028_op_sn_sepah.shtml)

<sup>8</sup> Iraq in the Claws of General Violence by Saeed Bayani, October 2011

<sup>9</sup> See Keshvar Rooznameh number 10280-24-3-1359

<sup>10</sup> Majmu'eh Ghavanin Saal 1980 pp. 184-286

<sup>11</sup> Ibid. P. 294

organisation into the Islamic Revolutionary Guards Corps<sup>12</sup> and in light of the commonalities between the two organisations, renamed it the Baseej Resistance Force and placed it under the supervision of the IRGC. Currently, based on Article 3 of the Corps Employment Regulations<sup>13</sup>, the Baseej is one of the subsidiaries of the IRGC.

### **Promotion of theocracy**

Based on Article 1 of the constitution of the IRGC approved in 1982<sup>14</sup> 'The Islamic Revolutionary Guards Corps is an organisation under the command of the Supreme Leader for the purpose of guarding the Islamic revolution in Iran and its achievements and efforts aimed at the realisation of Divine goals and the expansion of the rule of Divine laws in accordance with the Islamic Republic of Iran, and reinforcement of its defence forces through cooperation with other armed forces, military training and organisation of the militia.'<sup>15</sup>

As the above text demonstrates, one of the aims of the Corps is the expansion of theocracy. In light of the fact that the Corps is an armed and cohesive force of the Iranian government, the expansion of theocracy can be achieved through use of these armed forces. Attention to this goal, as included in the IRGC constitution, sheds light on a number of challenges. First, does a political regime, as in Iran, have the legitimacy to expand its theocracy throughout the globe? Second, what is meant by theocracy? Based on principles of law, terminologies must be as clear and concise as possible in order to avoid varied and false interpretations. Therefore, the question remains, what is the exact definition of theocracy? How is theocracy to be implemented? Following the ideology dominant among the Guard Corps and other sections of the political leadership, is there a danger of misinterpretation or preferred interpretation of theocracy? It seems that inclusion of this aim can legitimise expansion efforts by the Corps inside and outside of Iran, along with acts of violence and terror justified in the name of the expansion of theocracy. This same justification also applies to the second article of the IRGC constitution. It explains that one of the aims of the Corps is to combat 'anti-revolutionary' efforts, a vague reference which is open to interpretation and can be used as a means of legitimising the use of violence against critics or opponents of the political establishment in Iran.

In addition, the inclusion of military forces in political arenas in the name of protecting the revolution and the republic, can in and of itself lead to more violence in between the different political wings of society. This is what we witness in Iran today. In this regard it should be mentioned that Article 47 of the IRGC constitution<sup>16</sup> bans its members from interference in political affairs, however, in practice this Article is ignored.

Iranian laws also provide the grounds for the Baseej Resistance Force to seek violence. The first Article of the Bill for the Formation of the National Baseej,<sup>17</sup> approved in 1981, identifies the foundation for the formation of Baseej as defence and jihad against violators and those who stand in the way of the full establishment of an Islamic order on the path to God. This Article, inspired by the teachings of Shia jurisprudence based on combat against unbelievers, is in and of itself a cause for ideological violence. Jihad with the aim of establishing an Islamic order is a guarantee for the promotion of violence and terror in the name of raising an Islamic world order. In addition, with Article 159 of the Third Development Plan<sup>18</sup> charging the Baseej with the promotion of a culture of jihad martyrdom, is another example of the legal grounds for the promotion of violence in Iranian laws.

### **Membership of non-Iranians and violence outside Iranian borders**

In light of Article 145 of the constitution of the Islamic Republic<sup>19</sup>, it is illegal for non-Iranians to serve in the regular armed forces. However, no other laws restrict the Guards Corps or the Baseej from recruiting non-Iranians. Therefore, the Guards Corps forces continue to employ foreign forces for violent actions carried out overseas, a measure against legal norms. Furthermore, the inclusion of the above-mentioned goals for the IRGC and the Baseej can, when misinterpreted, provide legal grounds for the involvement of non-Iranians in IRGC and Baseej in creation of violence outside of Iranian borders. Although it should be noted that this Article and aims such as 'promotion of God's rule' cannot be legitimate grounds for such activities

<sup>12</sup> See Keshvar Rooznameh number: 71624-29-11-1359

<sup>13</sup> Islamic Consultative Assembly Resource Centre, Employment Regulations of the IRGC, <http://rc.majlis.ir/fa/law/show/91961>

<sup>14</sup> Islamic Consultative Assembly Resource Centre, IRGC Constitution, <http://rc.majlis.ir/fa/law/show/90595>

<sup>15</sup> Ibid

<sup>16</sup> Ibid

<sup>17</sup> Keshvar Newspaper Nr. 1359/05/20 10328 <http://www.rooznamehramsi.ir>

<sup>18</sup> Third Plan for Economic, Social and Cultural Development of the Islamic Republic of Iran, Ghavanin.ir Iranian Law database, March 2000, <http://www.ghavanin.ir/detail.asp?id=12310>

<sup>19</sup> Islamic Consultative Assembly Resource Centre, Islamic Republic Constitution, [http://rc.majlis.ir/fa/content/iran\\_constitution](http://rc.majlis.ir/fa/content/iran_constitution)

and therefore, violent activities overseas by the IRGC are not based on legal grounds but are carried out arbitrarily.<sup>20</sup>

The 1994 explosion at the Amia Jewish Community Centre in Argentina by Lebanon Hezbollah forces associated with the IRGC and the uncovering of their role<sup>21</sup>, the 1983 attack on the US-French military base in Beirut by Hezbollah forces linked to the IRGC<sup>22</sup>, the 1996 Khobar tower bombing in Saudi Arabia by the Qods forces of the IRGC<sup>23</sup>, the attack on the Israeli Embassy in India by forces linked to the IRGC in 2012<sup>24</sup>, recruitment of Iraqi Shia forces and their involvement in terrorist activities<sup>25</sup> and their role in the Syrian civil war and support for the Syrian regime in suppression of the opposition<sup>26</sup>, are all examples of IRGC involving non-Iranians in inciting violence at a global level.

### Suppression of social movements

Through the arbitrary and abusive misinterpretation of laws and rules that legitimise the suppression of the public, the Baseej and Guards Corps forces<sup>27</sup> play a significant role in barring social movements in Iran. Iranian laws approve regulations that allow the IRGC and the Baseej to combat external and internal threats, suppress activities against the Islamic Republic of Iran and safeguard the achievements of the Islamic revolution in the name of spreading God's rule and establishing Islamic Order and open the way for violence in oppressing social movements. It was the IRGC and Baseeji forces that carried out attacks on the Tehran and Tabriz Universities in 1999<sup>28</sup>, and took part in the suppression of the student movement and the subsequent mass demonstrations.<sup>29</sup> Furthermore, the IRGC and the Baseej played a pivotal role in suppressing and killing demonstrators during the 2009 post-election uprising.<sup>30</sup> The clampdown on the demonstrations in Iranian Azerbaijan that raised concerns about the environmental hazards threatening Lake Oroumiyeh is another example of IRGC and Baseej collaboration in oppressing social movements.<sup>31</sup>

### Surveillance and inspection

Baseej and Guards Corps street surveillance and inspection of citizens are other examples of the promotion of violence and lack of security in Iranian society. These forces, acting in the name of the protection of security, frequent the streets and interfere in the daily lives of citizens, undoubtedly causing disturbance to individuals that leads to the violation of their civil rights. It is obvious that the failure of judicial authorities to prevent such efforts implies their cooperation in creating a sense of insecurity in society at large. The inquisition of citizens regarding their clothing, inspection of automobiles or body searches are examples of invading individual space and the violation of civil rights at the hands of the IRGC and Baseej forces. It is obvious that Islamic Republic policy makers on the one hand endow these forces with the task of opposing internal and external threats and promoting jihad on the path of God<sup>32</sup> through the approval of regulations such as the Justice Act of Baseej<sup>33</sup> which provides limited rights for both organisations to interfere in opposing the media. On the other hand, the judicial authorities' failure to bar these forces for violating their limited jurisdiction, share ultimate responsibility with policy makers for creating insecurity in society.

### Intelligence activities

The performance of intelligence activities by Guards Corps and Baseej forces are among those cases that violate the privacy of members of society and cause a sense of psychological insecurity. Based on Article 8 of the Guards Corps constitution<sup>34</sup>, one of the duties of the Corps includes collaboration with national

<sup>20</sup> Behrooz Karbalaie, Activities of the IRGC from Planning to Implementation, September 2013, <http://www.rahesabz.net/story/75410/>

<sup>21</sup> BBC News Channel, Iran charged over Argentina bomb, October 2006, <http://news.bbc.co.uk/2/hi/americas/6085768.stm>

<sup>22</sup> Radio Zamaneh, Iraqi Generals in the grip of terror, October 2011, <http://archive.radiozamaneh.com/politics/2011/10/24/7845/>

<sup>23</sup> Ibid.

<sup>24</sup> Indrani Bagchi, Israel embassy car blast: Indian intelligence hints at Iran's hand, Times of India, February 2012, [http://articles.timesofindia.indiatimes.com/2012-02-14/india/31058847\\_1\\_magnetic-bomb-mostafa-ahmadi-roshan-iranian-nuclear-scientists](http://articles.timesofindia.indiatimes.com/2012-02-14/india/31058847_1_magnetic-bomb-mostafa-ahmadi-roshan-iranian-nuclear-scientists)

<sup>25</sup> Aawsat, Uncovering Ghods elements in the Green Zone, October 2011, <http://www.aawsat.com/details.asp?section=4&issueno=12008&article=645001&search>

<sup>26</sup> Deutsche Welle, New Video Release of Iranian troops in Syria, September 2013, <http://www.dw.de/#####-#####-####-###-####-#####-#####-###-#####/a-17097032>

<sup>27</sup> IRGC constitution approved in 1982 and the Baseej Formation Bill approved in 1980 and the Justice Act approved in 1993

<sup>28</sup> Michael Slackman, Hard-Line Force Extends Grip Over a Splintered Iran, New York Times, July 2009, [http://www.nytimes.com/2009/07/21/world/middleeast/21guards.html?\\_r=3&](http://www.nytimes.com/2009/07/21/world/middleeast/21guards.html?_r=3&)

<sup>29</sup> Deputy Chief of the IRGC as the Assistant Secretary of the National Security Council, September 2005, <http://www.nourizadeh.com/archives/001301.php>

<sup>30</sup> IRGC, Baseej, Election Coup and the Green Movement by Behrooz Khaliq, June 2011, [http://www.radiofarda.com/content/f6\\_iran\\_sepah\\_basij\\_khaligh/24231036.html](http://www.radiofarda.com/content/f6_iran_sepah_basij_khaligh/24231036.html)

<sup>31</sup> My personal experience working with many of those arrested during the demonstrations pointed to the role of IRGC and Baseej in suppressing these movements.

<sup>32</sup> Islamic Consultative Assembly Resource Centre, Legislation establishing national mobilisation, <http://rc.majlis.ir/fa/law/show/99044>

<sup>33</sup> Islamic Consultative Assembly Resource Centre, Judiciary Act of mobilisation, <http://rc.majlis.ir/fa/law/show/92119>

<sup>34</sup> Islamic Consultative Assembly Resource Centre, Statute of the Islamic Revolution Iranian revolutionary Guards <http://rc.majlis.ir/fa/law/show/90595>

intelligence forces. Although based on this article the Corps cannot engage in intelligence efforts itself, but in reality both the Guards Corp and the Baseej are extensively involved in such operations.<sup>35</sup>

### **Promotion of violence among children**

Another problem is the promotion and institutionalisation of violence among children. The lack of legal prohibitions against the recruitment of children below the age of 18 into the Guards Corps and Baseej forces while issuing legal permits and provisions, such as the law of formation and promotion of the student Baseej<sup>36</sup> approved in 1996, designed to facilitate inclusion of children into the Guards Corps and Baseej has resulted in their focus on the recruitment of children. They pursue various avenues for this purpose, including Baseej stations in schools and centres aimed at minors. Many other provisions in Iranian law offer advantages to the members of the IRGC and Baseej. Article 196 of the Fifth Development Plan is one such example.<sup>37</sup> These advantages include financial assistance, preferential treatment in securing government employment and reduction or exemption from regular military service that encourage young people to join the IRGC and Baseej. It should be noted since such organisations include legalised<sup>38</sup> armed operations, the recruitment of anyone below the age of 18 breaches Article 19 of the Convention on the Rights of the Child<sup>39</sup> and instils violence among children.<sup>40</sup> Propagation of the culture of martyrdom backed by law<sup>41</sup> and such organisations is reinforced by the state media along with projects such as Rahiyan Noor<sup>42</sup> (Treaders of the Path of Light), which can be viewed as a form of violence against children as they encourage children to engage in acts of violence. The conscription of citizens below the age of 18 during the Iran-Iraq war, which resulted in the death, imprisonment, impairment and disappearance of many young people<sup>43</sup> is an example of violence against children. The death of Mohammad Hossein Fahmideh, a 13 year old student during the Iran-Iraq war is an obvious example. In addition, the inclusion of Baseeji student forces in repression of the citizens, including for instance the post-election uprising of 2009, instils a culture of violence among underage citizens.<sup>44</sup>

In conclusion, it should be noted that although the IRGC and Baseej forces do not necessarily abide by the laws and often act with no legal justification, there is no doubt that their rights in Iran are based on faulty laws and codes that open the way for these forces to abuse their power and legitimise their actions in the incitement of terror, violence and insecurity both inside and outside of Iranian borders. In addition, extrajudicial actions by state authorities provide the grounds for IRGC and Baseej forces to act above the law.

<sup>35</sup> See Behrooz Karbalaie *ibid*. In addition, my personal experience as a lawyer involved with defence of political prisoners points to the fact that intelligence forces of the IRGC and Baseej were responsible for their arrests.

