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NOTE

from: Netherlands delegation

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Subject: Situation in Iran ⁽¹⁾

Delegations will find attached a report from the Netherlands delegation on the current situation in Iran:

⁽¹⁾ This documents has been translated into English only.
The report may be made available to the public.

1995

Contents	<i>page</i>
1 Introduction	2
2 Country	2
2.1 Political developments	2
2.2 Economic developments	5
2.3 Conclusion (Section 2)	5
3. Human rights	6
3.1 Observance and violations	8
3.1.1 Freedom of religion	8
3.1.2 Judicial process	9
3.1.3 Ill-treatment and torture	11
3.1.4 Disappearances	11
3.1.5 Capital punishment	12
3.1.6 Freedom of movement	14
3.1.7 Extrajudicial killings	14
3.1.8 Freedom of expression	14
3.1.9 Freedom of peaceful association and assembly	16
3.2 Position of specific groups	18
3.2.1 Homosexuals	18
3.2.2 Women	19
3.2.3 Career members of the armed forces and police officers	20
3.3 Compulsory military service	21
3.4 Conclusions (Section 3)	21
4. Repatriation	22
4.1 Other countries' policy	22
4.2 UNHCR policy	23
4.3 Conclusions (Section 4)	23
5. Summary	24

1. Introduction

Following the official report of 5 March 1998, this report covers recent developments in Iran which may be of relevance when asylum applications are being assessed and when decisions are being taken on the return of rejected Iranian asylum-seekers. Information is also provided on a number of specific subjects, such as supporting documents, the consequences of affording the opportunity for homosexual or adulterous acts, and the position of Jehovah's witnesses.

A special official report on the administration of justice in Iran was published on 28 October 1998. Unless otherwise indicated, the statements contained in the reports of 5 March 1998 and 28 October 1998 are still valid.

In preparing this updated report, we used the assessments made by the Netherlands Embassy in Tehran, which maintains an extensive network of contacts for the purpose. Reports by other countries, UN organisations and non-governmental organisations (NGOs) were also used. Reactions to the official report of 5 March 1998 were also taken into account.

2. Country

2.1 Political developments

The Islamic Republic of Iran is undergoing a cautious process of liberalisation. As yet it is too early to say where this process will lead, but the ambition of President Seyed Mohammad Khatami and his government to achieve a more pluralistic and tolerant society within the confines of the present constitution is undeniable. The basic premise remains that internal stability, and therefore the Islamic foundation of the State, may not be jeopardised, which tends to limit what can be achieved in practical terms. President Khatami has little room for manoeuvre. This is to do with the unique way in which power is shared in Iran. On the one hand, there is a political structure with an elected president at the top; on the other hand, there is a religious structure which makes the president subservient to the spiritual leader Ayatollah Khamenei, who also has the position of *Velayat-e-Faqih* (Rule of the Religious Jurist). The poor economic situation (see section 2.2) also limits Khatami's opportunities for reform.

Ministry of Foreign Affairs

President Khatami's government has now been in office for almost a year and a half. Khatami has repeatedly spoken in favour of applying the rule of law and developing a civil society. In practice, this policy has encountered resistance on the conservative side. As regards domestic policy, there is said to be increasing rivalry between those in favour of reform and members of the conservative, clerical establishment. Just recently, two of the most important ministers in the government, Abdullah Nouri (Interior) and Attaollah Mohajerani (Culture and "Islamic Guidance") have come under constant fire from the conservative forces in the *Majlis* (Iranian parliament). On 21 June 1998, the power struggle resulted in a *Majlis* vote of no confidence against Mr Nouri, who was then forced to resign. Nouri's liberal attitude was said to have given "anti-revolutionary elements" the opportunity to express themselves and thus to have threatened the country's internal security. President Khatami reacted immediately to Nouri's forced departure by appointing him as vice-president for social affairs and development ⁽¹⁾. His successor, Mussavi-Lari, announced after his appointment that he would be pursuing the policy of his predecessor ⁽²⁾.

Under Mr Mohajerani's guidance, the press in Iran has acquired much greater freedom than was previously the case. Newspapers have become critical of the authorities and of one another. However, the judicial authorities remain alert to any questioning of the concept of the Islamic Republic. Measures taken against various newspapers have recently compelled journalists to adopt a more cautious approach (see also section 3.1.8). In practice, Mr Mohajerani has his hands full in dealing with the conservative majority in parliament, which sees his reform policy as a threat to traditional Islamic principles and values.

