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Interim report of the Secretary-General on the situation of human rights in Iran*

Summary

The present report is submitted in accordance with General Assembly resolution 65/226, in which the General Assembly requested the Secretary-General to submit an interim report to the Human Rights Council at its sixteenth session. The report reflects the patterns and trends in the human rights situation in the Islamic Republic of Iran and provides information on the progress made in the implementation of the present resolution, including recommendations to improve its implementation. In its resolution 65/226, the General Assembly called upon the Government of the Islamic Republic of Iran to address the substantive concerns highlighted in the previous report of the Secretary-General (A/65/370) and the specific calls to action found in previous resolutions of the Assembly (resolutions 63/191, 62/168 and 64/176), and to respect fully its human rights obligations, in law and in practice, in relation to a number of specifically identified concerns.

* Late submission.

Contents

I. Introduction

1. The Present report on the situation of human rights in the Islamic Republic of Iran is submitted pursuant to General Assembly resolution 65/226, in which the General Assembly requested the Secretary-General to submit an interim report to the Human Rights Council at its sixteenth session. The report reflects the patterns and trends in the human rights situation in the Islamic Republic of Iran and provides information on the progress made in the implementation of the present resolution, including recommendations to improve its implementation. The report also draws upon observations made by treaty monitoring bodies and the Special Procedures of the Human Rights Council[1].

2. Since the last report of the Secretary-General to the General Assembly dated 15 September 2010, the human rights situation in Iran has been marked by an intensified crackdown on human rights defenders, women's rights activists, journalists and government opponents. Concerns about torture, arbitrary detentions and unfair trials continue to be raised by UN human rights mechanisms. There was a noticeable increase in application of the death penalty, including in cases of political prisoners, since the beginning of the year 2011. Discrimination persisted against minority groups, in some cases amounting to persecution. Against this backdrop, there were however some positive developments including Iran's signing of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict in September 2010, its examination before the Committee for the Elimination of Racial Discrimination in August 2010, and the conduct of a judicial colloquium together with OHCHR in December 2010.

3. The following sections of the report highlight relevant developments in the thematic areas outlined in paragraph 4 of the resolution: torture and cruel, inhuman or degrading treatment or punishment, including flogging and amputations; death penalty including public executions; executions of juvenile offenders; stoning as method of execution; women's rights; rights of minorities; freedom of religion, freedom of peaceful assembly and association, freedom of opinion and expression and due process rights. The report also surveys recent developments in Iran's engagement with the international human rights system pursuant to paragraphs 6, 7 and 8 of the resolution. It concludes with some recommendations on issues of concern and measures to improve the implementation of the resolution.

4. The Secretary-General met with Mr. Mohammad Javad Ardeshir Larijani, Senior Adviser to the Head of the Judiciary and Secretary-General of the High Council for Human Rights, Iran, on 19 November 2010 in New York. The Secretary-General raised several human rights issues, such as constraints on human rights advocates, capital punishment, juvenile execution and concerns related to minority rights. Mr. Larijani conveyed that Iran appreciated the general cooperation with the United Nations on Human Rights both with the Secretary-General and the High-Commissioner for Human Rights. Mr. Larijani, however, insisted that Iran strongly rejected the recent General Assembly resolution on human rights in Iran.

[1] During the period since the Secretary-General's last report to the General Assembly, a number of UN Special Procedures mandate-holders have reported on their communications with the Government on cases of concern. These are flagged in relevant sections of the report and detailed in Annex One.

II. Thematic issues

A. Torture and cruel, inhuman or degrading treatment or punishment, including flogging and amputations

5. Article 7 of the International Covenant on Civil and Political Rights, to which Iran is a State Party, prohibits the use of torture or cruel, inhuman or degrading treatment or punishment. The constitution of the Islamic Republic of Iran forbids the use of all forms of torture for the purpose of extracting confession or acquiring information and articles of the Penal Code and code on citizen's rights provide for acts of torture to be punished. However reports continue to be received about torture and cruel, inhuman or degrading treatment taking place in various detention facilities.

6. The Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment sent a number of individual communications to the Iranian authorities concerning allegations of torture. (The Special Rapporteur reported to the Human Rights Council in February 2010 on several past communications which are detailed in Annex One.) The Special Rapporteur was joined in some communications by other Special Procedures including the Working Group on arbitrary detention and the Special Rapporteur on the independence of judges and lawyers.

7. In recent months there have been a number of reports in the Iranian media regarding the application of amputation and flogging. On 1 December 2010, Iranian authorities amputated the hand of man accused of theft in the central prison of Kermanshah. The sentence was reportedly carried out in the presence of local judiciary officials and prisoners.[2] On 22 November 2010, after amputating the hand of a thief, the Public Prosecutor of Mashhad stressed that the judiciary will show no mercy to those who disturb public order and security, particularly thieves.[3] On 26 October 2010, in connection with the amputation of the limb of a thief in Yazd, the First Deputy to the Head of Judiciary stated that the execution of such punishment was in compliance with the law, was a source of pride and would be repeated in the future.[4] On 22 July 2010, following the amputation of the hands of five robbers in Hamedan prison, the Prosecutor of Hamedan stressed that "when a hand gets used to stealing and causes harassment for the people, it has to be cut short".[5]

8. An Iranian news agency reported that on 18 December 2010, a man accused of drinking alcohol was publicly punished with 80 lashes in the city of Ramshir.[6] On 5 January 2011, the judiciary in Tehran convicted a woman Ms Saeeda known as Kimya to 100 lashes for adultery[7]. On 31 January 2011, three persons accused of having illicit sexual relations were subjected to 99 lashes in public in Qaimshehr.[8] Some punishments have been reported in the context of retribution or "an eye- for- an eye" cases. On 28 December 2010, according to Iranian press reports, a court in Tehran ruled that a man