<sup>36</sup> See the legal documents regarding recruitment of child soldiers at Islamic Consultative Assembly Resource Centre, Formation and development of student mobilisation, <http://rc.majlis.ir/fa/law/show/92653>

<sup>37</sup> The fifth development plan, <http://www.rooznamehrasmi.ir>

<sup>38</sup> Including Article 64 of the Employment Regulations of the IRGC according to which the Ministry of Education must in collaboration with the Corp include military training as part of required subjects of study for students of all ages.

<sup>39</sup> Office of the High Commissioner for Human Rights, Convention on the Rights of the Child, United Nations Human Rights, September 1990, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>40</sup> An interview with Dr Ali Tayefi about Student Baseej, and the Promotion of a Culture of Violence among Children, Deutsche Welle, September 2009, <http://www.dw.de/a-4718243>

<sup>41</sup> Including Article 159 of the Third Development Plan, Ghavanin.ir Iran Documentation Centre, <http://www.ghavanin.ir/detail.asp?id=1231>

<sup>42</sup> A program designed to conduct annual events honouring, remembering and re-enacting scenes from the eight-year war with Iraq. See: <http://www.rahiyannoor.ir>

<sup>43</sup> Sacred Defence Agency, Student Baseej Mobilisation Day was held, <http://www.defapress.ir/Fa/News/5349>

<sup>44</sup> An interview with Dr Ali Tayefi about Student Baseej, and the Promotion of a Culture of Violence among Children, Deutsche Welle, September 2009, <http://www.dw.de/a-4718243>

## **Violence against political prisoners** Mahnaz Parakand

Violence begins at the earliest stages of legal proceedings against those accused or imprisoned on charges of political activism and it continues through all stages of investigation and judgement. Intentional violence against political prisoners is exercised through laws and revolutionary courts as instruments of the judiciary. As a legal representative of political and ideological prisoners, I have witnessed many instances of illegal acts of violence against this group of prisoners, some of which I will include here.

### 1. Political prisoners are arrested in several ways:

- a. There are those arrested during street demonstrations. The arrest of these individuals is usually associated with insult, physical and verbal abuse by the authorities to the extent that some of those arrested arrive at the detention centre with hurt or broken limbs. In order to pressure the accused, authorities deny them the right to access and do not inform their families of their arrest and location. And yet, according to law, upon arrest, detainees must immediately be given telephone access to inform family members. An obvious example includes three detainees at the Kahrizak detention centre south of Tehran<sup>1</sup> who died as a result of inhumane treatment, torture and lack of access to medical care, hygiene and adequate sustenance. Their families were unaware of their arrest, condition and location until after the news of their deaths became known.<sup>2</sup>
- b. Some who are summoned by the Ministry of Intelligence and after preliminary investigations, if the interrogators are left unsatisfied, are immediately arrested and transferred to intelligence detention centres. This group of detainees spend long periods in solitary confinement. In some cases their families are kept uninformed of their situation and whereabouts for a long time and their names are excluded from lists of prisoners, in particular in Tehran.<sup>3</sup>
- c. There are others who are arrested at home or at work. In such cases intelligence officers enter their premises, often at night, and after search and inspection confiscate some of their personal belongings and those of their family members without reference or presentation of any legal documentation. They often warn family members of the accused that should they decide to publicise the case or contact the media or human rights defenders, the accused will meet with harsher treatment. Any follow-up efforts on the part of family members yield no results except threats of arrest in order to silence both families and the media.<sup>4</sup>

### 2. The majority of political prisoners and prisoners of conscience spend a number of months (up to a year or more) following their arrest in solitary confinement. During this period instead of following the legal processes of an investigation, intelligence officers condition their release from confinement on acceptance and confession of false accusations against themselves or others.<sup>5</sup>

<sup>1</sup> Tehran Times Political Desk, Verdicts issued in Kahrizak case, Tehran Times, July 2013, <http://www.tehrantimes.com/politics/108935-verdicts-issued-in-kahrizak-case>

<sup>2</sup> Article 56 of the Prisons Regulations states: "In case of lack of legal barrier every accused can immediately inform a trusted contact of his detention, and with regard to personal belongings , etc...." This is repeated above so have deleted from the footnote Article 60 states that "Convicts and defendants are allowed ... the use of private supplies listed below ... books and periodicals, toothpaste ... stationery, prescription eyeglasses, hygienic products..." Please see original Persian available at: State Prisons, Security and Corrective Measures Organisation, Makers of Prisons and Security and Corrective measures implementation regulations, December 2005, <http://www.prisons.ir/index.php?Module=SMMPageMaster&SMMOp=View&Pagelid=27>

<sup>3</sup> According to the rules of criminal procedure, summons should be presented in writing. In this regard, Article 112 of the procedure states: "The accused shall be summoned by an arrest warrant. There should be two copies of the arrest warrant; one is served to the accused and the other must be signed by the accused and handed back to the serving officer." See: Iran Human Rights Document Centre, Mockery of Justice: The Framing of Siamak Pourzand, [http://www.iranhrdc.org/english/publications/reports/3153-mockery-of-justice-the-framing-of-siamak-pourzand.html?p=21#\\_ftn248](http://www.iranhrdc.org/english/publications/reports/3153-mockery-of-justice-the-framing-of-siamak-pourzand.html?p=21#_ftn248)

<sup>4</sup> According to law summons, arrest or inspection of the home and office of the accused is among the duties of the judicial officers, and that excludes intelligence officers. Article 16 of the rules states: 'Article 16 – Judicial officers are obliged to perform the commands of a judicial authority. In case of violation, they are sentenced to three to twelve months of suspension from Governmental Service and/or to one to six months of imprisonment.' Please see: Iran Human Rights Documentation Centre, English Translation of the Islamic Republic of Iran's Criminal Code of Procedure for Public and Revolutionary Courts, September 1999, <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/100000026-english-translation-of-the-islamic-republic-of-irans-criminal-code-of-procedure-for-public-and-revolutionary-courts.html#Ups3AKUkHGK> And Article 10 of the law amending the code on public and revolutionary courts states: 'every judicial jurisdiction... will have enough communication units...' For the original Persian please see: Public and Revolutionary Courts Procedure Code (Criminal Matters), April 1999, Ghavanin.com Iran Law Database <http://www.ghavanin.ir/detail.asp?id=11610>

<sup>5</sup> None of the rules of criminal procedure include the detention of prisoners in solitary confinement and in only one case reference to solitary confinement is made and that in the context of punishment for prisoners who may commit a violation, for a maximum of 20 days. Article 175 of the State Prisons and Security and Corrective Measures Organisation regulations states: 'disciplinary punishments include detention in solitary confinement for a maximum of 20 days...' Please see original Persian at: State Prisons, Security and Corrective Measures Organisation, Makers of Prisons and Security and Corrective measures implementation regulations, December 2005 <http://www.prisons.ir/index.php?Module=SMMPageMaster&SMMOp=View&Pagelid=27>

3. Political prisoners and prisoners of conscience are not given the right to visit their families and are kept in complete isolation.<sup>6</sup>
4. Political prisoners are denied the right to legal representation throughout the entire process of investigation, and yet legally any accused is allowed to secure the assistance of a lawyer who can be present at all stages of investigation. At the request of the accused, the court is responsible for providing them with a lawyer. However, in no case has this legal process been observed and investigations in all cases involving political prisoners are carried out under conditions that are entirely illegal, without access to lawyers and awareness of the accused's legal rights.<sup>7</sup>
5. Preliminary investigations are often carried out at intelligence detention centres in an atmosphere of fear and terror brought about by the interrogators and not at court. In violation of the law, investigations are carried out by intelligence officers and once completed, files are sent to the court in order to obtain the final verdict. Throughout the entire process involving political prisoners an inspector or assistant prosecutor is involved with criminal provisions including bail, arrest or its revisions, and ultimately the final defence and culpability is up to their judgement. Furthermore,<sup>8</sup> criminal provisions or arrests are only issued in accordance with the views of the intelligence authorities.
6. Throughout the entire process of investigation and trial the accused are met with all types of insults, offensive behaviour, discrimination and threats at the hands of the intelligence officials, Public Court and Revolutionary Court officers and even judges. Creating an atmosphere of fear and terror through solitary confinement, torture, heavy prison sentences and execution are among the treatments which can await political prisoners.<sup>9</sup>
7. This category of prisoners is denied the right to review their files, even if the accused are themselves human rights lawyers.<sup>10</sup>

<sup>6</sup> The authorities refuse family visitation for political and ideological prisoners and keep them in isolation. Articles 180 to 197 are about prison visitation. Article 180 states: 'All those accused and sentenced are subject to full supervision and in accordance with this regulation are entitled to contact with family and friends through visits and correspondence. Note – In case visitation or correspondence in contrary to the trial proceedings, the judge involved in the case must ban the visit or correspondence in writing. In this case and during the period of the ban, the terms of visitation or correspondence is only possible to obtain in writing from qualified judicial authorities. Violation of this note will result in disciplinary or administrative follow up. However, after the start of the trial the legal counsel of the defendant will have the right to meet with him and none of the disciplinary, administrative or judicial authorities can in any way prevent such a visit. While in most cases judges do not issue the ban on visitation in writing but in all cases inform the lawyer or family members that the accused is not granted visitation rights. Article 187 of the same document states: 'Attorneys can acquire written permission from the responsible judge during office hours and after presenting an official power of attorney to the head of the prison, if possible, can meet with his client in a private room separate from the public visitation hall. In case of a ban on visitation, meeting takes place in the presence of judicial authorities. It is clear that preparations for arranging an official power of attorney will be carried out by the official organization or prison.' On the other hand, according to Article 128, during the period of investigation, the accused can be accompanied by a lawyer: 'The accused can be accompanied by a lawyer. The lawyer of the accused, without interference and at the conclusion of the process of investigation, can present information he deems relevant to the discovery of truth and defence of the accused to the judge. Statement by the lawyer will be recorded in the proceedings. Note: In cases concerning private matters or where the presence of anyone other than the accused can lead to corruption, and also in crimes against national security, the presence of a lawyer during the stage of investigation will only be possible with the permission of the court. However, current cases point to the fact that in most cases no order by the judges indicating the private nature of the matter or lack of presence of the lawyer are issued.'

<sup>7</sup> According to Article 10 of the procedural code for temporary detention centres approved in 2006, the accused can visit their legal representatives, relatives and others who may make a request for visit, between 8am and 8pm, unless in accordance with the views of the council his meeting with those other than his lawyer would result in disruption of enforcements, public processes and the proper court proceedings, however, in most political and ideological cases where the accused are deprived of visitation with their families and legal representative, there is no sign of the views of the aforementioned council.

<sup>8</sup> According to Article 15 of the Criminal Code of Procedure, judicial officers under the supervision of judicial authorities are responsible for carrying out some of the investigations pertaining to each case, based on the training they have been provided. The definition of bailiff does not apply to intelligence officers. Article 15 states: 'Judicial officers are those officers who, under the supervision and training of judicial authorities, take the necessary legal steps to uncover crime, conduct preliminary interrogation, protect evidence and causes of the crime, prevent the accused from running and hiding, presenting documents and implementing judicial decisions according to law and they include: 1) Islamic Republic military, 2) heads and deputy heads of prisons in relation to matters involving prisoners, 3) Officers of the Baseej resistance force of the IRGC who according to specific laws and in only specific cases are considered as judicial officers, 4) Other armed forces in cases where the National Security Council delegates all or some responsibilities of the bailiffs to them, 5) Authorities and officials who according to specific laws are considered bailiffs in relation to specific duties. Note: Reports by bailiffs are valid only when trusted and endorsed by the judge. Article 16: 'Judicial officers are responsible to carry out the duties of judiciary officials. In cases involving violations they will be sentenced to 3 months to one year of detention from service or one to six months of imprisonment.' Article 18 states: 'When the judicial officers are informed that a crime has been committed, they shall, in the case of non-evident crimes, present the case to competent judicial officials in order to receive their orders and, in the case of evident crimes, they shall take all required precautions to maintain the tools, instruments, proof and evidence of the crime, in order to prevent the criminal from escape or collusion, and to perform initial investigations and immediately inform the judicial authorities.'

<sup>9</sup> Article 38 of the Constitution states: 'All forms of torture for the purpose of extracting confessions or acquiring information are forbidden. The compulsion of individuals to testify, confess, or take an oath is not permissible; and any testimony, confession, or oath obtained under duress is devoid of value and credence. Violation of this article is liable to punishment in accordance with the law.' On the other hand, the law concerning the freedoms and protection of civil rights in Section 9 bans all forms of torture and in sections 6 and 7, where laws pertaining to respect for freedoms and protection of civil rights are enumerated.

<sup>10</sup> Article 190 of the Criminal Code of procedure states: 'in those cases where investigation is complete and a date has been set for court, the accused or his attorney have the right, prior to the start of the court proceedings, to refer to the court and seek all necessary information from the file.'