On 4 September 1998, Nouri and Mohajerani were attacked by an unidentified group at a public meeting. Both the Iranian government and the Spiritual Leader condemned the incident.

Another of President Khatami's allies, Gholamhussein Karbaschi, the mayor of Tehran, has also encountered difficulties in recent months ⁽³⁾.

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- ⁽¹⁾ In the meantime, Abdullah Nouri is reported to have resigned his post as vice-president in order to stand as a candidate in the local council elections to be held in early 1999 (see below).
- ⁽²⁾ At his own request, the new Minister for the Interior has now been given control of the security forces and the police.
- ⁽³⁾ Karbaschi, a leading figure in President Khatami's election campaign in May 1997, was accused and subsequently found guilty of corruption. It is generally assumed that this controversial case was politically motivated. On the Spiritual Leader's orders, Karbaschi was released on bail. He then lodged an appeal against the judgment. At the time of the trial, the judicial authorities in general and their head, Ayatollah Mohammed Yazdi, in particular came under criticism on account of reports of the ill-treatment and torture of a number of convicted senior local-government officials in Tehran. See also p. 4 of the report of 5 March 1998. Karbaschi is now employed as the secretary-general of the recently formed party, "the Servants of Construction" (see 3.1.9).

Ministry of Foreign Affairs

On several occasions, the Ministry of the Interior authorised liberal student movements to hold demonstrations in Tehran and elsewhere, during which serious criticisms were made against the system. Demonstrations of this kind have brought the deepening conflict between moderate and conservative forces within the regime back to the forefront. In recent months, hardliners have made regular attempts to disrupt pro-Khatami gatherings. Thus it was that fighting broke out on 2 March 1998 between students from a pro-Khatami movement and *Ansar-e Hezbollah*. A demonstration on 25 May 1998 again ended in a huge clash between the two groups. There have also been reports of unidentified groups disrupting prayer meetings in Isfahan. Attempts by supporters of the Hezbollah movement to disrupt a pro-reform demonstration on the eve of elections for the "Council of Experts" (see below) ended in failure. On 17 November 1998, a pro-Khatami gathering in Mashad was broken up.

The discussion begun by Ayatollahs Montazeri and Qomi ⁽⁴⁾ on the institution of the *Velayat-e Faqih* (Rule of the Religious Jurist) is still in progress. Conservatives reacted furiously in November 1997 to Montazeri's comments on the role of the *Velayat-e Faqih*. Although the Spiritual Leader called for legal proceedings against Montazeri, nothing came of this. However, measures to restrict his freedom in the form of house arrest were taken by the National Security Council. These measures led to a wave of disturbances in Isfahan and Najafabad. Demonstrations and strikes were held in both towns in April and May 1998. A number of arrests were made. The Iranian press reported that a former member of parliament for Najafabad received a thirty-month prison sentence. The punishment was said to be in connection with his support for Montazeri. In other towns Montazeri's supporters were also sentenced to imprisonment.

In the meantime, political tensions with neighbouring Afghanistan appear to have subsided. These began in August 1998, when it seemed that a number of Iranian diplomats had been murdered by the Taliban during the capture of Mazar-i-Sharif.

(4) See official report of 5 March 1998, p. 5.

Ministry of Foreign Affairs

The Khatami government did its utmost to achieve a diplomatic solution to the crisis with the Taliban, while the conservative camp showed no desire to rule out a military solution.

In October 1998, elections were held for the "Council of Experts". This Council oversees the work of the Spiritual Leader and is formally responsible for appointing and dismissing the Spiritual Leader. In practical terms, the Council of Experts does not have a prominent role to play. The vote in the Council of Guardians on the eligibility of candidates ruled out any surprises in the election results. The conservatives succeeded in winning a comfortable majority of the 86 seats on the Council. In February 1999, elections for municipal and village councils are due to be held for the first time since the 1979 revolution ⁽⁵⁾.