[2] http://isna.ir/ISNA/NewsView.aspx?ID=News-1665994&Lang=P

[3] http://www.dadgostarikhr.ir/tabid/38/ctl/edit/mid/372/code/1080/default.aspx and http://www.jomhourieslami.com/1389/13890907/13890907_06_jomhori_islami_goonagoon_0006.html

[4] http://www.aftabnews.ir/vdceoz8zojh8zpi.b9bj.html

[5] http://www.ilna.ir/newstext.aspx?ID=137025

[6] http://www.isna.ir/isna/newsview.aspx?id=news-1679374&lang=P

[7] http://www.isna.ir/Isna/newsview.aspx?id=news-1688304&lang=p and http://www.irna.ir/newsshow.aspx?nid=30170347

[8] http://www.isna.ir/ISNA/Newsview.aspx?id=news-1706375&lang=P

named Hamid must lose his eye and part of an ear after he blinded and burnt the ear of another man in an acid attack.[9] During the preparation of this report, the Iranian authorities confirmed amputation and flogging sentences were carried out in Ramshir and other locations in conformity with the Penal Code.

9. The Penal Code of Iran allows amputation and flogging for a range of crimes including theft, *Mohareb* (enmity against God) and certain sexual acts. The Iranian authorities argue that punishments of this kind are proscribed by Islamic law and are not considered to be torture or cruel, inhuman or degrading treatment. They argue that the application of sentences of this kind are effective in deterring crime and offer an alternative to incarceration. The Committee against Torture and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment have consistently held that imposition of corporal punishments by judicial and administrative authorities including in particular, flogging and amputation of limbs, is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. The Human Rights Committee, which monitors implementation of the International Covenant on Civil and Political Rights (ICCPR), held a similar view in its General Comment No. 20 (1992).

B. Death penalty including public executions

10. A dramatic surge in the number of executions has been recorded since the beginning of 2011. According to Iranian press reports, at least 66 people were executed in the month of January, with some sources indicating the figure to be as high as 83 executions[10]. The majority of executions were reportedly carried out in relation to drug offences, but at least three political prisoners were among those hanged. The Iranian authorities assert that the executions were carried out after conducting a fair trial and review by a higher court. On 2 February 2011, the United Nations High Commissioner for Human Rights publicly expressed alarm at the dramatic increase in executions since the beginning of 2011 and called upon Iran to institute a moratorium on executions with a view to abolishing the death penalty. The High Commissioner also expressed concern that a large number of people reportedly remain on death row, including political prisoners, drug offenders and even juvenile offenders and encouraged Iran to respect international standards guaranteeing due process and the protection of the rights of those facing the death penalty, to progressively restrict its use and reduce the number of offences for which it may be imposed. Furthermore, the Special Rapporteur on extrajudicial, summary or arbitrary executions jointly with the Special Rapporteur on the independence of judges and lawyers also warned in a public statement of a dramatic surge in death sentences which were carried out in the absence of internationally recognized safeguards, despite numerous calls by the UN to immediately halt executions. The experts noted that under international law, the death penalty is regarded as an extreme form of punishment which, if it is used at all, should only be imposed for the most serious crimes, after a fair trial has been granted to the accused. The Human Rights Committee has indicated that the most serious crimes are those directly resulting in death.[11] Furthermore, the Committee has consistently held that imposition of the death penalty could amount to arbitrary deprivation of life in breach of the Covenant, unless certain stringent criteria are met. These include that it can only be imposed for the most serious crimes, it shall not be mandatory, and it may only be imposed after a trial and

[9] http://www.kayhannews.ir/891008/15.htm#other1508

[10] According to Amnesty International, at least 71 persons mostly linked to drug trafficking were executed between 1 and 24 January 2011

[11] Human Rights Committee, Concluding Observations of the Human Rights Committee: Iran, para. 8 U.N. doc. CCPR/C/79/Add.25 (July 29, 1993)

appeal proceedings that scrupulously respect all the principles of due process. The Committee encourages abolition of capital punishment.

11. The Special Procedures mandate holders continued to receive many reports from various sources concerning individuals who had allegedly been executed for drug- related offences and drug trafficking. Several cases have involved foreign citizens or persons with dual nationality[12]. Despite a growing acknowledgment by some Iranian authorities, that the death penalty may not be an effective deterrent to drug crime, the judiciary has continued to stress in public the need for tough punishments.

12. A new Anti-Narcotics law was passed in December 2010 and came into force on 4 January 2011. Article 18 provides for the death penalty for drug traffickers and major traders and also foresees punishment ranging from one to fifteen years travel ban for carrying or smuggling any quantity of drugs.[13] The new law classes drug addicted persons as criminals unless they are in possession of a certificate of treatment. On 27 December 2010, the Deputy Prosecutor General for Legal Affairs warned of a stricter approach in dealing with drug trafficking and stressed that drug traffickers and major drug traders will face execution under the new anti-narcotics law.[14] The judiciary has also pledged to use the death penalty in an intensified crackdown on other serious crimes. On 8 December 2010, the head of the Iranian judiciary, Ayatollah Sadiq Larijani announced that armed robbers would still be executed by hanging even if they steal nothing.[15] Police Commander Sardar Doctor Ismael Ahmadi stressed that such measures would undoubtedly be most effective in combating crimes.[16]

13. In July 2010, a large number of prisoners were reportedly executed at one time in Mashhad prison. When OHCHR staff sought further information from Iranian counterparts during a visit to Tehran in December 2010, they confirmed that 60 persons had been executed in Mashhad in pending cases mostly linked to drug trafficking. On 3 January 2011, seven persons convicted of drug trafficking were hanged in the western city of Kermanshah[17]. On 19 January 2011, 10 persons were executed in Rajai Shahr prison in relation to drug trafficking.[18] On 24 January 2011, three persons charged with rape were executed in Evin prison.[19]

14. A worrying trend is the increased number of cases in which political prisoners are accused of M*ohareb* (enmity against God) offences which carry the death penalty. In Iran's law, *Mohareb* relates to the use of armed violence, however Special Procedures mandate holders and other independent experts have questioned the problematic and arbitrary nature of such charges. At least 22 persons charged with *Mohareb* have been executed since

[12] According to numerous reports, foreign citizens including from Nigeria and Afghanistan were among those executed for drug related charges. Zahra Bahrami, an Iranian-Dutch dual citizen was executed on 29 January 2011 on charges of drug trafficking. The Iranian authorities note that Iran's laws do not distinguish between Iranian and non-Iranian nationals who commit a crime in Iranian territory.