8. According to law, every accused person is entitled to object to the summons for arrest. The objection must be based on the accused's knowledge of their case, the nature of the charges and reasons for the arrest. Knowledge of the case means that either the accused or his or her legal representative is given the right to review the case. This is why political prisoners and their lawyers are denied access to their files during the investigation stage. Therefore, objection to the arrest is often carried out in an uninformed manner and without reference to the file or justification and this in itself causes the rejection of their objection in court and the confirmation of the arrest.<sup>11</sup>
9. In most cases, when setting bail or bond for political prisoners, despite the law, the amount is not announced to the prisoner. This bars them from the opportunity to post bail, thus meaning they have 'failed' to provide bail, leading to their being retained in confinement. It should be noted that according to the law, all cases of bail must be announced to the accused and the means of contacting family or friends to arrange bail should be provided at the earliest opportunity. Unfortunately, this is not the case with political prisoners and prisoners of conscience and usually, despite being set bail, prisoners are falsely accused of being unable to provide bail and kept incarcerated.<sup>12</sup>
10. In violation of the Constitution and criminal procedure rules with regard to conveying the charges, and the reasons pertaining to the charges against the accused, during the first 24 hours following arrest, the majority of political prisoners are kept unaware even until their final defence. They are not even informed of the reasons for the investigator's claims.<sup>13</sup>
11. In violation of the criminal procedure rules, in investigations pertaining to political prisoners, questions that are not related to the relevant charges are included. Interrogators also mislead prisoners to believe they will be released after making false confessions or they are denied the right to remain silent. Intelligence officers threaten them to further solitary confinement, insult, humiliation, physical abuse and torture in order to force them to respond to questions. Any attempt on the part of the prisoners to object to such mistreatment meets with more brutality.<sup>14</sup>
12. Visitations are carried out only through glass and in the presence of prison officials. According to Article 180 of the State Prisons and Security and Corrective Measures Organisation regulations, prisoners can meet with family and friends, however, political prisoners are denied the right to visit friends. Face to face visitations are only possible when the head of the prison issues special permission. Since the heads of Islamic Republic prisons are chosen from among those close to the regime and intelligence organisations, political prisoners are denied the right to regular visits with family members. Some are even denied this right throughout the entire duration of their incarceration.
13. According to criminal procedure rules in Iran, imprisonment in exile is illegal. Unfortunately, another challenge faced by political prisoners is that illegal sentences are issued in some cases. Others, even without such a sentence, are illegally sent to prisons in cities far from their place of residence or those of their families.<sup>15</sup>

<sup>11</sup> Section H Article 3 of the amendments to the laws indicates that whenever a prisoner considers the causes of his arrest as no longer valid, he is able to seek amnesty and this is possible more than once per month. However, this means that the accused must have access to and be able to review his file.

<sup>12</sup> Article 138 of the criminal code of procedure states: 'failure to introduce a sponsor or provide the collateral, in cases where bail or collateral has been set for an accused, will result in arrest' while Article 33, in relation to the objectionability of temporary detention states: 'An order for temporary detention is issued by the court judge and is approved by the director of the District Court or his assistant, and a review of that order can be requested in the Court of Appeal of that province within 10 days...'

<sup>13</sup> Article 32 of the constitution states: 'If someone is detained, the subject matter of the charge, with reasons (for bringing it), must immediately be communicated and explained in writing to the accused.' - See more at: Iran Chamber Society, The Constitution of the Islamic republic of Iran, [http://www.iranchamber.com/government/laws/constitution\\_ch03.php#sthash.A6B3b2NH.dpuf](http://www.iranchamber.com/government/laws/constitution_ch03.php#sthash.A6B3b2NH.dpuf). In addition, Article 24 of the criminal code of procedure states: 'The judicial officers shall inform the appropriate judicial authority about the results of the inquiry taken, and if the mentioned authority finds the inquiry taken to be insufficient, they may request supplementary action. In this case, the officers are obliged to follow the orders of the judicial authority to investigate and take legal measures to identify the crime, but they cannot keep the accused in detention. And, if in evident crimes, detention of the accused is necessary in order to complete the investigation, the accused should be notified of the subject of the accusation along with the reasons in writing.' Article 129 clarifies: 'The judge should first ask the accused to state his or her identity and other personal information (Name, Father's Name, Nickname, Last Name, Age, Occupation, Spouse, Children and Nationality) as well as their address (City, County, Rural District, Village, Street, Alley and House Number) so as to ease the process of sending the summons and other related papers. He will also notify the accused to be cautious about his statements, and will explain the subject of the accusation and its reasons clearly. Then he will start the investigation.' Iran Human Rights Documentation Centre, English Translation of the Islamic Republic of Iran's Criminal Code of Procedure for Public and Revolutionary Courts, September 1999, <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000026-english-translation-of-the-islamic-republic-of-irans-criminal-code-of-procedure-for-public-and-revolutionary-courts.html#Upuv06UKHGK>

<sup>14</sup> Article 129 also states: 'The questions shall be clear and useful. Empathic, deceptive, reluctant and compulsive questions are prohibited. If the accused refuses to respond, the refusal will be recorded in the minutes.'

<sup>15</sup> The punishment of exile only in case of combatants against God and only to a certain point has been set, and only as an individual and solely as banishment not imprisonment in exile. This form of punishment is not in place for any other type of crime. However, revolutionary courts do issue illegal sentences. For instance, in the case of lawyer and human rights defender Abdolfattah Soltani, he has been sentenced to 13 years of imprisonment in Borazjan prison.

14. Political prisoners are denied the right to a leave of absence or furlough, as outlined in the State Prisons and Security and Corrective Measures Organisations regulations. Many are even denied a few hours leave to visit their loved ones who may be ill, or attend family weddings or funerals.<sup>16</sup>
15. Political prisoners and prisoners of conscience are often denied access to medical care at intelligence detention centres and prisons, to the extent that some have lost their lives. An example is the death of Afshin Osanlou at Rajaeeshahr prison in 2013 as a result of a heart attack.<sup>17</sup>
16. They are often tried at courts, which lack legal provisions for political crimes, in the absence of their family members and behind closed doors. Some are forced to replace the lawyer of their choice with one selected by the court. They face heavy and unjustified sentences and are forced to face many years in prison. None of the sentences are announced to the prisoners or their lawyers.<sup>18</sup> They simply come to know of their sentence but no written proof is presented to them or their legal representatives. While according to Article 165 of the Constitution 'court proceedings are public...' and according to the criminal code of procedure the same applies.
17. Some of the prisoners who are employed by the Ministry of Education are tried by administrative courts and expelled from their positions without having been afforded the opportunity to attend their court session and defend their case. An example is the case of Rassoul Badaghi, an imprisoned teacher, at the Rajaeeshahr prison.<sup>19</sup>
18. Those students who are accused of or charged with political crimes are deprived of the opportunity to continue their education even after serving their full sentence. They are counted among those students whom university disciplinary committee account as 'starred'<sup>20</sup> students who are denied the right to education.
19. Contrary to international human rights standards, issuing sentences for political and religious activists also results in deprivation from certain social activities such as journalism, legal representation, film production or writing, etc. Examples include the cases of Ahmad Zeydabadi who is banned for life from working as a journalist or writer, the ban on lawyer Abdolfattah Soltani, the ban on journalist Kayvan Samimi, and that of film director and screen writer, Jafar Panahi.
20. According to the State Prisons and Security and Corrective Measures Organisation, court lawyers are entitled to visit their clients at any given point. They simply need to refer to the prison and, after receipt of permission from the relevant judge, visit their client in a room allocated for this purpose. Unfortunately, this does not apply to political prisoners and intelligence officers in collaboration with prison authorities often prevent political prisoners from visiting their lawyers. In this manner, political prisoners serve their time in prison without any contact with their lawyers.

The aforementioned points are some of the instances of legal and illegal violence against political prisoners and prisoners of conscience. It should be noted that those prisoners who are investigated and sentenced to imprisonment face the same conditions as political prisoners. In this vein, all the above instances also apply to this second group of Iranian citizens and unfortunately, in some cases prisoners of conscience<sup>21</sup>, are met with heavier sentences than political prisoners. In the Islamic Republic judicial system, no one accused of political or ideological activities or is presumed innocent. They are all assumed to be guilty unless proven otherwise. Treating all political and ideological cases as intelligence cases is the norm. Judges at Revolutionary Courts who oversee cases of political and ideological prisoners are chosen from among those who have no hesitation in declaring their affiliation with the administration and in dealing with such cases, they pay no attention to the accused or their legal representatives, and often issue sentences that have been recommended by intelligence authorities.

<sup>16</sup> Article 266 of the state prisons and security and corrective measures organisation determines that 'Those accused whose crime is acting against national security are among those who are exempt from furlough...' State Prisons, Security and Corrective Measures Organisation, Makers of Prisons and Security and Corrective measures implementation regulations, December 2005, <http://www.prisons.ir/index.php?Module=SMMPageMaster&SMMPop=View&PageId=27>

<sup>17</sup> Please see: Human Rights Activists News Agency, Political prisoner Afshin Osanlou died in hospital, June 2013, <http://hra-news.org/en/political-prisoner-afshin-osanlou-died-in-hospital>

<sup>18</sup> A clear example is that of the 7 Baha'i Yaran who are currently in prison. They and their lawyer have yet to receive a copy of the sentence ordering 20 years of imprisonment.

<sup>19</sup> International Campaign for Human Rights in Iran, Rassoul Badaghi's Five-Year Prison Sentence for Participating in Protests, August 2010, <http://www.iranhumanrights.org/2010/08/rassoul-badaghis-five-year-prison-sentence-for-participating-in-protests/>

<sup>20</sup> Students with honours

<sup>21</sup> Prisoners of conscience include ideological prisoners, such as the 7 Yaran leaders of the Baha'i community. However, they are also referred to as political prisoners at times.



## Sexual torture of women political prisoners in the Islamic Republic of Iran

Justice for Iran

Based on a submission by Justice for Iran (JFI) on sexual violence in the Islamic Republic, the October 2013 report by the UN Special Rapporteur on Violence against Women, Professor Rashida Manjoo to the UN General Assembly ended the cycle of silence on one of the most traumatic forms of state-sponsored human rights abuse aimed at women in custody in Iran, the raping of virgins prior to execution.<sup>1</sup> Tucked in among other forms of sexual torture propagated by the order and hands of Islamic Republic prison officials against incarcerated Iranians, the rape of virgins acts as a catalyst to draw attention to the use of violence, in particular sexual violence as a significant state instrument by the Iranian judiciary over the past three decades.

The aforementioned submission by JFI was the result of detailed and pioneering research published in a two-part report entitled 'Crime and Impunity' the first part of which clearly establishes that raping virgin girls, arrested for political activism, prior to their execution took place systematically inside Iranian prisons during the 1980s, in particular, the 1988 mass executions when thousands of prisoners were summarily tried, tortured, raped, executed and buried in mass graves.<sup>2</sup> The rapes, rooted in a twisted misrepresentation of one of Ayatollah Khomeini's orders, were justified under the religious term of siqih or temporary marriage. Ayatollah Montazeri, the deputy leader of the time who went on to become an opponent of Ayatollah Khomeini, was able to convince the leader of the revolution that girls (young women), who were due to be executed, should not be, as there are Islamic interpretations stating that they should be given prison sentences, as is prescribed for female apostates. However the judicial and security officials, who had no intention of halting the execution of women, interpreted the order as a dictate to kill as long as the girls were to lose their virginity prior to their execution. This was one reason behind the raping of a large number of female political prisoners prior to their execution; different prison officials in the 1980s tried to find or create so-called shari'a-based justifications for this action.

According to the interpretations of the International Criminal Court, such acts can be construed as crimes against humanity. Rape before execution was a systematic action. The fact that it continued for so many years also means it could not have been unknown to higher officials within the government, and thus the entire regime is implicated in this atrocity, not just those committing these crimes. The officials that sanctioned such cruel treatment of women prisoners should be brought to justice as well. A thorough, public discussion of the government's misuse and manipulation of religion to excuse or legitimise violence against women would enhance public consciousness (which is the foundation for the development of a humane political culture and society), would denounce such actions, and would demand it should never again be repeated. It is an ethical duty upon all humanity and, in particular, human rights activists to make an issue of these uncivil developments and unethical practices, in this case carried out in the name of ethics and religion, to prevent them from happening again.

Our findings indicate that marrying off female political prisoners in the 1980s, often as a condition to escape execution, was an issue that recurred in a number of prisons across the country and this indicates the systematic nature of this policy. These marriages are thus classified as forced marriages and any sexual relations resulting from them are a form of sexual torture in accordance with the principles of international law. Those who perpetrated these rapes enjoyed impunity as a result of the absolute denial by Iranian officials that there was any wrongdoing in the prisons of the Islamic Republic. Many of the prisoners have experienced it happening to them or their cellmates. Placing pressure on female prisoners to accept the marriage proposal of the interrogator, prison or judicial official ranged in reason from personal vendetta to an effort at controlling the female prisoner even after her release. Based on what was concluded from our interviews with former female political prisoners, pressuring the prisoner to accept marriage was often done by placing marriage as a condition for release or as a guaranteed exemption from torture or execution. On multiple occasions, young female political prisoners, particularly those who had become *tavvab*<sup>3</sup>, who were psychologically pressured in the harsh conditions of the prison, including by interrogation and torture, developed an attraction toward their interrogators.

Many of the female political prisoners resisted these severe and unbearable pressures and did not agree to enter into marriage in prison. However, even those prisoners who agreed to the marriages, regardless of their condition or the intention behind the agreement, could not be classified as having entered into a

<sup>1</sup> Justice for Iran, UN Expert breaks global silence on rape of young virgin girls in Iranian prisons, November 2013, <http://justiceforiran.org/call-for-action/english-un-expert-breaks-global-silence-on-rape-of-young-virgin-girls-in-iranian-prisons/?lang=en>

<sup>2</sup> Justice for Iran, Crime and Impunity, May 2012, <http://justiceforiran.org/wp-content/uploads/2012/05/CrimeImpunity.pdf>

<sup>3</sup> Prisoners who recanted and as a proof of their recantation assisted prison authorities in the suppression of other prisoners.

'consensual' relationship because the conditions necessary to form real 'consent' were absent inside the prisons. Hence, such marriages are better classified as forced marriages, and any sexual relations resulting from them a form of sexual torture in accordance with the principles of international law.

Iranian officials, both past and present, have unilaterally denied the existence of any form of torture in Iranian prisons during the 1980s. However, many reasons can be cited for the existence of rape in prisons. Some reasons are political, such as the use of rape as a tool to break the resistance of female prisoners. Other reasons stem from the sexual desires of the official who happened to find just the right time to carry out his act.

The second part of the Crimes and Impunity report indicates that, in contrast to what one might expect of an Islamic regime, in addition to the rape of virgins, the majority of female political prisoners experienced at least one form of sexual harassment throughout the second and third decade of the Islamic Republic. What this means is, if we were to rely on the definitions resulting from the decisions of the International Criminal Court, certain forms of sexual torture were inflicted on female political prisoners in a widespread manner. Amongst these was verbal abuse inflicted with the intention of reducing female political prisoners to the level of a sexual object, and denying their political identity. Other forms included striking genitals while forcing the inmates to crawl on their hands and feet, sex-based cruelty, cavity search as a means of demoralising the prisoners, and other forms of sexual harassment following release involving both the prisoners and their family members.<sup>4</sup> Many of the women interviewed considered the pain caused by insults to far exceed that of lashing, a serious form of physical torture, as the former questioned their identity as a human being.