2.2 Economic developments

The Iranian economy is largely dependent on developments in the oil market. Throughout 1997 the average price of a barrel of Iranian oil stood at just over US \$16. By mid-1998, a barrel was worth scarcely US \$9. The fall in oil prices has had a negative impact on the economic situation in Iran.

There are currently 800 000 new arrivals per year on the labour market. For the time being, neither the authorities nor the private sector are in a position to meet this demand for jobs. Officially, unemployment stands at between 8% and 9%; in reality, the figure is closer to 20%, which leads many young people to seek a future outside Iran, albeit illegally.

2.3 Conclusion (Section 2)

To sum up, it can be said that the conflict between conservatives and those in favour of reform has become increasingly apparent in recent months. The steady increase in unrest in Iran, especially amongst the younger generation which longs for change and greater freedom, has increased fears among conservatives that their grip on Iranian society is beginning to loosen. Attacks by conservatives are aimed at a few key people inside (Abdullah Nouri and Mohajerani) and outside (Karbashi) the Khatami government. Nevertheless, as the report of 5 March 1998 also indicated, opportunities to criticise the regime have clearly increased, although it must be said that in exploring the new boundaries of press freedom many periodicals have faced legal proceedings by the

⁽⁵⁾ Weekly Press Digest, vol. 11, no. 44, 24 - 30 October 1998.

judicial authorities. The deteriorating economic situation and the high level of unemployment have caused many young people to seek a future outside Iran.

3. Human rights

Introduction

The human rights situation in Iran is evolving. Progress has been made in certain spheres. On the one hand, there are a number of areas of concern with regard to the observance of human rights; on the other hand, there are the cautious attempts of the Khatami government to achieve improvements in this field.

The Special Representative of the UN Commission on Human Rights looking into the human rights situation in Iran, Maurice Copithorne, concluded in his recent interim report that many leaders in Iran were prepared to move in the direction of a more tolerant and more peaceful society, but that at the same time major violations of human rights continued to exist ⁽⁶⁾. For some the process of liberalisation is going too slowly, for others too quickly.

Recently, the United Nations General Assembly again passed a resolution condemning the human rights situation in Iran ⁽⁷⁾.

Positive developments can be reported in a number of areas:

- * Freedom of expression has noticeably increased since the formation of the Khatami government. However, the judiciary intervenes on grounds of national security whenever the foundations of the Islamic Republic are called into question.
- * The government is succeeding in giving women a more prominent role in public life and greater access to education. This does not detract from the fact that women still find themselves at a disadvantage in many areas.

⁽⁶⁾ Situation of human rights in the Islamic Republic of Iran. Interim report prepared by Maurice Copithorne, Special Representative of the Commission on Human Rights A/53/423, 23 September 1998, p.12. (Hereinafter referred to as the 1998 Copithorne Interim Report.) Maurice Copithorne was not permitted to visit Iran. The High Commissioner for Human Rights, Mrs Robinson, did however attend the Sixth Workshop on Human Rights Arrangements in the Asia Pacific Region held in February 1998. During this visit Mrs Robinson raised a number of human rights issues with Iranian officials.

Earlier this year, Special Representative Copithorne published his Report on the situation of human rights in the Islamic Republic of Iran E/CN.4/1998/59, 28 January 1998.

⁽⁷⁾ Resolution on Iran, 12 November 1998. A/C. 3/53/L.38.

Ministry of Foreign Affairs

- * The government is devoting itself, so far without much success, to strengthening the rule of law. Consideration is being given to the establishment of ombudsman - style mechanisms, such as within the Islamic Human Rights Commission (IHRC) ⁽⁸⁾.
- * In the context of strengthening civil society, the government is providing financial and organisational support for the creation of NGOs.
- * The prison system is being reorganised.

In a number of areas *the human rights situation is still below standard*:

- * It is apparent, particularly during the investigation stage of criminal proceedings, that the basic rights of suspects are not respected.
- * Corporal punishment of a brutal kind (lashes, amputations) is administered, albeit on a limited scale. Torture and the application of psychological pressure are regular occurrences. It is a remarkable fact that public discussion has arisen on this issue. In the meantime, the government has set up a special committee of inquiry to investigate cases of illegal detention and ill-treatment.
- * The situation of the Baha'is continues to give cause for alarm. The position of certain religious minorities, including in particular actively proselytising Christians, and the position of dissident members of the clergy led by Ayatollah Montazeri, are still worrying.
- * The death penalty is often pronounced and carried out.