[13] The penalty for trafficking and trading 30 grams of crystal meth, just like other psychedelic substances such as crack and heroin are punishable by imprisonment whereas more than 30 grams is punishable by death. http://www.isna.ir/ISNA/NewsView.aspx?ID=News-1687435&Lang=P

[14] http://www.irannewsdaily.com/view_news.asp?id=213176 , http://english.farsnews.com/newstext.php?nn=8910071407 and http://www.dadiran.ir/default.aspx?tabid=40&ctl=edit&mid=389&code=7697

[15] http://www.irna.ir/newsshow.aspx?nid=30114827

[16] http://news.police.ir/ncms/fullstory/?id=202488

[17] http://isna.ir/ISNA/NewsView.aspx?ID=News-1686718&Lang=P

[18] http://www.irna.ir/newsshow.aspx?nid=30195341 and http://www.isna.ir/isna/newsview.aspx?id=news-1698211&lang=p

[19] http://www.isna.ir/isna/newsview.aspx?id=news-1701668&lang=P

January 2010. On 20 December 2010, 11 men accused of links to a bomb attack on 15 December in Chabahar were hanged in Zahedan Prison, after being convicted and sentenced to death for "corruption on earth, enmity against God and countering the sacred system of the Islamic Republic of Iran."[20] On 28 December 2010, authorities executed Ali Saremi and Ali Akbar Siadat at Tehran's Evin Prison. Ali Saremi was charged with M*ohareb* for having links with a banned opposition group, the Mujahidin e Khalq Organization (MKO) while Ali Akbar Siadat was convicted of espionage for foreign intelligence services.[21] On 24 January 2011, Jafar Kazemi and Mohammad Ali Haj Aghaei were executed having been accused of *Mohareb* for their alleged participation in post-election unrest and contacts with People's Mujahidin Organization of Iran (PMOI).[22] The High Commissioner for Human Rights has previously expressed concern to the Iranian authorities over the fair trial and sentencing to death of persons for *Mohareb* offences.[23]

15. According to Dr. Mohammad Javad Larijani, Secretary General of the High Council for Human Rights in Iran, over 50 percent of death penalty cases involve retribution or *qisas.* The Iranian authorities exclude the State's responsibility in such cases on the ground that the Sharia jurisprudence considers *qisas* a private right of the victim's family which cannot be overruled by judiciary. The judiciary expends considerable effort in mediating between the victim's family and perpetrator to promote a *diyah* settlement in which the victim's family forgoes this right, sometimes following a monetary settlement. However, when the power of pardon is not viewed as lying with the State, this does not fulfil the defendants' rights to appeal for pardon or commutation under international law. In one such case, Shahla Jahed, who had contracted a temporary marriage with Nasser Mohammad- Khani, a former striker for the Iranian national football team, was executed on 1 December 2010. Shahla Jahed was convicted of stabbing to death her husband's permanent wife.

16. Iranian law also criminalizes all sexually oriented relations outside valid marriage and individuals convicted of engaging in illicit sexual relations could face severe punishment, including the death penalty. Under the Islamic Penal Code of Iran, amongst other *hudud* crimes, certain sexual conduct including adultery, incest, rape, fornication for the fourth time by an unmarried person, sodomy, lesbianism for the fourth time, sexual conduct between men without penetration for the fourth time, fornication by a non-Muslim man with a Muslim woman are punishable by capital punishment. The High Commissioner for Human Rights wrote to the Iranian authorities to express concern about two such cases which were committed by persons under the age of 18 (detailed in the subsequent section on juvenile executions). In June 2010, the Special Rapporteur on extrajudicial, summary or arbitrary executions also reported to the Human Rights Council on communications to the Government concerning the application of the death penalty in sodomy cases, including some involving juveniles (see Annex One). As indicated above, the Human Rights Committee has consistently rejected the imposition of death sentences for offences that do not result in the loss of life and termed them incompatible with the provisions of the ICCPR.

17. A number of public executions were reported during the period under review suggesting that the circular banning public executions issued in January 2008 by the former head of the judiciary, Ayatollah Shahroudi, has not been effectively enforced. At least two public executions were carried out in January 2011. According to Iranian media, a 32 year old man identified as Yaqoub was publicly hanged on 5 January 2011 for stabbing a man to

[20] http://www.irna.ir/html/1389/13890929/30133861.htm
[21] http://www.isna.ir/isna/newsview.aspx?id=news-1682865&lang=e
[22] http://www.isna.ir/isna/newsview.aspx?id=news-1701665&lang=p
[23] A/65/370

death.[24] The public hanging which took place at Sadat Abad square in Tehran was reportedly attended by the victim's family and large crowds. On 24 January 2011, Omaid Berg who was convicted of killing 10 women was publicly executed in Qadus Square, Karaj city. The execution was attended by officials from the judiciary, military and residents of the area.[25] The High Commissioner for Human Rights condemned the recurrence of public executions in her public statement of 2 February 2011. International human rights mechanisms have stated that executions in public add to the already cruel, inhuman and degrading nature of the death penalty and can only have a dehumanizing effect on the victim and a brutalizing effect on those who witness the execution.