However, sexual torture inside prisons was not limited to verbal insults. Many female political prisoners were placed in conditions where they feared being raped. Some were even threatened with rape. Fear of rape was especially prominent in prisons where all the personnel, including the wardens, were male. Furthermore, the women's bodies were assaulted in a variety of different ways. Although the Iranian regime's principles of shari'a ban any contact between female and male bodies, except in familial or spousal relations, female political prisoners reported that inside interrogation and torture chambers, the torturers and interrogators sat on different parts of their bodies, particularly their buttocks and waists, while lashing them. These reports were common in prisons across the country.

In addition to the above, the report also uncovered an extraordinarily violent method of torture prevalent at Ghezel Hesar prison, one of the largest and most heavily populated prisons of the 1980s. Haji Davoud Rahmani,<sup>5</sup> head of Ghezel Hesar prison, and other male prison officials, forcefully kicked female political prisoners between their legs whilst forcing them to crawl on the floor or stand facing the wall. The violent kicks caused heavy bleeding in many of the female prisoners. Some of the female prisoners had never before spoken of this form of torture, only recounting it during our interviews. Three decades later, the severe trauma caused by this torture is still present in those who suffered through it.

Given that many of the detained women were young, a notable number of them were pregnant or had their young children with them at the time of their arrest. Pregnancy and the presence of small children in detention augmented the physical, psychological and gender-specific violence endured by women prisoners. Increased forms of torture sometimes led to miscarriage or the inability to breastfeed, and abuses such as the deprivation of food, diapers, milk formula, clothing and medical care prolonged the illnesses of children in the wards. Physical torture, such as being beaten, lashed and raped in front of their children, also created psychological trauma for both mother and child. Motherhood in prison was undoubtedly one of the most painful experiences for a large number of women political prisoners; however these horrific occurrences had not been examined, prior to this report, as a form of gender-specific torture.

Over the second and third decades of the Islamic Republic, interrogators subjected prisoners to a widespread and systematic campaign of intimidation and interrogation in order to extract false confessions regarding details of their sexual relations. The transcripts or recordings were often publicised in the national media, as a means of forcing prisoners to admit to espionage and acting against national security because of the stigma associated with sex outside of marriage.

Such a pattern of torture can be fully understood within the context of Iranian culture, which views sexual relationships outside of marriage or between individuals of the same sex, as a 'sin' or 'taboo'. Within such

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<sup>4</sup> Justice for Iran, Raped Out of Prison (p25-35), June 2013, <http://justiceforiran.org/wp-content/uploads/2013/06/CWP-2th-EN.pdf>

<sup>5</sup> Justice for Iran, Crime and Impunity (p162), May 2012, <http://justiceforiran.org/wp-content/uploads/2012/05/CrimImpunity.pdf>

a cultural context, the pressure exerted by interrogators to extract false confessions regarding illegitimate sexual relationships breaks down the prisoners so that they prefer to accept political lies to the taboo of sexual promiscuity. This is a particularly powerful means of silencing and subjugating female political prisoners, as any accusation involving illegitimate sexual activity can greatly diminish the position of a female activist and undermine her identity as a respectable woman within her family unit as well as her community. This in turn undermines the validity of her political activities. This may be the reason why, once released, former female detainees live in fear of their false confessions coming to light, as once known, they can be subjected to inquisition and ill-treatment at the hands of their family and community members.<sup>6</sup>

It is hoped the long and dark silence of Iranian society will come to an end, a silence that has failed the nation in protecting and providing support for countless young women whose only crime was that of political expression and participation in the public sphere, one that the regime intended to monopolise for their supporters and loyalists. Public dialogue on the reasons behind the silence and societal soul-searching is a required first step for Iranians today in order to develop a cultural coding that removes shame from the victims of sexual violence and transfers it to the perpetrators. The development of a general consensus on the forms of retributive justice and public identification of the perpetrators is another step that is crucial in order to ensure the condemnation and deterrence of such behaviour in the future. This public discourse may also go a long way to help initiate a healing process for the victims and the families and friends who have suffered the loss of their loved ones. Hence, a third crucial step is reparative justice with a focus on the victims of these crimes.

At the national level, an atmosphere must be created that provides victims with the opportunity to speak about their experiences, particularly through the formation of support groups and access to psychological services, without the fear of social repercussions or the breach of cultural taboos. Furthermore, the development of a long-sought democracy in Iran depends on whether the nation fulfils its commitment to freedom of expression, protection of human rights for all and development of a pluralistic political culture through law and national instruments. Recognition of the women who, because of their political participation and vision of a more inclusive role for women in the public sphere, have suffered excruciating repercussions, would have to start with documenting the truth of what went on and continues to go on behind the walls of Iranian prisons.

At the international level, the JFI report, Crimes with Impunity, provides the grounds for officials at the United Nations, international organisations and EU member states to support the proposal for the appointment of a special or joint envoy focussed on sexual torture in Iranian prisons with a particular focus on fully investigating the use of the rape of virgins as a torture mechanism in Iranian prisons. The proposed envoy may be mandated to carry out a full fact-finding mission both in and outside Iran in order to bring to account those responsible for the use of this mechanism against Iranian prisoners.<sup>7</sup>

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<sup>6</sup> Justice for Iran, 'Raped Out of Paradise: Women in the Prisons of the Islamic Republic of Iran', June 2013, <http://justiceforiran.org/wp-content/uploads/2013/06/CWP-2th-EN.pdf>

<sup>7</sup> Justice for Iran, Raped out of Prison, June 2013, <http://justiceforiran.org/wp-content/uploads/2013/06/CWP-2th-EN.pdf>



## Islamic Republic of Iran: Promoting violence against women

Rouhi Shafii

### Introduction

In Iran, laws and legal codes are largely based on gender discrimination and therefore do not represent the best interests of women as half of the population; nor do they provide them with proper protection in male-dominated Iranian society. Women commit crimes in every society. This paper draws attention to women who have offended and are in Iran's prisons as a result of Iranian Civil Law and the Islamic Penal Code which deprives them of access to equal rights and opportunities. It argues that a large number of offences were preventable had the law provided protection for women who are now classified as offenders and in prison; who could have become useful members of society if given the opportunity to develop their potential.

Women offenders fall into various categories including:

- Women who have murdered their husbands
- Women who head a family and are in prison for debt
- Women who are in prison on charges of prostitution and/or addiction

Despite an increase in the number of women who have been arrested, they make up only 3.41%<sup>1</sup> of all prisoners. The rate of female arrests is only higher than that of male arrests where women are prosecuted for prostitution and/or fleeing from home (in the case of adolescents). Many of the crimes in which women are involved include spouse killing, infanticide, abortion and theft. Gender plays a role in the types of crimes in which woman are involved, as their experiences of violence and their exposure to extreme poverty influences the paths they take.

### Women who have murdered their husbands

Spouse killing is a phenomenon on the rise in Iran. According to Mohammed Hossein Nejati and research done by Tehran Alzahra University in 2009-2010, 85/30% of murders occurred in the family surroundings, out of which the majority had been committed by women. While 53% of men murdered their wives without prior planning, 65% of murders committed by women had been premeditated and implemented mostly with another man's help. The main reasons for husbands killing their wives are honour, suspicion, psychological problems, poverty and addiction. The main reasons for wives killing their husbands are domestic violence, legal barriers to divorce and polygamy; a direct consequence of gender inequality in law which acts to drive women to kill their spouse as the only viable alternative.<sup>2</sup> Spouse killing by women can be the result of harmful articles in Family Law and Civil Law which discriminate against women and leave them with little choice but to resort to extreme violence.<sup>3</sup>

Examples of systemic gender discrimination in Iran's Family law include:

- **Article 11** law on passports: The husband's written permission is required for a woman to obtain a passport. Children under 18 are also required to have their guardian's permission to travel.
- **Article 18** on travelling abroad: Married women of any age must obtain their husband's written permission to travel abroad. In cases of emergency, the Attorney General can grant permission. Women who live abroad and are married to a foreigner but have kept their Iranian nationality are exempt from this article.
- **Article 23** on polygamy: The court will allow the man to apply to the court to remarry an additional time if his wife:
  - Is not able to or refuses to perform marital duties.
  - Suffers from mental illness.
  - Is diagnosed with terminal illness.

<sup>1</sup> Halanfun.net, Statistics on Spousal Homicide,, <http://www.halanfun.net/1392/06/02/20904/####-####-###-##-#####/>

<sup>2</sup> ibid

<sup>3</sup> The Law Office of Jeremy D Morley, Iranian Family Law: Unofficial Translation of Portions of Iran's Civil Code, <http://www.international-divorce.com/Iran-Family-Law.htm>

- Is convicted of a crime and sentenced to a one year prison term.
- Is sentenced to pay a fine, is unable to pay and must serve a prison term instead.
- Has an addiction confirmed by court.
- Is absent from home for a year.
- Deserts the family for 6 months.
- Is barren.
- The husband must send his request along with documents to the court to seek permission to remarry.

Discrimination in law is not limited to one area for married women. The law on inheritance, place of residence, man as head of family, submission, employment and child custody are inherently gender biased. Below are further articles of family law:

- **Article 900** on inheritance law states the right of the spouse to inherit upon the:
  - Death of the wife when children are involved.
  - Death of the husband when wife/wives are involved but no children.
- **Article 901** on inheritance: On the death of the husband if children are involved then one eighth of the wealth is the wife or the wives' share.
- **Article 942** on inheritance: On the death of the husband one fourth or one eighth is equally divided between the wives.
- **Article 1005** on place of residence: A woman's residence is where her husband resides. If the husband has no specific residence then upon his consent, the wife can live in a separate residence.
- **Article 1108** on submission (Tamkin): This is the wife's obligation and duty to sexually submit to her husband's wishes which entails and sanctions rape in marriage.<sup>4</sup>
- **Article 1117** on employment: The husband can prevent his wife from working if he considers the work unsuitable or based on other family considerations. Since the man is the head of family, his total authority over the woman is sanctioned. He can prevent his wife from working which might be the woman's only income. Based on this Article, some government organisations require the husband's written consent before employing women.
- **Article 1169** on child custody and guardianship: The mother has the preference right to have the custody of children up to 7 years of age, after which the father will have sole custody and guardianship. The courts might decide on this issue if the welfare of the child is an issue.
- **Article 1170** on child custody and guardianship: If the mother re-marries or suffers from mental illness while the child lives with her, the child goes to the father.
- **Article 1183**: The father and grandfather are the sole legal representatives of the child in matters related to finance and law.
- **Article 1189**: The father or grandfather can appoint a guardian for the child after death.
- **Article 1194**: The father or grandfather or someone appointed by them is the legal guardian of the child.

The marriage contract and family law do not establish equal rights and obligations between spouses. The husband as head of the family unit has sole power regarding matrimonial resources and the wife cannot relieve herself of the marriage contract without the husband's consent, while the man can divorce his

<sup>4</sup> Ziba Mir Hosseini, Tamkin: Stories from a Family Court in Iran, in Donna Lee Bowen & Evelyn A. Early (eds) *Everyday Life in the Middle East*, Bloomington, Indiana University Press, 2nd edition, 2002, pp 136-50, <http://www.zibamirhosseini.com/documents/mir-hosseini-book-chapter-tamkin-stories-from-fc-2002.pdf>

spouse at any time. The patriarchal emphasis and inequality of men and women's rights in marriage are sustained through rules regarding the termination of the contract.<sup>5</sup> The rise in the phenomenon of husband-killing predominantly derives from forced marriages, age differences between spouses, the rigid laws and also lack of support for the women who are trapped in an unwanted marriage from which they cannot escape..

### **Women who are the head of the family**

According to official Iranian statistics, 10% of the country's households have female providers.<sup>6</sup> Islamic Family Law does not provide a proper definition of this type family and therefore provides no support for such categories of women. Iranian Civil Law Article 1105 states that in relations between husband and wife, the position of the head of the family is the exclusive right of the husband.<sup>7</sup>

Yet, there are about 1,367,310 women who are heads of families and as the head of a family with children face many problems which sometimes drive them to crime.<sup>8</sup> Factors that contribute to poverty among women who are the head of their family include:

- The family has only a single financial contributor
- Limited access for women to profitable and money-making jobs
- Due to housework and childcare, women chose jobs which allow them time at home
- Restrictions on accessing certain jobs due to gender
- Limited support for women with violent, addicted or disabled husbands who work to support the family
- Lack of knowledge on the situation of women-headed families among policy makers

Women who are the head of their family fall into various categories:

- Divorced
- Widows (including war widows)
- Those whose husbands are disabled or unemployed
- Women of addicted husbands
- Women whose husbands are away from home, either migrated or working outside their place of residence
- Women whose husbands have taken a second wife and abandoned them

According to the Director General of Diyeh at Iran's Home Office, of 9,206 people on debt charges in prisons, 226 are women.<sup>9</sup> The largest proportion of prisoners is in the Fars and Khorasan provinces of which 31.4% are urban women while 44.2% are rural women head of the family before imprisonment.

Women who live in extreme poverty and are unable to provide for their family may ultimately be driven into crime.<sup>10</sup> Women who head their families are not supported as such by the government, as only men are recognised as heads of families. In 2011, in the Shiraz province, various organisations convened a research project with the participation of 600 women who head their families. Consequently, a list of their needs was drafted which includes social, economic and cultural rights, and the need for support with vocational training and job-seeking.<sup>11</sup>

### **Women who are in prison on charges of prostitution and or addiction**

The rapid transformation of Iranian society is in contrast with the traditional laws which perpetuate an unequal position for women, the majority of whom now live in urban areas and face urban problems.