In spite of the positive developments referred to, the human rights situation in Iran therefore continues to give cause for concern. In particular, those groups of people regarded in Iran as (potential) threats to a society set up in accordance with Islamic values and principles still run the risk of becoming victims of human rights violations.

⁽⁸⁾ The IHRC is a state-affiliated human rights organisation which has recently assumed a higher profile as an independent commission. Its spokesman, Mr Zinifar, is increasingly in the limelight. In March 1998, the IHRC stated at a press conference that 2 450 complaints had been submitted to it in 1997. The IHRC conceded that there were widespread breaches of human rights in Iran. It has begun giving the police and security services, prison warders and magistrates instruction on international and Islamic concepts of human rights. The IHRC advocates reform, especially with regard to the use of force to obtain statements.
(Copithorne 1998 Interim Report, pp. 9 - 10.)

3.1. Observance and violations

3.1.1. Freedom of religion

Christians

There seems to have been no change in the situation of Christian minorities in recent months. Intimidation of Christians believed to be engaged in proselytising continues. We have no details of any actual prosecutions for proselytising by Christians of late.

Position of Jehovah's Witnesses

No activities by Jehovah's Witnesses have been observed in Iran. We thus have no information on their position in Iran. Their faith is not recognised as an official religion in Iran. When people are registered, they cannot be recorded as being Jehovah's Witnesses. The risks for converts to that faith are the same as for converts to other denominations.

Baha'is

The position of Baha'is in Iran seems to have deteriorated in recent times. Baha'is are regarded as apostates and have been severely persecuted since the beginning of the Islamic revolution. On 21 July 1998 Ruwhollah Rowhani, a Baha'i, was executed ⁽⁹⁾. This was the first execution of an adherent of the Baha'i faith since 1992.

In Mashad three members of the Baha'i community recently received death sentences ⁽¹⁰⁾. After the case was reviewed, two of the three death sentences were upheld. The third was commuted to ten years' imprisonment. The lawyer for the three has lodged an appeal in writing against those judgments ⁽¹¹⁾.

⁽⁹⁾ The Iranian authorities at first denied that Rowhani had been executed and then stated that membership of the Baha'i faith had not been a factor in his execution. They claimed that Rowhani was involved in spying for Israel. To all appearances, however, the enforcement of the death penalty was directly related to religious faith. Rowhani was reportedly convicted of unlawfully attempting to persuade a woman to convert to the Baha'i faith.

⁽¹⁰⁾ The EU troika in Tehran has approached the Iranian authorities on this point. A European Parliament Resolution calls on them not to carry out the death sentences. See also Amnesty International Urgent Action MDE 13/18/98.

⁽¹¹⁾ Letter of 3 December 1998 from the Netherlands Baha'is' National Religious Council to the Ministry of Foreign Affairs.

Ministry of Foreign Affairs

In July 1998 there were fifteen Baha'is in detention. Charges against them ranged from holding meetings and teaching their faith to spying ⁽¹²⁾. In late September 1998 an unofficial Baha'i "university", the Baha'i College of Higher Education, was closed down and 36 teachers were arrested ⁽¹³⁾. The United Nations General Assembly recently adopted a Resolution expressing concern at the persistent serious violations of Baha'is' rights ⁽¹⁴⁾.

Sunnites

On 31 May 1998 the Sunnite Friday prayer leader at Zabol, a mainly Sunnite town in the province of Sistan-Baluchistan, was shot dead by unidentified killers. The Iranian authorities attribute the attack to elements out to increase tension in the area.

3.1.2. Judicial process

In practice the judiciary forms an important power base for the conservatives. A special official report on the administration of justice in Iran was issued on 28 October 1998. Reference should be made to the contents of that report.

Supporting documentation

An Iranian living abroad can engage a lawyer by means of a power of attorney certified by the Iranian embassy. For this purpose he needs to report to the Iranian representation in his country of residence with valid proof of identity. It is not possible for a relative or acquaintance to initiate the proceedings.