C. Executions of juvenile offenders

18. Execution of juvenile offenders remains an ongoing concern, as highlighted in previous reports of the Secretary-General to the General Assembly on the situation of human rights in Iran.26 The age for criminal liability still remains at 8 years and 9 months for girls and 14 years and 7 months for boys, which is not only discriminatory but also low by international standards. The Iranian authorities note however that priority is given to the rehabilitation of juvenile offenders and the return of children to normalcy and society. Although fewer juvenile offenders were executed in 2010 than in previous years, death sentences against juvenile offenders continue to be reported. .27 In June 2010, the Special Rapporteur on extrajudicial, summary or arbitrary executions noted with concern the cases of at least nine juvenile offenders who were at risk of imminent execution for crimes committed when they were minors. The Convention on the Rights of Child28 and the International Covenant on Civil and Political Rights29, to both of which Iran is a State party, prohibit the imposition of the death penalty on those who are under the age of 18 years at the time of their crime

19. The judiciary decreed a non-binding moratorium on juvenile execution in 2005 and has often taken active steps to mediate between the families in such cases, even assisting the convicted person financially to pay the diyah settlement. When cases involving juvenile offenders are prolonged until the accused reach 18 years, however, the risk of execution becomes higher.

20. In his report to the Human Rights Council in June 2010, the Special Rapporteur on extrajudicial, summary and arbitrary executions reported on several past communications with the Iranian authorities which are detailed in Annex One. The High Commissioner for Human Rights also continued to intervene on individual cases through public statements and private representations with the Iranian authorities. For instance, in a letter of 13 January 2011, to the Government of the Islamic Republic of Iran, the High Commissioner expressed grave concerns about the death sentence handed down to Mr Ehsan Rangraz Tabatabaaie and Mr Ebrahim Hamidi, both minors, following conviction on charges of lavat or sodomy. Both defendants were convicted for crimes committed when they were minors.

[24] http://www.dadiran.ir/Default.aspx?tabid=40&ctl=Edit&mid=389&Code=7750 and http://www.irna.ir/newsshow.aspx?nid=30170347

[25] http://www.isna.ir/isna/newsview.aspx?id=news-1701748&lang=p

[26] A/63/459, A/64/357 and A/65/370,

[27] The Special Rapporteur noted that there is no other country in the world in relation to which he regularly receives allegations of this type. A/HRC/4/20

[28] Article 37 (a)

[29] Article 6, para. 5

D. Stoning as a method of execution

21. The application of stoning as a method of execution in Iran was again a focus of concern during this period. Under the existing Islamic Penal Code of Iran, adultery while married is punishable by stoning. Despite a moratorium on stoning declared by the head of Judiciary in 2002, the Judiciary continues to sentence both men and women to execution by stoning. The instruction serves as guidance for individual judges but lacks binding legal effect.

22. The Human Rights Committee holds the view that stoning to death for adultery is a punishment that is grossly disproportionate to the nature of the crime.[30] Likewise, the Special Rapportuer on Torture stressed that states cannot invoke provisions of domestic law to justify the violation of human rights obligations under international law, including the prohibition of corporal punishment.[31] Iran however maintains that the punishment of stoning for married persons who commit adultery serves as deterrence in order to maintain the strength of family and society and that such charges are, by design, very difficult to prove. At a judicial colloquium held in December 2010 (detailed below), Dr Mohamad Javad Larijani argued that stoning should not be categorised as a 'method of execution', but rather a method of punishment which is actually more lenient because 50 per cent of persons survive. Nevertheless, the authorities have indicated that parliament is currently reviewing the punishment of death by stoning.

23. The case of Sakineh Mohammadi Ashtiani, who was sentenced to death by stoning in 2006, received considerable international attention. Ms Ashtiani was convicted of the murder of her husband, but was also charged with adultery while being married and sentenced to death by stoning. She has already spent five years in prison and received 99 lashes. Following an international outcry, the authorities confirmed, most recently on 17 January 2011, that the "stoning penalty of Ms Ashtiani is suspended since families of her husband have forgiven her, but she was sentenced to 10-years imprisonment."[32] On 9 February 2011, Iran's Prosecutor General announced that the sentence of Ms Ashtiani has not been revoked.[33] During the trial proceedings, the authorities however arrested Mr Javid Houtan Kiyan, her defense attorney, and Mr Sajjad Qaderzadeh, her son, and also aired her confessions on television, which raised serious concerns about the fairness of the trial proceedings.

E. Women's rights

24. In his previous reports to the General Assembly, the Secretary-General has reported in detail on concerns relating to the protection of women's rights in Iran. In particular, he has raised concern with the suppression of women's rights activists as well as female journalists, many of whom have faced intimidation and harassment, and in some cases detention or travel bans. In her report to the Human Rights Council in June 2010, the Special Rapporteur on violence against women, its causes and consequences reported on several past communications with the Iranian authorities which are detailed in Annex One, particularly in relation to arrested members of the Campaign for Equality, also known as the "one million signatures" campaign. The Iranian authorities contest that there is a wide

[30] Human Rights Committee, General Comment 20.

[31] A/60/316 Para 28

[32] According to Iranian press, the Chairwoman of the Iranian Parliament Human Rights Committee wrote in these terms to Brazilian President Dilma Rousseff. http://www.isna.ir/ISNA/NewsView.aspx?ID=News-1696800&Lang=E

[33] http://www.isna.ir/isna/newsview.aspx?id=news-1711851&lang=p

spectrum of women's rights activists in Iran but some individuals have failed to gain legal permission for their NGOs or have engaged in illegal activities and disturbed public order. Several other women's rights related cases are dealt with in other sections of this report, including with respect to stoning and freedom of association, opinion and expression.