<sup>5</sup> Ziba Mir Hosseini ibid

<sup>6</sup> Nina Kristiansen, Iranian female headed households, Iran Chamber Society, August 2003

<sup>7</sup> The Civil Code of the Islamic Republic of Iran, Alavi and Associates, <http://www.alaviandassociates.com/documents/civilcode.pdf>

<sup>8</sup> <http://www.seddighin.com/fapage.aspx?536> (A charity called Sedighin on Women and Empowerment (2011))

<sup>9</sup> Bartarinha.ir, Women Heads of Utmost Freedom, September 2013, <http://www.bartarinha.ir/fa/news/66093/>

<sup>10</sup> Education Department of Fars Province- Women Affairs unit, Women Head of Households, <http://portal.farsedu.ir/portal/show.aspx?page=21345>

<sup>11</sup> Tasnim News, Female Headed Households increase, Lemon Presse.ir, <http://www.lemonpress.ir/fa/news/148798>

Women whose families have moved from rural areas into towns yet live under harsh family structures do not have sufficient provision for their needs. Runaway girls constitute a large number of this category of women. Young girls fleeing from their families often fall into the hands of criminals and prostitution.<sup>12</sup>

The last category of women in prison is those on charges of addiction, theft or involvement in criminal activity due to their or their husband's addiction which sometimes involves smuggling. Addiction is often coupled with prostitution which is on the rise at an alarming pace. Punishment for prostitutes and their clients can include up to 100 lashes and jail terms.<sup>13</sup> The prostitute can be executed if she is married.<sup>14</sup>

Available figures show Tehran and Iran's north-eastern province of Khorasan Razavi, have the highest number of 'street women'. Figures also suggest that 10-12% of prostitutes are married women in their early to late 20s. According to Masudi-Farid, the age of entry into prostitution has fallen in recent years. The average age of prostitutes has gone down by one year in 2010 and 2011. Unconfirmed studies show that the age of entry into prostitution has fallen to 14.<sup>15</sup> The growing number of minors who turn to prostitution are reportedly victims of domestic violence, poverty, unemployment and pre-arranged marriages, as well as divorce.

### **Conclusion**

Iranian society is dynamic and fast growing, where men and women need to be treated equally and develop their abilities to enable them to achieve their full potential. Yet, violence and discrimination against women in many areas of society drives women to crime and incarceration. Islamic laws are gender biased and legally discriminatory. While women constitute useful, active and vital contributors to Iranian society, laws, especially Family law, Civil law and the judicial system work against the best interests of society of which women are an integral part.

### **Recommendations:**

- Revision of the Family and Civil laws to remove, revise and eliminate gender-biased articles and to appoint female judges in courts with knowledge of equal opportunities and gender development.
- Constituting strategies to reduce violence against women in society which derives directly from attitudes and practices which view women as second class citizens.
- Re-examining the situation of incarcerated women, many of whom are in prison because of debt.
- Providing training, education and work-related programmes in prisons to regenerate a population of women who would be useful members of society once released.

<sup>12</sup> Brendan Daly, Iran's educated, middle-class and part-time prostitute, Washington Times, May 2013 <http://www.washingtontimes.com/news/2013/may/16/irans-educated-middle-class-and-part-time-prostitu/?page=all> and Parto Parvin and Arash Ahmadi, Iran sets sights on tackling prostitution, BBC News, July 2012 <http://www.bbc.co.uk/news/world-middle-east-18966982>

<sup>13</sup> Mohabat News, The age of the onset of prostitution in Iran is 14, [http://www.mohabatnews.com/index.php?option=com\\_content&view=article&id=6750:-14-&catid=54:daily-news&Itemid=282](http://www.mohabatnews.com/index.php?option=com_content&view=article&id=6750:-14-&catid=54:daily-news&Itemid=282) According to this source, first time detained prostitutes will receive 100 lashes. On repeat of the act, they will be sentenced to stoning, a punishment rarely executed for this crime.

<sup>14</sup> R Azad, Prostitution in Iran, Documentary, February 2013, <http://www.youtube.com/watch?v=sixBJOznOVg>

<sup>15</sup> Mohabat News, The age of the onset of prostitution in Iran is 14, [http://www.mohabatnews.com/index.php?option=com\\_content&view=article&id=6750:-14-&catid=54:daily-news&Itemid=282](http://www.mohabatnews.com/index.php?option=com_content&view=article&id=6750:-14-&catid=54:daily-news&Itemid=282) According to this source, first time detained prostitutes will receive 100 lashes. On repeat of the act, they will be sentenced to stoning, a punishment rarely executed for this crime.



## Islamic Republic Civil Rights and Women's Rights in Iran

Maedeh Ghaderi

One of the positive signs of the new era in human history has been the improvement in social, economic and legal rights for women. Through their struggles in European countries, women have been able to bring about political changes in male-dominated societies that have enabled them to access equal rights. Starting in 1848, the United States also saw a number of women's freedom movements. One of their most important demands was that of gender equality. During the next century, the founding of the National Organization for Women in 1966 by Betty Freedman had a positive impact on women's economic, social and political advancements.

While Iran was in the process of bringing about equal rights for women and men<sup>1</sup> and making an effort to legislate laws to protect women, the change in the governing system in 1979 barred any progress by approving laws to oppress women, including the law of mandatory hejab. As a result of the Islamification of the ruling system, new legislation affected the judiciary in such a manner that after three decades of an Islamic Republic there have been increasing objections and new social movements spearheaded by women. It is in this context that we may examine such laws and their effects on the society, as well as the increasing levels of violence against women and girls.

It is without a doubt that Iran's laws are derived from Islamic jurisprudence and in this vein Islamic interpretations of civil rights and criminal law have resulted in widespread discrimination against women.<sup>2</sup> Although many experts, scholars and even jurists believe that Islamic laws honour and elevate women, there are those who believe that such laws not only fail to honour or elevate women, but in a discriminatory manner, deprive them of their most basic rights.

### The extent of discrimination in civil rights

Article 105<sup>3</sup> of the civil code clearly recognises men as the head of the family. The use of the word 'master' in the law, particularly with regard to family relationships, leads to one conclusion, the complete and total obedience and adherence to the 'master'. Naturally, in each case of master and subordinate, whether among governmental or non-governmental organisations and authorities, obedience and adherence to the master is part of such relationships. In return, the subordinate is guaranteed protection in certain respects ranging from warnings to expulsions. Certainly such social or professional relationships differ from familial relationships but the nature of the dynamics governing the absolute power of the master is identical.

The foundation and basic tenets of a relationship based on feelings and shared values in a couple's life is reversed by the male dominant structure set out in Article 105. It encourages a self-centred perspective amongst men, and reframes a potentially loving relationship between a couple into one tested by unrestrained male dominance. In case of resistance, there are a number of legal repercussions, such as non-payment of alimony, that women can be subjected to.

Article 1108 of the Civil Code<sup>4</sup> states: 'Should a woman fail to perform her duties as a wife, she will not be entitled to receive alimony.' Men have used this legal justification against women and in cases where women have chosen otherwise, they have been subjected to force and violence. Such legal grounds provide strong support for men who consider rape and sexual violence as their legal right against their wives. However, it does not end there. In many cases a woman's refusal to perform her wifely duties exposes her to other forms of violence including physical violence and bodily harm at the hands of her husband. It is in this light that women pressure lawmakers in order to regain economic power. However, they face other legal impediments and manifestations of male dominance.

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<sup>1</sup> One of the distinguishing features of women's rights during the Pahlavi era compared to the Islamic Republic is the Family Protection Law and the difficult conditions for polygamy. In this law if a man intends to remarry he must seek permission from court. In case of marriage without permission the man can be sentenced to imprisonment while during the Islamic Republic this condition was no longer in place and only the first wife's permission is required.

<sup>2</sup> Islam has set the legal age for marriage of a girl at 9. For years Islamic Republic laws also recognised the same age but have recently changed to 13. Marriage for a girl at the age of 9 or even 13 can result in physical damage. Girls' bodies are not yet fully developed by this stage and are not conducive to sexual relations so child marriage at this age is beyond their physical strength. Other instances of violence that are inspired by Islamic Sharia and Islamic Republic laws is from verse 34 of Nisa Chapter of the Koran: Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. This is reflected in Article 1105 of the Civic Code, see: Quran.com, Surat An-Nisā', <http://quran.com/4/34> & UNHCR, The Civil Code of the Islamic Republic of Iran, <http://www.refworld.org/pdfid/49997adb27.pdf>

<sup>3</sup> UNHCR ibid

<sup>4</sup> Ibid

Article 1117 of the Islamic Republic Civil Code<sup>5</sup> states: 'The husband is able to deny his wife her choice of profession which in his estimation is against his, her or the family's interest'. A question that arises from this Article is the definition of 'family interest' and what it may entail. The ambiguity and vagueness of this Article allows the judiciary to use personal interpretation<sup>6</sup> and possibly include a range of justifications to define 'family interest' as a means of limiting women's professional choices. A lack of proper care for children or the failure to adequately perform domestic responsibilities as a result of employment are among other reasons that can be defined as 'family interest'. Since family court judges consider men as the master and breadwinner of the family and do not consider a woman's profession as essential, they replace objective analysis with the husband's interest and deny women the right to engage in work that does not meet her husband's approval.

When a woman has been subjected to her husband's dominance, justified in the name of law, and her freedom to engage in her profession has been placed in the hands of her husband by the same law, she is deprived of economic independence and she must turn to her husband so that through obedience she gains her sustenance. Put simply, in order to access the most basic rights of food, clothing, housing and health care, many Iranian women must become obedient slaves so they place their bodies, even against their own will, at their husband's disposal.

At the same time they must worry about their future given the possibility of sharing their husband with another wife. Article 1075<sup>7</sup> legally recognises temporary marriages. It states: 'Marriage is temporary when it is for a predetermined period'. Although unlike temporary marriage, permanent marriage is not explicitly recognised but in reference to some laws such as the inheritance laws, both permanent and multiple marriages are implied and accepted. In accordance with Islamic Republic laws, polygamy is not illegal. However, it is conditional on the first wife's permission. However, temporary marriage differs in that it is not conditional on the first wife's permission. At any given point in time, and with no legal impediment, a man can marry any number of women. Islamic laws and provisions set no limitations on such marriages; the law makes no pronouncements but Islamic jurists agree that there are no limits. So although polygamy is not explicit in Islamic Republic laws, temporary marriages are legally recognised. From a woman's perspective, essentially and psychologically, temporary and permanent marriages are one and the same. A woman suffers the same consequences from a permanent marriage as she does from her husband's temporary marriage. In addition, given the unlimited number of temporary marriages<sup>8</sup>, it may cause greater harm to the stability of family life and psychological welfare. Each of these laws imposes a new and deep-rooted form of inferiority on women. Are there any Muslim women who are happy with their husbands sharing their bed with other women under the guise of temporary marriage?

Iranian law is based on Sharia and Sharia is formed from rules developed 15 centuries ago. Imposing such laws on society results in religious and legal forms of prostitution which leaves men free to enjoy relationships that damage the family unit and cause social and psychological damage to women. It is under such conditions that women continue to survive solely for the sake of their children or decide to end their marriage. However, can a woman file for a divorce due to her husband's temporary marriage? Not according to the law. Women can only divorce their husbands when certain legal justifications are proven in the court of law, including: addiction, failure to pay alimony, disappearance, incurable disease, sterility or a prison sentence, among others. Proving any of the above in a court is a challenging task for women.

However, Article 1133 of the Civil Code<sup>9</sup> simply states: 'A man can divorce his wife whenever he chooses to do so'. Such excessive and unrestricted freedom for men, while conditioning divorce for women on proof of certain circumstances and conditions, is a clear example of discrimination between women and men. Imposition of a man on his wife, even if continuing to share their life results in physical and psychological

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<sup>5</sup> Ibid

<sup>6</sup> With regard to certain cases of discrimination at the hands of some judges, I must emphasise that judges act based the laws of the land. For instance, in child custody cases, it is the law that deprives mothers from this right upon her remarriage. The judge follows this law. However, if the father remarries this right is not transferred to the mother and he maintains custody. Another example involves applying for passports where married women must seek the permission of their husbands and unmarried women the permission of their fathers while men and boys do not have to seek the permission of their female counterparts. According to Article 1233 women do not have the right of guardianship while men without their wife's permission can act as a guardian. Other cases involving divorce, custody, right to work and unequal inheritance laws are discussed in the body of the article.

<sup>7</sup> UNHCR ibid

<sup>8</sup> Since this is an informal arrangement it is impossible to provide an exact figure but a statement by Ahmad Touyserkani, the Deputy Chief of Justice and Head of the National Registration Office indicates that during the first 6 months of the year 2013 142,000 temporary marriages were registered, which according to him is 10% higher than the same time last year. Unregistered cases must be added to this. In 2013 for every 10 marriages, 2 temporary marriages are registered according to Mashreq News, Officials and Temporary Marriage, November 2013, <http://www.mashreqnews.ir/fa/news/261239/#####-#####-#####-#-#####-###-#####>

<sup>9</sup> UNHCR ibid

damage to women and constitutes a form of systematic violence. How can laws that determine the age of 13 as the legal age for a girl to marry, while others can choose to marry her at a younger age, convey a correct understanding of marital relationships? How can her underdeveloped body be subjected to a man's sexual needs in order to access her right to livelihood? Can she file for a divorce after she reaches the age of maturity and decides to object to her legal guardian's choice for her marriage? Do laws validate such a request? Certainly not, as few of the laws protect women and their rights.

Article 1170 of the Civil Code<sup>10</sup> imposes a different set of legal extortions on women granted full custody, rooted in male dominance within the family. When a mother who is in charge of her child's care remarries, custody is transferred to the father. Article 1105<sup>11</sup> explicitly recognises dominance as a right of the man, and therefore a woman is subjected to his authority including the most minute aspects of her relationships. This provides the grounds for transfer of custody to the father upon a mother's remarriage and the reason why mothers avoid remarriage so long as they care for their children. However, the same does not apply in the case of fathers.