There is a difference in treatment between civil and criminal proceedings. In *civil* proceedings, such as divorce, the lawyer having obtained the certified power of attorney can simply go ahead with the case. If the proceedings concern the sale of goods, the certified power of attorney must be confirmed by the revolutionary court,

⁽¹²⁾ M. Copithorne's 1998 interim report, p. 9. In the annex to his report, Copithorne gives further details of violations with regard to Baha'is. See also the official report of 5 March 1998, p. 20.

⁽¹³⁾ Baha'is are refused admission at all universities. They are even denied access to the last year of secondary education. The Baha'i community in Iran has set up its own Baha'i College of Higher Education. The authorities are aware of its existence. Report of 4 December 1998 from the Netherlands Baha'i community's information office.

⁽¹⁴⁾ Resolution of 12 November 1998 concerning Iran, A/C.3/53/L.38.

owing to the risk that the person concerned may have fled the country and might thus still be able to sell his possessions from abroad.

In *criminal* proceedings the legal position is that the certified power of attorney should be accepted for the purposes of further judicial proceedings. In practice such a power of attorney is usually not accepted, unless allowed by the General Prosecutor. If a prosecution is brought in the case, the lawyer has access to the papers and judgment can be handed down *in absentia*. In all instances in which the lawyer is allowed to proceed with the case, he does have access to the papers, but they are not handed over to him. The lawyer can only make a general summary without documentation.

The revolutionary court is usually more reluctant to accept powers of attorney than the public court.

If a power of attorney is given and accepted by the Iranian authorities, the lawyer is in theory free to act, without thereby incurring any personal problems, in strictly legal terms. In practice there may be cases in which the lawyer does suffer. A recent practical example in civil proceedings involved a lawyer for a foreign business who was personally sued for defamation in a separate action by the other side. Where a lawyer represents someone prosecuted on grounds of political ideology, the same ideology may in practice be ascribed to the lawyer. Lawyers are therefore very reluctant to take on such cases.

Prison system

The new Director-General for Prisons, Morteza Bakhtiari, told the UN special representative, Maurice Copithorne, that there are around 150 000 people in official Iranian prisons, 63% of them convicted of drug offences. It has been decided to transfer drug offenders, on a voluntary basis, to new centres, where programmes are designed to cure them of the habit and rehabilitate them. A task force has reportedly been set up to eliminate illegal detention centres ⁽¹⁵⁾. Bakhtiari also announced other plans to renovate the prison system. A prison inspection led by the President in 1997 resulted in the enforced resignation of the Director-General for Prisons at the time.

⁽¹⁵⁾ M. Copithorne's 1998 interim report, pp. 7 and 8.

3.1.3. Ill-treatment/torture

Gross human rights violations may take place, especially during the initial period of detention. Torture and ill-treatment are sometimes practised at the investigation stage in order to extract confessions. That stage may last for days, weeks or even months. Use of torture seems to have declined in scale, whereas methods such as psychological pressure are commonly employed. Conversations with former prisoners confirm the impression that the situation after conviction is markedly different. After their trial, prisoners are generally well treated.

One noteworthy point is that forms of torture have in recent times been openly discussed in Iranian society. A number of complaints of torture and physical and psychological violence have reportedly been made in connection with the behaviour of the security forces ⁽¹⁶⁾. In connection with the corruption case against Mayor Karbaschi, a number of senior officials (district mayors) were also arrested. They later claimed to have been ill-treated in detention and gave evidence to a number of members of parliament ⁽¹⁷⁾. This prompted 152 members of the Majlis to send a letter to the religious leader, Khamenei, calling for clarification. The IHRC appears to take the accusations of torture seriously.

Amputation and blinding

Corporal punishment is practised on a limited scale in the form of amputation of limbs. The UN special representative, M. Copithorne, heard of one case of a sentence of blinding ⁽¹⁸⁾.

3.1.4. Disappearances

There have recently been disturbing press reports of the possible "disappearance" of Pirooz Davani, an "Iranian left-wing activist" ⁽¹⁹⁾.

⁽¹⁶⁾ M. Copithorne's 1998 interim report, p. 9.

⁽¹⁷⁾ See the official report of 5 March 1998, p. 4. Faraj Sarkouhi (see official report of 5 March 1998, p. 15) also claimed in interviews to have been ill-treated in pre-trial detention.

⁽¹⁸⁾ M. Copithorne's 1998 interim report, p. 8. See also the official report of 5 March 1998, p. 15.