F. Rights of minorities

25. Concerns continued with respect to the treatment of the Baha'i community and other minorities in Iran which have been highlighted in previous reports of the Secretary-General to the General Assembly. Special Procedures mandate holders continued to raise cases involving members of the Baha'i community with the Iranian authorities. The authorities note that while Baha'i is not recognized as an official religion, its followers enjoy equal social, civil and citizen's rights; they assert, however, that the Baha'i community has recruited members by irregular means or has acted against national security. On 13 August 2010, a number of Special Procedure mandate holders[34] drew the attention of authorities to the cases of at least six members of the Baha'i community Mr. Ghavamoddin Sabetian, Mr Hedayatollah Rezaie, Mr Houman Hourbod, Ms Noura Nabilzadeh, Ms Sara Mahboubi and Mr Moshtagh Samandari, who were arrested by officials from the Intelligence Ministry in the months of June and July 2010. Concerns were expressed that in most cases, Intelligence Ministry agents searched their homes and confiscated materials related to their religion.

26. In August 2010, the seven Baha'i community leaders, Ms Fariba Kamalabadi, Mr Jamaloddin Khanjani, Mr Afif Naeimi, Mr Saied Rezaie, Mr Behrouz Tavakkoli, Mr Vahid Tizfahm, Ms Mahvash Sabet, were sentenced to 20 years in prison; their sentences were subsequently reduced to 10 years. The seven had been detained since 14 May 2008, although were only produced for trial on 12 January 2010. The High Commissioner for Human Rights raised their case several times in letters to and meetings with the Iranian authorities, expressing deep concern that these trials did not meet due process and fair trial requirements. She requested the opportunity for independent observers to monitor this and other high profile grounds, although this was rejected by the Iranian authorities. Although the seven were charged with acting against national security, espionage and spreading corruption on earth, the High Commissioner expressed concern that the charges brought against them appeared to constitute a violation of Iran's obligations under the ICCPR, in particular freedom of religion and belief, and freedom of expression and association. Reports also continued to be received about Christians, in particular converts, being subjected to arbitrary arrest and harassment.

27. The Committee on the Elimination of Racial Discrimination, after considering the combined eighteenth and nineteenth periodic reports of Iran in August 2010[35], expressed concern at the limited enjoyment of political, economic, social and cultural rights by inter alia, Arabs, Azeri, Baloch, Kurdish communities and some communities of non- citizens, in particular with regard to housing, education, freedom of expression and religion, health and employment, despite the economic growth in the country. The Committee drew particular attention to reports regarding the application of the "gozinesh" criterion, a selection procedure that requires prospective state officials and employees to demonstrate allegiance to the Islamic Republic of Iran and the state religion, and expressed concern that it may limit employment opportunities and political participation for members of Arab, Azeri, Baloch, Jewish, Armenian and Kurdish communities.

[34] Special Rapporteur on freedom of religion and belief, Working on Arbitrary Detention, the Independent Expert on Minority Issues

[35] CERD/C/IRN/CO/18-19

28. Members of the Kurdish community have continued to be executed on various national security-related charges including *Mohareb*. At least nine Kurdish political prisoners, including Jafar Kazemi, Mohammad Ali Haj Aghaie and Ali Saremi were executed since January 2010, and several others remain at risk of execution

G Freedom of peaceful assembly and association and freedom of opinion and expression

29. In his report to the Human Rights Council in June 2010, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression drew attention to a large number of communications he had sent to the Iranian authorities concerning serious allegations of restrictions imposed on the rights to freedom of opinion and expression, detailed in Annex One. Between January 2009 and February 2010, the Special Rapporteur sent 22 joint communications and one individually. Serious concerns were expressed regarding the situation of journalists, bloggers, human rights defenders and persons who express views which were critical of the Government. The Special Rapporteur noted with concern that the continued detention of individuals might be related to their work as human rights defenders and for exercising their right to freedom of expression.

30. Persistent reports of curbs on the media, which has affected print media, weblogs and websites, were received during the period under review. Journalists, bloggers, human rights defenders and lawyers continue to be arrested or subjected to travel bans, and reports continued to be received of restrictions on media weblogs and websites. For instance, Iranian media on 22 November 2010 reported that "Chelcheragh", a reformist weekly has been allegedly banned for publishing articles contradictory to public morals.[36] In his report to the Human Right Council in June 2010, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, noted that more than ten national dailies including Kalamah Sabz, Etemad e Melli, Hayat No and Sarmayeh, have reportedly been closed down after publishing articles that are not in line with official policies. Iran's authorities argue that the press is free to publish articles other than those which disturb Islamic principles or public or private rights. They assert that no writer or journalist has been prosecuted for what he or she has written and that the judiciary has shown leniency when dealing with press offences.

31. According to numerous reports, in September 2010, journalist Hussein Derakhshan was given a long-term prison sentence for charges including espionage, propagating against the regime, insulting Islamic sanctities, insulting the leaders of the country, and setting up and managing vulgar and obscene websites The authorities reported that Mr Derakhshan was sentenced to a 22 and half years in prison and also prohibited from involvement in the media (print and cyberspace) and the activities of political parties. The sentence could be appealed. Several other journalists received similarly heavy sentences. For instance, in September 2010, Mr Emadeddin Baghi, a journalist and founder of the Centre for the Defence of Prisoners' Rights was reportedly sentenced to six years of imprisonment and five years of deprivation of civil activities. Mr Baghi was already serving one year of imprisonment imposed against him in July 2010, on charges of "waging propaganda against the Islamic Republic of Iran by propagating lies to disturb the public mind". The Special Rapporteur on the promotion and protection of the right to freedom of opinion and

[36] http://isna.ir/isna/newsview.aspx?id=news-1660287

expression noted that he and several other Special Procedure mandate holders[37] had raised the case of Mr. Maziar Bahari, a leading Canadian-Iranian editor, playwright, film-maker and journalist who was arrested in June 2009, reportedly held incommunicado without charge at Evin prison, where he had no access to legal representation or his family, apart from two short phone-calls to his mother.