Among other laws that clearly discriminate against women are inheritance laws that entitle women to only half of what men are entitled to. In this regard Islamic jurists have once again tried to justify such discrimination by referring to grounds such as the impact of a woman's dowry in offsetting the inequality, or men's role in managing the economic affairs of the family, as a means of his right to a larger portion of inheritance, portraying Islamic laws as just without addressing the realities. Although such explanations might have applied to women who lived during the early years of Islam as they were paid their dowry at the time of entering into matrimony. But in today's Iran are there any men who pay the dowry at the time of marriage? In most cases, a woman's request to receive her dowry results in friction or even the end of a marital relationship and once again lawmakers have instituted laws that make it difficult for a woman to receive her dowry. In addition, for most women, a dowry is the only way out of a relationship which they have no interest in. In light of these impractical factors a smaller share of inheritance<sup>12</sup> for women compared to men is unacceptable.

With regard to the men's role in managing economic affairs, which Islamic jurists use as a reason to justify men's higher share of inheritance, it should be noted that during the early days of Islam, women's participation in economic affairs was not possible. Women's roles were confined to household and domestic affairs. However, in today's Iran, women are now shouldering part of the economic responsibilities<sup>13</sup> that Islamic law has given to men, working alongside men to meet the family's financial needs. Their only demand is that of equal rights with men.

The issues explored in this article represent but a few instances of discrimination against women as outlined in Iran's Civil Code. The Islamic Criminal Code dehumanises women on both sexual and physical grounds. Certainly, conflicts arising from differences between traditional and inefficient laws, and the tangible realities of today's society, cause dissatisfaction among most Iranian women; and rather than heeding the call of the masses, the ruling elite continues to utilise terror, threats and detention against women activists in order to repress the freedom movement.<sup>14</sup>

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<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> With regards to justifications offered by Islamic Republic authorities as to the reason for the discrepancy between inheritance shares of women and men in light of women's dowry Morteza Motahhari's statements may be of note where he states because Islam recognizes men's duty to pay dowry and alimony then it has doubled men's share of inheritance. A member of the Expediency Council, Hashem Hashemzadeh Harisi has commented on this issue by saying since the husband bears the obligation of covering the expenses of the household and family, then he has a higher share of inheritance and likewise, because of his higher share he must pay for a woman's dowry, because woman has a lesser share of inheritance and paying her dowry makes up for the smaller share of inheritance.

<sup>13</sup> 1 out of every 12 households in Iran are headed by a woman: Princeton University Iran Data Portal, Female Heads of Household, 1996 data, <http://www.princeton.edu/irandataportal/socioecon/topics/female/>

<sup>14</sup> Violence is part and parcel of state policies under the Islamic Republic leading to societal practices that continuously hinder women's progress. See: Stop state violence against women in Iran!, Violence is not our culture, 2011, <http://www.violenceisnotourculture.org/partners/stop-state-violence-against-women-iran>



## The Islamic Republic, violence and oppression of women and forced hejab Laws Nasrin Afzali

For those who do not reside in Iran it may be puzzling to comprehend the dynamics of the Iranian regime in succeeding to enforce widespread compulsory head cover, or hejab laws when most women oppose it<sup>1</sup>, and how in practice women do not dare to openly air criticism of it in public spaces. In other words, although Iranian streets may be filled with women who partially observe hejab laws, it is almost impossible to see women not wearing hejab in public. When Iranians disregard laws pertaining to driving, finance, banking and even political activism, some may then question, why do they not disregard this single law? The answer is that for the Islamic Republic, the enforced hejab, unlike other laws, is a symbol of the lifestyle and ideology on which the Islamic Republic is based and which justifies its survival. Therefore, violation of such a law is not a simple act but a rebellion against a pattern that the state has set in place for all who live in Iran. Naturally, a matter of such importance is not limited to the law and legal investigation of violations. For this reason, the state does not solely rely on legal tools to oversee the application of hejab laws, it also endeavours to inculcate a culture of fear among the masses. This line of action has been implemented by the Baseej and the armed forces since the early days of the Islamic Republic.

In order to understand the dynamics of implementation, it is necessary to investigate how the relevant law was conceived and developed. Less than a month after the revolution, in March 1979, Ayatollah Khomeini ordered that women must observe hejab<sup>2</sup>. However, since the new regime had not yet been established and the necessary political and security forces had not yet been formed, this order was not implemented. Nevertheless, this order served as the grounds for certain religious and leftist groups to begin theorising the need to control women's coverage.

During the first two years of the revolution, although wearing hejab was not enforced, over time there was far less room for those who lacked it. The absence of hejab was viewed as a sign of opposition to the revolution and women who failed to observe hejab laws were made the target of insults and abuse. During this period no formal orders were issued to impose the compulsory Islamic dress code on women, but the state was able to oppress the population to the point that women had no choice but to observe hejab. Attacks on the street, insults, threats, dismissal from work and many such acts of violence affected many women who refused to wear hejab. Such cases were committed by elements identified as the Islamic Revolutionary Komiteh.<sup>3</sup> This body came into being through the semi-official organisation and militarisation of the pro-government youth forces.

But during a speech in July 1979<sup>4</sup>, Ayatollah Khomeini greatly criticised the government as to why there were still signs of imperialism in government offices and allowed for ten days to Islamify the offices. Immediately, officials announced that as of the morning of Saturday<sup>5</sup> 14 July 1979 women who fail to observe hejab were not permitted in government offices. During the following days the newspapers carried stories about courts dealing with women who went to work without hejab. This time, unlike the previous speech of Ayatollah Khomeini, no objections were aired. The few women who wore black to protest publicly were arrested in the name of supporting the monarchy and opposing the revolution. In this manner working women were forced to accept hejab. Hejab became mandatory in girls' schools. Universities were closed following the Cultural Revolution. Intellectual women and those who were yielded some degree of influence during the previous government either left the country, were forced to remain at home, or were trapped in courts and prisons. In reality no woman was seen in public without hejab even though the government had not yet made hejab mandatory in public spaces.

In practice, it was such a great risk that no woman dared to appear without hejab. This is the manner in which the government initially enforced hejab without making it into law. Then in July 1980, by defining hejab and identifying its sphere of influence, Ayatollah Khomeini mandated hejab in public places. However, prior to 1983, the parliament had not passed any laws to enforce the wearing of hejab. It was during this

<sup>1</sup> Persian Letters, Iranians Use Facebook To Say 'No' To Compulsory Hijab, Radio Free Europe/Radio Liberty, July 2012, <http://www.rferl.org/content/iranians-use-facebook-to-say-no-to-compulsory-hijab/24651872.html>

<sup>2</sup> Leila Mouri, Compulsory Hijab in Iran: There Is No Room for Appeasement, Huffington Post, July 2012, [http://www.huffingtonpost.com/leila-mouri/compulsory-hijab-in-iran-\\_b\\_1698338.html](http://www.huffingtonpost.com/leila-mouri/compulsory-hijab-in-iran-_b_1698338.html)

<sup>3</sup> Komiteh-ha-ye Enghelab, or Revolutionary Committees - See: <http://islamweb.us/who-is-komiteh.html>

<sup>4</sup> B. Smdbygy, How Hejab Became Mandatory, RoozOnline, July 2013, <http://www.roozonline.com/persian/news/newsitem/archive/2013/july/29/article/-2a614032c7.html>

<sup>5</sup> Saturday is the first day of the working week in Iran.

year that the Islamic Penal Code<sup>6</sup> was passed which set the punishment of 74 lashes for failure to meet hejab laws. During the same summer the government set a new force to combat vices (Jondollah Patrol) under the Islamic Republic Kumiteh and began monitoring the streets. One of the duties of this patrol was to confront women who failed to properly observe hejab laws.

In 1995 an amendment to article 638 of the Islamic Penal Code stated that women who appear in public places without hejab will be sentenced to imprisonment between 10 days and two months or a fine anywhere between 50,000 and 500,000 Rials<sup>7</sup>.

After the end of the Iran-Iraq war and the start of the Khamenei-era of leadership, a number of changes in military and security forces took place. One example was the amalgamation of the Islamic Republic Kumiteh with the police force. It was from that point onwards that the police took a more active role in combatting cases of improper hejab.

In addition, it was expected that the Baseej, which came into being at the order of Ayatollah Khomeini during the Iran-Iraq war with a duty to gather volunteers to serve at the frontlines of war, would be dissolved. However at Khamenei's order the Baseej was placed under the supervision of the Islamic Republic Guards Corp and with renewed organisation was transformed into one of the part-time voluntary bodies that operate in the heart of offices, mosques, universities and schools as an ideological group in control of public spaces. So, in effect, the Baseej became a tool to terrorise.

Over the past twenty years or so, every summer when the temperature rises the police devise a new plan to encounter women who take to thinner clothing considered as improper hejab. During the early days of the new century this plan was labelled as the 'moral security plan'.<sup>8</sup> As part of this plan police forces were present in public places and squares in major cities throughout the country. They arrested any woman who they deemed as lacking hejab and transferred in special cars designed for female detainees to police stations. If those arrested lacked any criminal record they were released after signing a statement committing to observe the laws and handed over to their husband or father. However, if they did have previous record of arrest a new criminal file was opened and they were sent to court.

In March 2004 the Supreme Council of the Cultural Revolution<sup>9</sup> passed a bill called 'strategies and regulations to promote a culture of chastity' and called upon 27 organisations to carry out specific duties in combatting improper hejab, including the police and Baseej forces<sup>10</sup>. According to these regulations police were charged to carry out the following:

1. Announcing of legal limits and boundaries of chastity and standards of improper hejab in society in order to identify specific cases
2. Making efforts to deal with violators in a legal and respectful manner
3. Collaborating with like-minded organisations to create spaces for the propagation and promotion of the new culture along all hiking paths and promenades leading to mountains as well as other public and recreational spaces
4. Involving unions, associations and guilds in combatting improper hejab
5. Warning those with improper hejab and approaching them according to law in public spaces
6. Submitting of legal bills to judicial authorities with regard to observing proper hejab while driving
7. Making legal approaches to street dwellers, those with improper hejab and corrupt groups and prostitutes, etc

<sup>6</sup> Iran Human Rights Documentation Centre, New Islamic Penal Code of the Islamic Republic of Iran: An Overview, 2012, <http://www.iranhrdc.org/english/human-rights-documents/ngo-reports/university-of-essex-university-of-essex-iran-unit/1000000159-new-islamic-penal-code-of-the-islamic-republic-of-iran-an-overview.html>

<sup>7</sup> Iran Human Rights Documentation Centre, Islamic Penal Code of the Islamic Republic of Iran – Book Five, July 2013, <http://iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html#18>

<sup>8</sup> News About Iran, Mullahs, Iranian Women, and Hijab May 2011, <http://iransnews.wordpress.com/2011/05/17/mullahs-iranian-women-and-hijab/>. See also Rasa Sowlat, High Price of "Bad Hejab" in Iran, Institute of War and Peace Reporting, June 2010, [http://iwpr.net/report-news/high-price-"bad-hejab"-iran](http://iwpr.net/report-news/high-price-)

<sup>9</sup> The official site of this body and its publications: Supreme Council of the Cultural Revolution, <http://www.iranculture.org/en/default1.aspx>

<sup>10</sup> Please see the final charter ratified in 2004 at: Charter of Women's Rights and Responsibilities in the Islamic Republic of Iran, ILO, September 2004, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_205795.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_205795.pdf)

8. Supervising and providing legal control over recreational and public areas such as parks, cinemas, stadiums, mountains, beaches, islands, free trade zones, airports, terminals, etc (in collaboration with other relevant state organs and institutions)
9. Increasing endeavours to inform society at large of the positive social and moral effects of hejab and chastity and the negative effects of failure to observe the same, incorporating cultural, artistic and promotional works (in collaboration with relevant bodies)
10. Preventing the production, distribution and display of illegal audio-visual materials and clothing that result in improper hejab and lack of chastity
11. Supervising and controlling the observance of legal boundaries of chastity in residential complexes, towers and gated developments through management over these communities
12. Giving attention and supervision to dangerous, special or corrupt centres and the prioritisation of programmes and sensitive centres as well as blocking initiatives that bar women's social security
13. Prioritising the inclusion of experienced women in the arrest of female offenders and handing them over to security centres in order to prevent negative impressions among the masses
14. Requiring coordinators of celebrations and weddings to observe Islamic laws and control their attendants, as well as making serious approaches to illegal venues that lack proper permits
15. Requiring beauty salons to observe legal and Sharia laws on chastity as well as control of the manner in which brides and their parties enter and exit from their premises
16. Providing constant supervision of public places such as airports, residential complexes, exhibitions, etc with regard to coverage, and inspection of such places in order to eliminate improper hejab (in collaboration with relevant bodies)
17. Training, coordination and involvement of female forces in the supervision of hejab and coverage in public, while observing respect for and the sanctity of the individual
18. Seeking input from the Ministry of Culture and Islamic Guidance and security forces with regard to any concert or celebration prior to issuing permits
19. Confiscating government vehicles carrying individuals who have not observed Islamic values
20. Expressing views regarding activities or lack of activities of departments that can promote corruption
21. Preventing activities of opposing groups that will undermine public morals

What became known to the public in recent years as the 'Guidance Patrol' is part of initiatives in accordance with the above Act that was allocated as among the responsibilities of the police force. Currently police cars carrying the symbol of Guidance Patrol are placed in many squares and streets of Iran and they arrest women whose hejab does not meet with their approval. In addition, public spaces such as parks, stores and shopping malls, promenades, cinemas, theatres and concert halls are among the spaces that are controlled by these forces.

The same Act specifies certain duties for the Baseej:

1. Baseej forces, after passing through training in the supervision of both tangible and intangible elements pertaining to chastity in public and centres such as 'schools, universities, mosques, places and offices' must act in accordance with the laws
2. The dissemination of information pertaining to chastity through various means is carried out by Baseej forces
3. The use of cultural and moral means to promote a culture of chastity
4. Collaboration among Baseej as the trustee and representative of NAJA and judicial officer<sup>11</sup> in public spaces

<sup>11</sup> Law Enforcement Forces of the Islamic Republic 9.-In Persian the acronym is NAJA.