⁽¹⁹⁾ NRC Handelsblad, 30 November 1998. See also Amnesty International News Service MDE 13/23/98 of 3 December 1998.

3.1.5. Capital punishment

For 1997 the UN special representative, M. Copithorne, reported almost a doubling of the number of executions in comparison with 1996 ⁽²⁰⁾. In 1998 death sentences have also been handed down and carried out. Most death sentences relate to drug offences.

Stoning

This form of death penalty is rarely imposed in practice ⁽²¹⁾. In his January 1998 report, the UN special representative, M. Copithorne, referred to a number of stonings, some of which were carried out in large cities such as Tehran, Isfahan, Hamadan and Kermanshah ⁽²²⁾. The UN special representative's statement is not backed up by any further details, although he does cite the press as a source. The Netherlands embassy in Tehran is unaware of any such reports of stonings in large cities. Enquiries made at various embassies and other sources did not produce any further information.

Punishable offences

Adultery

Of particular note is the case of Morteza Firouzi, the former editor-in-chief of "Iran News" and a past advisor to the presidential candidate, Nateq Nouri, who is reported to have been sentenced to death for engaging in an extramarital sexual relationship

⁽²⁰⁾ M. Copithorne's report of 28 January 1998, p. 7. In its annual report for 1997, Amnesty International states that at least 143 people were executed in Iran, but the true figure is likely to be higher (p. 215).

⁽²¹⁾ The Nabard organisation was critical of the official report of 5 March 1998. The stoning cases referred to by Nabard, described in Kayhan on 25 October 1997, relate to "establishment of a centre of corruption and prostitution". According to the article, the people in question were not stoned but hanged. Those convicted included a commanding officer at the head office of the Manzadaran province drug squad. Amnesty International in Denmark does in fact report the six as having been stoned to death. (Nabard's criticism of the official report of 5 March 1998, p. 6, sixth paragraph). We have no knowledge of the stoning shown on a videocassette, as described in Kader Abdollah's column (Volkskrant, 18 May 1998). The description bears a strong resemblance to a film which has been in circulation in the western media for some time now relating to a stoning in 1990. On 22 November the Iranian press (Daily Hamshahri) reported the case of a man sentenced to be stoned to death for adultery who managed to break free from his half-buried position during the stoning. Under the rules applicable, he was then a free man and did not have to suffer the penalty. Ms Faezeh Hashemi believes there is no support in the Koran for stoning and that it should therefore cease to be practised (Weekly Press Digest, Vol. 11, No 49).

⁽²²⁾ M. Copithorne's report of 28 January 1998, p. 7.

Ministry of Foreign Affairs

and in spying. The Supreme Court has ruled that Firouzi should be retried. The Iranian press reported the public execution in Ahvaz on 17 June 1998 of four people convicted of numerous criminal offences such as adultery, armed banditry, alcohol and drug consumption and insulting Khomeini and Khamenei.

Relationships between non-Muslims and Muslims

One case in particular has been in the limelight in recent months, the sentencing to death of the German, Hofer ⁽²³⁾. The case is currently under appeal.

Drug offences

The Iranian authorities are making a great effort to deal with the drug problem, including trafficking from Afghanistan. The prisons mainly hold drug offenders (see also 3.1.2).

Most death sentences in Iran are, as stated earlier, imposed for drug offences. In his recent interim report, the UN special representative, M. Copithorne, states that claims that the authorities use drug offences as a pretext for prosecuting political prisoners are hard to prove or disprove in the Iranian context ⁽²⁴⁾.

Spying

Reports continue to be received of executions, albeit on a limited scale, as a result of convictions for spying ⁽²⁵⁾.

Corruption

In May 1998 four customs officers at Tehran international airport were sentenced to death by a public court for "economic sabotage".

Other offences

On 24 February 1998 the Iranian press reported the public execution in Kermanshah of four people who had raped and beheaded a girl.

⁽²³⁾ An account of that case has already been given in the official report of 5 March 1998, p. 13.

⁽²⁴⁾ M. Copithorne's interim report, p. 11. See also the official report of 5 June 1997, footnote 20.

⁽²⁵⁾ On 11 November 1998 the Iranian press (Jomhari Islami Newspaper) reported the arrest of an American spy and an MKO spy. No further news has been heard.