32. Restrictions have reportedly adversely affected the environment for the publishing industry and writers, and resulted in number of writers postponing publication of books. For instance, according to numerous reports, authorities in Iran have banned the books of well-known Brazilian author Paulo Coelho which have been published in Iran since 1998.

33. The past months have been marked by a mounting crackdown on human rights activists and lawyers in Iran. Several prominent human rights defenders have been charged with national security offences and disproportionately convicted to heavy sentences and travel bans. Others, including their family members, have faced intimidation and harassment. The judiciary has criticized lawyers for violating their code of conduct and professional ethics by talking to the press. The Head of the Iranian judiciary on several occasions deplored lawyers' interviews with media and stressed that some lawyers were seeking to undermine the state with their interviews. Iranian lawyers contest that such public advocacy on behalf of their clients has become more necessary in the face of arbitrary judicial proceedings.

34. Of particular concern was the case of Ms Nasrin Sotoudeh, a prominent human rights lawyer involved in defending many high profile cases. Her case is emblematic of the much broader crackdown on human rights defenders in Iran and has received significant international attention. Ms Sotoudeh was arrested on 4 September 2010 and charged with "acting against national security," "not wearing *hejab* (Islamic dress) during a videotaped message," "propaganda against the regime," and for membership in the "Center for Human Rights Defenders." However the case against her is widely believed to be linked to her work as a human rights defender. On 8 January 2011, she was sentenced to 11 years in jail, and a 20 years ban from practicing law and leaving the country. Ms Sotoudeh has mostly been held in solitary confinement in Tehran's Evin Prison since her arrest. During her detention, Ms Sotoudeh went on hunger strike for several weeks, protesting against her prolonged detention without trial and the detention conditions of other prisoners. While confirming Ms Sotoudeh's sentence, the authorities note that the judgment is not final and is subject to appeal.

35. On 16 January 2011, Mr Reza Khandan, the husband of Ms Sotoudeh who has publicly campaigned for fair treatment for his wife, was summoned for questioning by the authorities and charged with spreading lies and disturbing public opinion. Mr Khandan was released after the posting of USD 50,000 bail but he remains at risk of further sanctions by the authorities.

36. In a public statement on 23 November 2010, the High Commissioner for Human Rights expressed serious concern for the fate of human rights defenders in Iran, particularly Ms Sotoudeh, and urged the Iranian authorities to review her case urgently and expedite her release. The High Commissioner for Human Rights noted that many of those who are currently detained are associated with the Centre for Human Rights Defenders (CHRD) founded by Nobel Laureate, Shirin Ebadi. Mr Mohamad Saifzadeh, a lawyer and co-founder of CHRD, was sentenced to nine years in prison and a ten-year ban on practicing law for propaganda against the system and "forming an association whose aim is to harm

[37] The Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

national security." Other members of CHRD are being prosecuted on similar charges, or have been detained for shorter periods and prevented from travelling abroad. Several other human rights defenders and lawyers who were associated with human rights organizations or representing clients in sensitive cases were also prosecuted, arrested or put under travel ban in recent months. The High Commissioner urged the Iranian authorities to also review cases of other organizations whose members have been arrested or convicted in recent months including the Committee for the Defence of Political Prisoners in Iran and the Committee of Human Rights Reporters, as well as individual lawyers representing clients in sensitive cases together with student activists and leaders. The authorities reported that Mr Mohammad Seifzadeh has appealed against the sentence and was subsequently released on bail.

37. The Deputy High Commissioner for Human Rights in the absence of the High Commissioner also wrote to the Government on 22 December 2010 highlighting concerns about the case of Ms Sotoudeh and also cases of other human rights activists, who are prosecuted or convicted. She expressed concern that Mr Mohammad Oliyaeifard, a lawyer and board member of the Committee for the Defence of Political Prisoners in Iran, is serving a one year prison sentence imposed for allegedly speaking out against the execution of his clients during an interview with media. She also noted that Mr. Javid Houtan Kiyan, who defended Ms Sakineh Mohammadi Ashtiani, was arrested on 10 October 2010 and is still under investigation for links to anti-revolutionary groups abroad. The Deputy High Commissioner encouraged the Government of Iran to fully guarantee freedom of expression and assembly and to open up greater space for human rights lawyers and activists who play a pivotal and constructive role in protecting human rights in all societies.

38. Reports have been received about continued curbs on members of opposition groups. A number of opposition parties have had their licenses suspended, and some leaders have reportedly been barred from travelling outside the country. Security officials have allegedly periodically prevented visitors from visiting opposition leaders and their premises came under sporadic attacks by unknown assailants. Press were reportedly directed not to publish items about opposition leaders and their requests to hold rallies were frequently turned down. These measures will adversely affect the environment for conducting the upcoming parliamentary elections this year.

39. Opposition activists arrested in the wake of post-election unrest continue to receive heavy sentences. According to Iranian press, in January 2011, the Appeal Court in Tehran upheld a sentence of 10 years imprisonment and another 10 year ban from political activities and membership in parties for Mr Emad Bahavar, head of the youth branch of the reformist Freedom Movement party. Mr. Bahavar, who was arrested in December 2009, was charged with membership in the Freedom Movement, collusion and assembly, and propaganda against the regime. Also internationally acclaimed film-maker Jafar Panahi, whose case attracted considerable international attention, was sentenced to 6 years imprisonment, coupled with a 20 years ban on film making, film writing, travelling abroad, and giving interviews to domestic and international media. Mr. Panahi was arrested in March 2010 and charged with collusion and propaganda against the system.[38]

H. Lack of due process rights

40. The right to a fair trial is a key element of human rights protection and serves as a procedural means to safeguard the rule of law. The International Covenant on Civil and

[38] http://www.isna.ir/isna/newsview.aspx?id=news-1691741&lang=p and http://www.isna.ir/isna/newsview.aspx?id=news-1677747&lang=p

Political Rights, of which Iran is a party, under article 14 stipulates a series of due process and fair trial guarantees, including the right of all persons to a fair and public hearing by a competent, independent and impartial tribunal established by law. Many fair trial safeguards are provided for in Iran's constitution and legal framework. Concerns were raised throughout the year by the High Commissioner for Human Rights and Special Procedures mandate holders about the procedural guarantees being observed in relation to trials of government opponents. The formation of a special court inside Evin prison for political and security cases have exacerbated concerns about due process rights for detainees. For instance, during preliminary investigations judges only receive information from intelligence officers, suspects' lawyers are not entitled to meet with their clients, and judges have to work in an environment that is under the oversight of the Ministry of Intelligence.