5. Promotion of a culture of chastity in assigned places such as 'offices, organisations, factories' among employees, staff and customers
6. The assessment of the negative impact of improper hejab and cultural vulgarity through research

The Baseej has a number of branches, the most widely known of which include Baseej branches among students, engineers, unions and labourers, offices and mosques, development Baseej, clergy, teachers, lecturers, female forces, physicians, minorities, and sportsmen. Members of the Baseej are established among staff at offices, organisations and unions, and operate on voluntary basis. The manner in which they carry out their activities is decentralised and informal. For instance, Baseej forces at an office can warn women with improper hejab or introduce them to an official. With regard to the informal but incredible power of these forces the impact of such methods in controlling public spaces and organisations is significant and acts as an integrated network designed to deliver social control and fear of non-compliance.

Baseej forces hold regular courses and seminars for their members. In recent years hejab has been one of the key topics. Likewise, the Baseej has begun to organise its members in groups known as 'advisers'. The main duty of these groups is to issue verbal warnings and work in collaboration with the police in dealing with cases involving improper hejab. It is reported that adviser groups are composed of 500 to 2,000 members in each provincial centre. However, the deputy chief of the Basij in Tehran announced that the number of advisors in Tehran is 16,000. An adviser may act as a judicial officer who is authorised to detain individuals.

The division of labour between Baseej and police in confronting cases of improperly enforced hejab is such that through the widespread and semi-formal network of the Baseej controlling public spaces, the more widespread but less severe encounters are conducted. However, the police, as the formal force, are in charge of more severe and harsher approaches. It is in this manner that the state has been able to create an atmosphere of fear so the cost of improper hejab is high enough that women are discouraged from disobedience and instead forced to tolerate it.



## Islamic Republic of Iran: Promoting violence against children International Coalition against Violence in Iran (ICAVI)

Children in Iran are prone to becoming victims of violence or mistreatment and being deprived of their childhood due to laws and practices which do not represent the best interests of the child. Article 1041 of Iran's Civil Law permits children under the age of puberty, boys under 15 and girls under nine lunar years<sup>1</sup> to be married, but this age can be lowered by the application of the father or the male guardian to the courts<sup>2</sup>. An inclusion to Article 27 of the 'Child Protection Act for Unsupervised or Ill-supervised Minors,' ratified and approved on 2<sup>nd</sup> October 2013 by the Guardian Council, will allow legal guardians to marry the child currently in their care<sup>3</sup>. This may well give rise to paedophilia at home.

One in five children aged six to eleven face abuse at home by caregivers, and corporal punishment in schools is common<sup>4</sup>. The rate of execution of juveniles is higher than in other countries that practice the death penalty. Poverty has given rise to street children. According to the Iranian Children's Rights Society, around 25,000 to 30,000 children live on the street in Tehran and around 100 to 150 are killed every month for various reasons including abuse and harsh working conditions. Children who live in prison with their incarcerated mothers suffer from physical and psychological violence. Violence against children is varied and covers a wide range of areas that it is not possible to review in a single paper. However this paper will focus on three areas of child abuse in Iran:

- Children with their incarcerated mothers
- Child execution
- Legalising paedophilia: adoption and a new law which grants the right to adoptive parents to marry their adopted child

### Children living with incarcerated mothers

There are no specific provisions in penal law for children who are incarcerated with their mothers or who are born while their mother spends time in prison. Of the 234 articles and many more sub-articles of the prison regulations, which deal comprehensively with prisons and prisoners<sup>5</sup>, only one article (Article 69) refers to women and children. Otherwise, laws governing prisons do not refer to the gender, ethnic, religious, sexual or political orientation of the prisoners. Article 69 of the prison regulations states that: 'Prisoners will be allocated a place on vocational courses according to their background' and the sub-article indicates that female prisoners can bring their children up until the age of two, but in the same line it states that in every prison there should be a separate place for children between two and six years of age. Alternatively, they should go into state care.<sup>6</sup>

In preliminary findings for an upcoming ICAVI research project into child abuse in Iran's prisons, women prisoners have reported on the situation of children who are incarcerated with their mothers, documenting that they face a chronic lack of access to adequate food, hygiene, personal care and the provision of health and safety. In practice, prison regulations are not carried out as stipulated in the prison laws. In one case study, the mother talked of the horrors that her four-year-old child had witnessed. The abuse of children in prisons goes unnoticed as they live in the same quarters as their mothers and other inmates. Prison authorities impose the same physical abuse on children as they do on their mothers, including pushing, kicking and stopping them from going to the toilet, while they also face a lack of air circulation (both too cold and too hot), a lack of adequate medical care and a lack of access to educational programmes. Furthermore, psychological forms of abuse of children in custody include: the use of profane language, shouting, threats, torturing the mother in front of the child and separating the mother from her child for significant periods of time.

<sup>1</sup> This is the equivalent of 8 years and 7 months

<sup>2</sup> Article 49 Penal Code of Iran available online at: Iran Human Rights Documentation Centre, Islamic Penal Code of the Islamic Republic of Iran – Book Five, July 2013, <http://www.iranhrc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html#UqRwq6UkHGK>, and Article 1041 Civil Code available on-line at: <http://www.refworld.org/pdfid/49997adb27.pdf>

<sup>3</sup> Ibid.

<sup>4</sup> Iranian Children's Rights Society, <http://www.iranianchildren.org/news.html>

<sup>5</sup> Regulations adopted by the separation and classification of prisoners Judiciary 9/9/1385 (2006) Council oversees the implementation of Article 9 of prison regulation supply and adopted by the Parliament

<sup>6</sup> Standard Minimum Rules for the Treatment of Prisoners Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

In the framework of children's rights in Iran, two basic issues are in need of reform: legislation and the regulatory system on the one hand, and disorder on the other. However, there are many issues that derive from the political nature of the government. Given the political context of the judicial system, the government can apply a wide range of pressure against prisoners, sometimes deliberately resorting to torture irrespective of the age or condition of the prisoner. Children who live with their incarcerated mothers often come from families where the father is absent or in prison himself.

### **Child execution**

The pre-2012 penal code categorised crimes according to punishment. The punishment is differentiated by the crime's theological, judicial or legislative origins.

1. Qesas is a retributive form of punishment specified in Shari'a (i.e. Islamic law) in which the punishment should be equal to the crime. The penalty for homicide is death unless the family accepts financial compensation.
2. Hodoud is a punishment for which the degree and type has been specified in Shari'a. It covers crimes such as sodomy, adultery and moharebeh (enmity to God).
3. Ta'zir is a punishment for narcotics smuggling. The degree and type of punishment is left to the discretion of the judge. The death penalty for smuggling narcotics is a Ta'zir crime under Iran's anti-narcotic law.

The new penal code<sup>7</sup> largely maintains the same categories of crime and the new punishments are more or less the same. However the Islamic Republic of Iran announced that it had abolished child execution. Yet, according to Articles 145 and 146 of the new penal code, the age of criminal responsibility is still 'puberty', meaning nine lunar years for girls and 15 for boys, in both cases violating the Convention on the Rights of the Child. Under Article 87, execution for discretionary punishments has been abolished for children under 18 and replaced with correctional measures. Although this article abolishes the execution of juveniles for certain crimes, most juvenile executions are for Qesas homicide-related crimes.

Article 90 of the new penal code stipulates that legally 'mature' individuals under 18 (boys 15-18 and girls 9-18) who are convicted of Hodoud and Qesas may be exempted from adult sentences –the death penalty – if it is established that they were not mentally mature at the time of the crime. Although the new code is an improvement on the previous Islamic penal code, in respect of the execution of juveniles, Iran still holds the highest rate of child executions.<sup>8</sup>

According to reports by human rights organisations, of the 32 executions of juvenile offenders in the world since January 2005, 26 occurred in Iran.<sup>9</sup> In 2007, Iran executed eight juveniles. Iran is a signatory to the UN Convention on the Rights of the Child (CRC) which states that 'Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed below eighteen years of age,' and the International Covenant on Civil and Political Rights (ICCPR), which declares that 'sentence of death shall not be imposed for crimes committed by persons below 18 years of age'. Despite these commitments, in July 2008 the Stop Child Executions Campaign recorded that there were 130 children facing death in Iran.

### **Legalising paedophilia**

The Guardian Council's approval and confirmation of the 'Unsupervised or Ill-Supervised Children and Youth Protection Bill' means that it has become law (an Act).<sup>10</sup> Although the new Act has some positive points, such as the right of single women to adopt children and an adopted child's right to inheritance and their father's pension, it also has many ambiguities and a number of objectionable articles.<sup>11</sup> However, none are as dangerous to the moral, mental and physical integrity of the child (particularly the girl child) as Article 27. According to this Article, a child's legal guardian can marry the child. As a recent ACI report notes 'Article 27 of the Bill could lead to the girl child being adopted for nefarious purposes and at risk of abuse

<sup>7</sup> Human Rights Watch, Iran: Proposed Penal Code Retains Stoning, June 2013, <http://www.hrw.org/news/2013/06/03/iran-proposed-penal-code-retains-stoning>

<sup>8</sup> International Campaign for Human Rights in Iran, Juvenile Executions June, 2008 <http://www.iranhumanrights.org/2008/06/juvenile-executions/>

<sup>9</sup> For a detailed report on child executions, please see Nazanin Afshin-Jam and Tahiri Danesh, From Cradle to Coffin: A Report on Child Executions in Iran, Foreign Policy Centre, June 2009, <http://fpc.org.uk/fsblob/1063.pdf>

<sup>10</sup> Guardian Council, Orphans and Child Protection Bill, September 2013 <http://www.shora-gc.ir/Portal/Home/ShowPage.aspx?Object=NEWS&ID=273ae197-fc64-4216-bb06-8dc75cca572b&WebPartID=eaaaa1e1-efd7-4bfb-91cd-e8154ab52c31&CategoryID=e2beada8-28bd-4ff4-a9f8-84d4ee0a2973>

<sup>11</sup> These include denial of the right of the child to have an opinion or recourse to legal representation in cases where the child faces violence and abuse.

by paedophiles. The legislation seems to disregard the fact that based on other national laws<sup>12</sup>, as well as Article 21 of the CRC<sup>13</sup> and all other related documents, the child's best interest should be paramount in any placement. Here, instead of taking steps to criminalise any such act, the Guardian Council has legalised it'.<sup>14</sup>

Sexual and physical forms of child abuse at home are already rife in Iran, although documentation is rare, but it is believed that this Article would give rise to paedophilia as the father might consider a female daughter a potential wife and sexually abuse her in childhood. Equally, the mother could see a girl as a potential rival in the coming years and decline to give the care and love the child needs to develop her full potential.

Iran is a state signatory to all conventions on the rights of the child, and human rights, women's rights and child welfare activists demand amendments to Article 27 of the new Act on legal guardianship in Iran before it reaches implementation.

### **Conclusion**

Abuse, violence and mistreatment of children in Iran, both in public and private spheres, has become a chronic phenomenon. The laws and practices in many cases do not place the best interests of the child at heart. Many aspects of violence may derive from poverty, ignorance and traditional practices that result from discriminatory laws and codes condoning child abuse. Regarding the cases of children living with their incarcerated mothers in prison, ICAVI suggests:

- The provision of proper care, both physical and psychological, in prison so that if the child is deprived of the choice to live outside the prison environment, she/he can still benefit from a minimum level of care inside.

For cases of child execution, ICAVI suggests:

- An immediate halt to all executions where the offence has been committed by a person below the age of 18.

Regarding Article 27 of the Adoption Bill which allows parents to marry their adopted child, ICAVI suggests:

- Revision of the Act and the exclusion of Article 27 in its entirety. Instead, an article should be included stating that an adopted child must be treated as one's own child and not as a potential future spouse.

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<sup>12</sup> Including the Family Protection Law

<sup>13</sup> Convention on the Rights of the Child (28 June 2000, CRC/C/15/Add.123, Concluding observations on initial report, pages. 37, 38, 39 and 40

<sup>14</sup> Association des Chercheurs Iraniens (ACI), Islamic Republic of Iran Legalising Paedophilia? 'Unsupervised or Ill Supervised Children and Youth Protection Bill, October 2013, <http://aciiran.com/Legalising%20Paedophilia.pdf>



# Discrimination against religious and ethnic minorities in the Islamic Republic constitution

Hossein Raeesi

## Introduction

The Iranian nation is made up of diverse religious and ethnic groups. In a sense, Iran can be described as a multi-ethno-religious society. Religious and ethnic diversity throughout history has been a source of classification, difference and discrimination among the general public, which has manifested itself in a variety of ways in accordance with the types of government in place. Ethnic minorities are at times also considered to be religious minorities, including the Kurds, Turkmen and Baluchis who mostly do not adhere to the official religion of the country and are therefore, discriminated against on both grounds and to a greater extent than other groups. What follows is an examination of the legal context of undue discrimination against religious and ethnic minorities in the Islamic Republic constitution.<sup>1</sup> Other political, civic, cultural and social dimensions of discrimination against these minority populations are found in other laws and long-term historical processes in Iran.

## Background

The democratic structure of Iran, including its constitution, does not have a long history. The first written constitution in Iran was approved following the Constitutional Revolution of 1906, and went through many challenges without proper implementation. Iranians are not familiar with the true importance of the constitution and in a revolutionary manner in 1979, following the fall of thousands of years of monarchy, gleefully passed from tyranny to liberty without regard for the legal tools essential for maintaining freedom and equality.

Iran's current constitution was approved on 1st April 1979 through a referendum. It guarantees legitimate rights, justice, equality and the elimination of discrimination through Articles 3, 19 and 20, amongst others.<sup>2</sup> However, the rights derived from it are conditioned on adherence to the official religion of the country, 12 Imamate Shia.

Discrimination is embedded by the need to align all laws with Islamic rules according to Article 4<sup>3</sup> of the constitution and to accept the principle of Supreme Leadership in the country, with centralised political power and the security forces under his control.<sup>4</sup> This situation, along with the emphasis on a shared Persian language,<sup>5</sup> has led to Iran's diverse population being faced with various forms of discrimination and inequality, including religious and ethnic discrimination, which will be reviewed below.