On 18 May 1998 two people were executed in Tehran for committing armed attacks and one person for rape

3.1.6 Freedom of movement

In confirmation of the official report of 5 March 1998, it can again be reported that no sentences of imprisonment are imposed in practice on the grounds of leaving the country illegally. Fines may, however, be imposed ⁽²⁶⁾.

3.1.7 Extrajudicial killings

Various actions have been carried out recently in Iran which are claimed by the MKO and which have resulted in fatalities. These involved bomb attacks in Tehran in June and the murder of the former Director of Evin prison in August. In November 1998 a former Minister for Labour, Darius Forouhar, who was a known critic of the regime, and his wife lost their lives. Forouhar led the "Iran National Party", a pan-Iranian party. The "Iran National Party" is a splinter group and, just like the "Freedom Movement", is banned, but tolerated. It is still unclear who was behind this attack. There are also recent reports that in November 1998 a journalist on a newspaper sympathising with the "Freedom Movement" lost his life in suspicious circumstances ⁽²⁷⁾.

3.1.8 Freedom of expression

There is visible progress in the area of freedom of expression, but developments need to be viewed with the necessary caution. The conservative establishment still has a dominant position and has no scruples about wielding its power against elements striving towards excessively fast progress.

Many intellectuals are nonetheless still hopeful about more scope for expressing their ideas openly.

⁽²⁶⁾ Criticism by the Nabard organisation, p. 6, sixth paragraph.

Applying for asylum in another country is not seen as a political act by the Iranian authorities and is not punishable as such (see official report of 5 June 1997, p. 21).

⁽²⁷⁾ See also Amnesty International News Service MDE, 13/23/98, 3 December 1998.

They point, in particular, to the large number of new publications. According to the Iranian authorities, there were 1 095 periodicals and 88 daily newspapers on the market in 1998 ⁽²⁸⁾.

Although there is certainly no question of total freedom of the press, there is scope in the media for public debate on political and social issues. Radio and television, on the other hand, are completely dominated by conservative forces within the regime. Appointment as head of the Iranian broadcasting corporation is a "political" nomination by the Spiritual Leader. The press is probing the limits of its new-found freedom. Occasionally it oversteps the limits of what the system considers tolerable. The judicial authorities then take action, sometimes by issuing warnings, and sometimes by imposing fines and banning publication and putting the journalists responsible and their publishers behind bars ⁽²⁹⁾.

Press courts

The new possibilities which the Khatami regime appears to be offering the Iranian press have, in addition to a large number of new publications, also led to an increase in the number of proceedings before the press court ⁽³⁰⁾. Thus, for example, charges were brought against "Akhbar", "Fakour", "Mobin", "Iran", "Jameah"/"Tous", "Asr-e-ma", "Sobh", "Gozaresh-e Ruz" and "Khaneh". This sometimes resulted in acquittals, and sometimes in convictions. The steps taken against "Tous" and other publications, although unacceptable in themselves, should not be viewed in isolation from greater freedom of the press. Abdullah Nouri recently began his own progressive newspaper, "Khordad". Journalists who lost their jobs as a result of the closure of "Tous" have joined the editorial staff.

⁽²⁸⁾ 1998 Copithorne interim report, p. 5.

⁽²⁹⁾ A striking example of attempts by the conservative establishment to muzzle the press is the closure of "Jameah" and its successor "Tous". "Jameah" had been published since February 1998 and attracted attention over a short period of time by means of a large number of articles which were much talked about, including articles by Ebrahim Yazdi, Faraj Sarkouhi and Amir Entezam. Entezam was a government official who was condemned to life imprisonment shortly after the revolution for spying for the United States. He was released recently. The Revolutionary Guard brought a complaint before the press court, following which a publication ban was imposed on "Jameah" on 7 June 1998 and confirmed on appeal. The day after the appeal ruling, the successor to "Jameah", the former weekly "Tous", appeared. By taking over an existing publication, the procedure necessary for obtaining a licence had been circumvented. "Tous" was subsequently banned in September. Four collaborators on "Tous" were arrested and released some time later on bail.

⁽³⁰⁾ Press courts have jurisdiction in this area, unless the revolutionary court takes over the proceedings on grounds of State security, as it did for the closure of "Tous".