41. Special Procedures mandate holders issued several communications to the Iranian authorities in a variety of cases that suggested widespread lack of due process rights and the failure to respect the rights of detainees. Particular concerns were expressed at routine practice of incommunicado detention, use of torture and ill-treatment in detention, use of solitary confinement and detention of individuals without charges. Concerns were also expressed in public about people sentenced to death often do not have access to legal representation and their families and lawyers are not even informed of the execution. Although article 35 of the Constitution requires all courts to hold hearings and sessions in the presence of a defense counsel and considers judgments issued without the presence of a defense attorney null and void, in practice many defendants are denied this core right. Article 128 of the code of criminal procedures narrows down this constitutional guarantee by giving judges discretionary authority to exclude a counsel from hearings on sentencing in sensitive cases; or a counsel may be present but may not speak until the end of the proceedings. Reports received further suggest the use of confession extracted through coercive methods being admitted in court proceedings and the setting of disproportionately high bail payments for the release of detainees.

III. Cooperation with international human rights mechanisms and the Office of the United Nations High Commissioner for Human Rights

A. Universal Periodic Review

42. As noted in the Secretary-General's last report to the General Assembly, Iran was considered under the Universal Periodic Review (UPR) process on 15 February 2010, and the final UPR outcome was adopted by the Human Rights Council on 10 June 2010. A total of 188 recommendations were made, of which Iran fully accepted 123, partly accepted 3, rejected 46, and took note of the remaining 16 recommendations. Seven of the rejected recommendations relate to the visit of some specific Special Procedures[39], although Iran did accept recommendations about general cooperation with the Special Procedures[40]. Other recommendations that enjoyed support of Iran included promoting economic, social and cultural rights, and establishing National Human Rights Institutions in conformity with the

[39] A/HRC/14/12, Paragraph 92, recommendations 5-11 which calls for the facilitation of visits by Special Rapporteur including the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, the Special Rapportuer on the independence of judges and lawyers, and the Working Group on arbitrary detention.

[40] Ibid, para 90, recommendations 24-28

Paris Principles. Iran also agreed to consider the abolition of executions of juvenile offenders and guaranteeing free and unrestricted access to the internet.

B. Cooperation with the United Nations Human Rights Treaty System

43. In addition to the ratification of five major United Nations human rights treaties[41], the Islamic Republic of Iran on 21 September 2010, signed the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

44. On 4 and 5 August 2010, the Committee on the Elimination of Racial Discrimination considered the 18th and 19th periodic reports of the Islamic Republic of Iran, which were due in 2006 respectively. The Committee noted various positive developments that have taken place in Iran including the approval of the Law on Citizenry Rights in 2005, the amendment of the fourth Development Plan which allows budget allocations and a percentage of oil and gas revenues for the development of less developed provinces, particularly inhabited by disadvantaged ethnic groups and Iran's active engagement with the international community on human rights issues, such as its initiative on promoting dialogue among civilisations. The Committee however expressed concerns at reports of racial discrimination in everyday life and statements of racial discrimination and incitement to hatred by government officials. It noted that women of minority origin may be at risk of facing double discrimination. The Committee noted that the Convention has never been invoked by domestic courts and expressed its concern at reports of discriminatory treatment of foreign nationals in the Iranian justice system. The Committee encouraged Iran to consider ratifying those international human rights treaties that it has not yet ratified. During 2009, Iran submitted for examination its third periodic report on the implementation of the ICCPR to the Human Rights Committee and its second periodic report concerning the implementation of the International Covenant on Economic, Social and Cultural Rights. These are the first reports from Iran to these two Committees in more than a decade and are expected to be considered in October 2011 and 2012 respectively.

C. Cooperation with the United Nations Special Procedures

45. The Islamic Republic of Iran issued a standing invitation to all thematic special procedure mandate holders in June 2002. During 2003 and 2005, six Special Procedures visited Iran, but there have been no visits by any Special Procedures since 2005.

46. The Government of Iran has agreed in principle to a number of visits of the Special Procedures including the Working Group on Enforced or Involuntary Disappearances[42], the Special Rapporteur on extrajudicial, summary or arbitrary executions[43] and the Special Rapporteur on freedom of religion or belief[44]. However, these have not been scheduled.

[41] Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Rights of Persons with Disabilities

[42] A visit was agreed to for July 2004 but was postponed. Follow-up reminders for setting dates were sent in 2008, 2009 and August 2010.

[43] Initial request sent in Nov 2004. 2006. Follow-up requests sent in February 2005, October 2005, November 2006, and December 2008 and latest in September 2010.

[44] Visits were agreed to in principle in November 2003. Several follow-up requests and reminders were sent, the latest in November 2010.

47. The Special Rapporteur on torture first requested an invitation in 2005, and yearly reminders have been sent ever since, most recently in December 2010. Requests for visits were also made by the Special Rapporteur on freedom of opinion and expression in February 2010, the Special Rapporteur on the independence of judges and lawyers in 2006, (reiterated in her communication reports of both 2009 and 2010), and the Independent Expert on minority issues in 2008 (who sent a reminder in October 2010). A reminder was sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions in 2008. All the requests remain outstanding.

48. The Special Procedure mandate holders sent a total of 38 communications to the Islamic Republic of Iran in 2010, of which 36 were urgent appeals while 2 were allegation letters. The Iranian authorities responded to six communications in 2010, although several replies have been received since.