## Part I: Discrimination against religious minorities based on the constitution

The Islamic Republic constitution is conditioned on adherence to the 12 Imamate school of Shia Islam as the official religion of the people of Iran, as set out in the constitution's Preamble and Articles 1, 2 and 12. This condition does not only result in the most important and severe forms of discrimination against religious minorities, but it also means that in order to enjoy full rights and freedoms, one must follow the official religion.

Article 13 of the constitution provides certain religious and personal property rights to some minorities such as Christians, Jews, Zoroastrians and non-Shia Muslims. Furthermore, it favours all followers of Twelve Imamate Shia Islam. Although, even in their case, following the Supreme Leader is a requirement, which if not observed, leads to certain types of discrimination.

Likewise, preferential treatment and prioritised rights for a specific school of thought while ignoring others, in particular those who do not adhere to Islam or other religions recognised by Article 12, together with the emphasis in Article 4 on the necessity of legislating laws and setting regulations in accordance with Shia Islam, makes any religious activity other than Shia very difficult, resulting in discrimination becoming a component of the state apparatus.

<sup>1</sup> Iran Online, Islamic Republic of Iran Constitution, approved March 1980, <http://www.iranonline.com/iran/iran-info/government/constitution.html>.

<sup>2</sup> Some of the sections that are discriminatory and conflicting include: Section 9 Article 3 regarding undue discrimination and equitable opportunities for all in both material and social welfare; Section 14, Article 3 which refers to provisions of all rights for men and women and legal and just security for all and equality of everyone before law; and Article 19 which states that the people of Iran, from any tribe or ethnicity enjoy equal rights and colour, ethnicity, language among others will not result in merit. Article 20 states, all citizens, both women and men enjoy equal protection before law and benefit from all civil, political, economic, social and cultural rights according to Islamic criteria.

<sup>3</sup> Article 4 of the Constitution states: 'All civil, penal financial, economic, administrative, cultural, military, political and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution as well as to all other laws and regulations and the fuqaha' of the Guardian Council are judges in this matter.'

<sup>4</sup> Articles 2 and 109 of the constitution.

<sup>5</sup> Article 110 of the constitution about the duties and rights of the leader in Iran.

I have defended many cases involving religious minorities and my personal experiences point to the fact that there is obvious discrimination against such individuals. For instance, revolutionary court judges and prosecutors defend sentences against religious minorities based on the charge of acting against national security in support of opposition groups which, according to Article 500 of the Islamic Republic Penal Code,<sup>6</sup> is considered a crime. They do this by arguing that since the entire political order in Iran is based on Shia teachings, any type of activity pertaining to the promotion of other religions and faiths is considered as rejection of Shia Islam and therefore teaching activities are considered as criminal acts against the state. This approach applies to all cases of ideological prisoners including Baha'is, Dervishes, Christian converts, Yaresan<sup>7</sup> and Sunnis. In this light all activities pertaining to any faith other than the official religion is strictly forbidden and suppressed. Formal restrictions against members of religious minorities include:

1. Denial of the right to be elected as the Supreme Leader or membership of the Supreme Council in accordance with Article 107, which stipulates that only a selected few Shia clergy in certain circumstances can enjoy these rights.
2. Denial of access to proper political, administrative and judicial structures at all levels. For instance, Article 115 limits the right of candidacy to qualified religious and political figures. In addition, Article 121 about swearing in the President, especially the section that refers to him as the protector of the official religion.<sup>8</sup>
3. Members of unrecognised minority groups are not allowed to join the Assembly of Experts or be candidates for the parliament according to Article 64.
4. All followers of minority religions are denied judicial positions based on legal grounds stipulated in the constitution, as Article 61 requires all applicable provisions of the judiciary to be in accordance with Islamic teachings, including the appointment of judges, which in practice bars all minorities from judicial positions.
5. By the lack of recognition of all belief systems, with the exception of the majority religion of Shia Islam, Articles 12 and 13 of the constitution practically and entirely deny the right to carry out acts of worship, maintain places of worship and engage in the peaceful promotion of their faith to followers of all other religions. This lack of recognition has resulted in the destruction of all places considered holy by the Baha'i faith, some Zoroastrian holy places, the Ne'matollahi Gonabadi Dervishes mosque in Qom and the refusal to issue permits for Sunni mosques in Tehran and other cities.
6. The emphasis in Article 2 of the constitution that the Iranian state is based on adherence to the teachings of the Shia branch of Islam and solely Shia jurisprudence. This denies every avenue of religious activity, access to media and the right to publish literature for all non-Shias.
7. The overall advantages for followers of Shia Islam compared to followers of other branches of Islam, recognised minorities and other religious minorities are clearly set out in the constitution.
8. Unjustified discrimination towards minorities, in particular non-Muslim religious minorities, is enshrined in the constitution. Basing all matters on Sharia laws is a means of exclusion and disregard for non-Muslims who are defined as infidel, given the fact that the Islamic perception of infidels is that of unclean or inferior.<sup>9</sup>

The political, social and cultural system founded on Iran's constitution rejects and suppresses any ideology that opposes the country's official religion. Regulations that are based on the constitution, in particular Article 4 requiring that all laws are in accordance with Sharia codes, points to systematic violence against all other beliefs.<sup>10</sup>

<sup>6</sup> Article 500 of the Penal Code states: Anyone who engages in any type of propaganda against the Islamic Republic of Iran or in support of opposition groups and associations shall be sentenced to three months to one year of imprisonment.

<sup>7</sup> Yaresan or Ahl-e Haqq are followers of an Islamic religious group founded in the 14th Century in western Iran.

<sup>8</sup> Article 115 of the Constitution states: The President must be elected from among religious and political personalities possessing the following qualifications: Iranian origin; Iranian nationality; administrative capacity and resourcefulness; a good past-record; trustworthiness and piety; convinced belief in the fundamental principles of the Islamic Republic of Iran and the official madhhab of the country.

<sup>9</sup> Ayatollah Khomeini's book, No. 83 considers 11 items as unclean, one of which is an unbeliever, the text is available on-line at: <http://www.leader.ir/tree/index.php?catid=2>

<sup>10</sup> Deutsche Welle points to some instances of pressures on religious and ethnic minorities based on a report by Human Rights Watch. Also a report by Amnesty International points to the same: Amnesty International, Iran: Human Rights Agenda for Change, August 2013, <http://www.amnesty.org/en/library/asset/MDE13/030/2013/en/c1581a70-85c9-44a4-86eb-d5e744746c01/mde130302013en.pdf>.

Article 513 of the Islamic Republic penal code demonstrates that violence is both systematic and aimed at all other beliefs and schools of thought. This article states: 'Anyone who insults the Islamic sanctities or any of the imams or her excellency Sadigheh Tahereh<sup>11</sup> should be executed if his insult equals to speaking disparagingly of Prophet Muhammad. Otherwise, they should be imprisoned from one to five years.'<sup>12</sup>

Based on this article, a 16 year old Baha'I minor named Nasim whom I personally represented in 2008 who allegedly laughed during the recital of morning prayers at her high school was accused of insulting the sanctities. She was investigated and expelled for two months from high school, simply because her classmates came to know of her religion and forced her to study at another high school. In this regard, the Ministry of Education and the Revolutionary court and intelligence forces collaborated as one network, with one of the school officials reporting the child's laughter to the Ministry of Education, and they subsequently informed the intelligence services. The intelligence services informed the Revolutionary court which issued the order for the arrest of this child and inspection of her home by the security forces. If Article 513 of the penal code had not been approved in order to protect the beliefs of the Shia majority with the backing of the constitution, the case of Nasim and thousands of similar cases, would not have faced systematic violence, deprivation from education and legal proceedings through court.

## **Part II: Discrimination against ethnic minorities in the constitution**

The most important discrimination against ethnic minorities in the Iranian constitution is outlined in Article 15. Based on this article the official language in Iran is Persian. With this article in place the language, culture and literature of ethnic minority groups are not included. All government offices and even nongovernmental offices in non-Persian speaking regions must use Persian in their correspondence and communications.

While the second part of Article 15 accommodates the limited use of minority languages and scripts in local media and schools alongside Persian, in practice this has never been the case. As Article 15 does not guarantee the rights of ethnic minorities, those whose have a first language other than Persian have not been able to use their native tongue in schools.<sup>13</sup>

Some of the key instances and manifestations of discrimination against ethnic minorities based on Iran's constitution are as follows:

1. Children in many parts of Iran begin school under challenging circumstances. They speak their mother tongue at home and without mastery of Persian are forced to study in Persian by teachers whose first language is also Turkish, Kurdish, Turkmen, Baluchi or Arabic. Lack of proper teaching techniques for these students places them on unequal footing with their peers and increases their chances of being left behind educationally. All parts of Iran have the same educational system and a student whose mother tongue is Persian is taught alongside other students. There are no processes in place to teach Persian as a second language.
2. Mastery of the Persian language can result in a disregard for local tongues and the gradual decay and elimination of literature, culture and music in these languages.
3. Persian is the language of government offices and the judicial system. In a number of ethnic minority dominated regions writing and speaking in Persian is not widespread. Therefore, because of the lack of translators in courts and government offices, those members of ethnic minority groups face greater degrees of discrimination.
4. Language and literature are among the most important tools for human development, so lack of official efforts to promote local languages in regions of Iran with high ethnic minority populations is one of the reasons for the lack of development throughout these parts of Iran.
5. Mastery of the Persian language throughout history is a form of cultural nationalism in Iran that has gradually disregarded ethnic minority languages and resulted in unequal opportunities for speakers of local and ethnic minority tongues.

Although it is possible to say that education in one's (non-Persian) mother tongue can bar access to Persian-speaking universities, teaching Persian at the outset of formal education for a child whose mother tongue

<sup>11</sup> This is a title of Fatemeh, the daughter of Prophet Mohammad and the mother of 12 Imams of Shia Islam.

<sup>12</sup> Mission for Establishment of Human Rights in Iran, Islamic Penal Code of Iran, July 1991, [http://mehr.org/Islamic\\_Penal\\_Code\\_of\\_Iran.pdf](http://mehr.org/Islamic_Penal_Code_of_Iran.pdf).

<sup>13</sup> Article 15 of the constitution: The official language and script of Iran, the lingua franca of its people, is Persian. Official documents, correspondence, and texts, as well as text-books, must be in this language and script. However, the use of regional and tribal languages in the press and mass media, as well as for teaching of their literature in schools, is allowed in addition to Persian.

is not Persian can cause severe anxiety and lack of equality in teaching in an integrated and nation-wide system for Baluch, Turkmen or Kurdish children who do not know Persian. This inequality can in turn lead to dropping out of education during the primary years that will never advance them towards university education. Statistics show that those left out of education in ethnic minority dominated regions is higher than the rest of Iran.

Since any type of organised or state violence is defined as any cause that leads to the suffering of others, the necessity to learn anything other than the mother tongue during the early years of formal education can cause children to drop out of education before the end of secondary education. This problem applies more to girls than boys, and in particular in nomadic Turkmen regions, which are heavily affected by this challenge.<sup>14</sup>

Certainly training in a language other than the mother tongue and inequalities in access to educational opportunities and access to better teachers affect marginal and non-Persian speaking native regions of Iran. For example there are still children in the Sistan and Baluchistan regions who attend schools in sheds. According to its official paper<sup>15</sup>, in some of the nomadic parts of northern Khorassan, children attend school in 29 mobile shelters that lack even basic facilities. In the Kurdish regions, a fire at Shinabad girls' school led to the injuries and death of students because of a lack of proper heating facilities, so this inequality can also be seen as resulting in formal and systematic violence against children of ethnic minorities.<sup>16</sup>

### Conclusion

The on-going discrimination against ethnic and religious groups who do not adhere to the official religion of the government is facing a reaction from civic and cultural groups. However the influence of Sharia laws in all legal dimensions implies that any form of opposition to such discriminations is tantamount to opposition with the fundamentals of Islam and the foundation of the state.

Imbuing the security forces, the Islamic Revolutionary Guards Corp and the judiciary with the ideology borne out of the Articles of the Constitution, particularly the principle of the Islamic nature and supremacy of the Velayat-e Faqih<sup>17</sup> and the claim that all actions based on the articles of the constitution are legal, renders all opposition to the various forms of discrimination explained above as opposition to the state. In line with the same legal conclusion based on the constitution, pointing to inconsistencies between the treatment of minorities and international human rights standards, result in a harsh response from Iran's authorities who claim that 98% of Iranians in 1979 voted in support of its constitution<sup>18</sup>.

The discrimination faced by religious and ethnic minorities mentioned in this article is strongly linked to the issue of security. The state considers any type of civic, cultural and religious activity including local associations, classes and training among minorities as a form of opposition to national security. Such oppressive conditions surround all ethnic and religious activists, so much so that the daily life of all minorities is affected.

In conclusion, systematic discrimination is found in Iran's constitution. That discrimination against the minorities is promoted through the laws and regulations in operation throughout Iran. This has led to the institutionalisation of a culture of discrimination and violence against all minorities.

<sup>14</sup> Experts consider deprivation of using one's native tongue as one of the major reasons for educational disadvantage in ethnic regions. See some points and statistics at: Radio Zamaneh, Stunt Education, September 2013, <http://www.radiozamaneh.com/100453#.Uo2EnKUKHGI>.

<sup>15</sup> Northern Khorassan paper Nr. 17983, November 2013, <http://www.khorasannews.com/News.aspx?type=3&year=1390&month=8&day=25&id=3328208>.

<sup>16</sup> Turkmen rogue websites provide detailed local information as well as academic problems that may represent a minority of children, for more information see here: <http://hakim64.blogfa.com/post-27.aspx>.

<sup>17</sup> Guardianship of Islamic Jurists.

<sup>18</sup> Referendum on constitution see: Iran Chamber Society, Iran after the victory of the 1979's Revolution [http://www.iranchamber.com/history/islamic\\_revolution/revolution\\_and\\_iran\\_after1979\\_2.php](http://www.iranchamber.com/history/islamic_revolution/revolution_and_iran_after1979_2.php).