D. Cooperation with the Office of the United Nations High Commissioner for Human Rights

49. On 24 February 2010, the Islamic Republic of Iran officially invited the United Nations High Commissioner for Human Rights to visit the country, which the High Commissioner accepted for 2011, but requested that a working-level mission be allowed to visit Iran to prepare for her visit in advance. On 24 January 2011, Dr Larijani, the Secretary-General of the High Council for Human Rights, wrote to the High Commissioner inviting such an advance mission.

50. On 1 and 2 December 2010, the Office of the High Commissioner for Human Rights and the Judiciary of the Islamic Republic of Iran conducted a judicial colloquium in Tehran. This event developed out of ongoing contacts between OHCHR and the judiciary in Iran since 2007. The High Council for Human Rights of the Islamic Republic of Iran co-chaired the event, and officials of the Ministry of Foreign Affairs of Iran were also present.

51. The colloquium was attended by three international experts - Dr Kamal Hossain of Bangladesh, Professor Walter Kaelin of Switzerland, and Judge Aisha Shujune Muhammad of the Maldives – along with OHCHR staff. OHCHR encouraged the participation of 35 judges and prosecutors on the Iranian side, including judges of the Supreme Court, the Court of Appeals and the Revolutionary Courts, as well as officials from the prison system and correctional institutions but regrettably, a large number of Iranian judges could not participate and benefit from the experience of the international experts. The authorities explained that a number of invitees could not participate due to a holiday declared on account of smog pollution but added that judges who attended the event have organized in-house seminars to share their experiences with their colleagues.

52. The topics of the colloquium were human rights issues related to the administration of justice, in particular safeguards for persons upon arrest and in pre-trial detention, fair trial and due process rights during the trial phase, and conditions of imprisonment post-conviction, including the prevention of torture. The meeting also reviewed relevant experiences and resources with regard to training and professional development of the judiciary.

53. The colloquium was opened by Dr Mohamad Javed Larijani, the Secretary-General of the High Council for Human Rights of the Islamic Republic of Iran, who welcomed the cooperation which had developed between the judiciary and OHCHR but expressed concern about the politicisation of human rights in inter-governmental bodies. The High Commissioner for Human Rights also conveyed a message to the meeting, emphasising the important role judges play in upholding the State's international human rights obligations, the need to respect the independent role of lawyers and give them time and access to

perform their professional duties, and the value of exchanges of international experiences and practice of this kind. The High Commissioner encouraged Iran to engage fully with the UN human rights mechanisms, by facilitating country visits by Special Rapporteurs and allowing independent observers access to high profile trials.

54. Discussions among the participants addressed a wide range of issues, with considerable attention to various elements of fair trial procedure in the light of the main element of the General Comment 32 made by the United Nations Human Rights Committee on Article 14 of the ICCPR. The discussion also touched on pre-trial investigation, arrest procedure, issuance of warrants, judicial review and supervision of investigation, time limits for temporary detention, notification and communication with families, access to lawyers, the role of prosecutors vis-à-vis judges, the right not to be coerced into making self-incriminatory statements and confessions, the supervision of places of detention and separation of pre-trial detainees from convicted prisoners, prison conditions, protection needs of women prisoners, and children with women in detention, as well as judicial training and in-service professional development. The experts noted the safeguards provided in Iran's Constitution, as well as executive directives since passed as law, but also considerable ambiguity and lack of clarity in their implementation. There was no official outcome or communiqué from the meeting.

IV. Conclusion and recommendations

55. The present report highlights many areas of continuing concern for human rights in the Islamic Republic of Iran. The Secretary-General has been deeply troubled by reports of increased executions, amputations, arbitrary arrest and detention, unfair trials, and possible torture and ill-treatment of human rights activists, lawyers, journalists and opposition activists.

56. The Secretary-General encourages the Government to address the concerns highlighted in the report and the specific calls to action found in previous resolutions of the General Assembly as well as the Universal Periodic Review process. The Secretary-General notes the important and constructive role the human rights lawyers and activists play in protecting human rights and encourages the Government of Iran to fully guarantee freedom of expression and assembly and to open up greater space for human rights lawyers and activists.

57. In relation to other concerns identified in the report, the Secretary-General notes that the authorities have taken some positive steps, for instance to prevent stoning as a method of execution or limit the application of the death penalty to juvenile offenders. The Secretary-General expresses concern, however, that these measures have not been systematically enforced and cases of this nature continue to arise. He encourages the Government to revise national laws, particularly the Penal Code and juvenile justice laws, to ensure compliance with international human rights standards and prevent these applications of the death penalty and other punishments which are prohibited under international law.

58. The Secretary-General welcomes the recent signing of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict, and calls upon the Government to also ratify other international human rights treaties, in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to withdraw the reservations it has made upon the signature and ratification of various human rights treaties, as recommended by the respective treaty bodies.

59. The Secretary-General welcomes Iran's recent efforts to update its periodic reporting to the human rights treaty bodies. He encourages Iran to act upon the concluding observations made in August 2010 by the Committee for the Elimination of Racial Discrimination with respect to discriminatory practices against women, ethnic and religious minorities and other minority groups.

60. Although the Government issued a standing invitation to the Special Procedures mandate holders of the Human Rights Council in 2002, the Secretary-General regrets that no visit has taken place since 2005 and encourages the Government to facilitate their requested visits to the country as a matter of priority in order that they might conduct more comprehensive assessments. The Secretary-General is also concerned about the low rate of reply to the large number of communications sent by the Special Procedures, alleging very serious human rights violations and calls upon the Government to strengthen its collaboration with the Human Rights Council in this particular area. The Secretary-General underscores the valuable contribution special procedures mandates can make to monitoring and reporting on the human rights situation in Iran, as well as facilitating technical assistance in relevant areas.