3.1.9 Freedom of peaceful association and assembly

The "permissible range" for the political activities of opposition movements, as described in the official report of 5 March 1998, still applies. The move towards an increasing number of political tendencies within the limits tolerated by current Iranian society is in full flow. The activities of the illegal *Mujaheddin-e Khalq Organisation* (MKO) are punished severely.

(Semi-) legal political movements

The pressure not only from within society, but also from within the establishment of the ruling clergy to allow political parties is increasing steadily. To set up political parties, authorisation from the Ministry of the Interior is required, and a parliamentary "Commission on Political Parties and Associations" has been set up for the purpose. The secretary of that parliamentary commission has announced that licences have been granted to various organisations to set up political parties. About twenty or so political parties have in the meanwhile been set up ⁽³¹⁾. Thus, a licence was granted to the "Servants of Construction" in May 1998. This is a party whose activities in an informal context actually date back to the parliamentary elections held in March 1996. The founders of this party include Karbaschi, the Mayor of Tehran who has been placed on non-active status, and Minister Mohajerani. Its leading members include Abdullah Nouri and Faezeh Hashemi. The latter is a member of parliament, publisher of the women's journal "Zan" and the daughter of former President Rafsanjani. Karbaschi has been appointed secretary-general of the new party. In October the Minister for Labour, together with a few members of parliament, set up an "Islamic Workers' Party". At the beginning of December 1998 it was announced that the "Islamic Partnership Front" had been set up by two brothers of President Khatami, among others.

All new groupings need to operate within the framework of the Iranian system. They are to some extent in favour of reforms, but do not want to destroy the system as such. There is as yet no question in Iran of an organised opposition to the political system itself.

It would seem that Ebrahim Yazdi's opposition "Freedom Movement" which is tolerated, although officially banned, has also submitted an application to set up a political party. The "Freedom Movement" has been repeatedly coming to the

⁽³¹⁾ For profiles of a number of new political groupings in Iran, see: Background Paper on Refugees and Asylum Seekers from Iran, UNHCR, Centre for Documentation and Research, Geneva, September 1998.

foreground and appears to have more opportunities under the Khatami government to put forward its viewpoints in the Iranian media ⁽³²⁾.

Illegal political movements

It can once again be confirmed that the (secular) opposition has practically been silenced as a consequence of the severe repression in the early years of the Islamic revolution. Activities of opposition groups such as "Tudeh", "Iran Paad", "Komala", "Fedayeen", "Darafash Kaviani", etc. have not been observed in Iran ⁽³³⁾.

MKO

Activity on the part of the Mujaheddin-e Khalq Organisation (MKO) has also been observed in recent months. The organisation claimed responsibility for two attacks on 2 June 1998. In an attack on the offices of the revolutionary court, three people certainly lost their lives. An attack was apparently also carried out on the head office of *Sepah Pasdaran* (Islamic Revolutionary Guard), although, as far as is known, there were no victims. After these attacks, the Iranian authorities carried out controls throughout the country. According to unconfirmed reports, about two thousand people were apprehended in these controls, the majority of whom were released after a short while once it was established that they had not been involved in the attacks. In August, the MKO claimed responsibility for an attack on Assadollah Lajevardi, the former-Director of Evin prison. Iran sporadically launches attacks on MKO bases in Central Iraq ⁽³⁴⁾.

Kurdish Democratic Party of Iran (KDPI)

Action against members of the opposition abroad in recent months appear to have been directed mainly at KDPI bases in Northern Iraq. A number of KDPI fighters lost their lives in various actions carried out by Iranian infiltrators in Northern Iraq ⁽³⁵⁾.

⁽³²⁾ Two prominent members of the "Freedom Movement" were also arrested recently, although further details are still unavailable. See also Amnesty International MDE 13/23/98 of 3 December 1998.

⁽³³⁾ The fact that no further activities by a particular group have been observed does not, however, mean that the legislation provides for no penalties should such activities take place. The old Ta'azirat of November 1983 (applicable until June 1996) listed possible situations were punishable under Articles 1 to 13, and in the revised version of June 1996, Articles 498 to 512 apply.

⁽³⁴⁾ See, inter alia, 1998 Copithorne interim report, p. 11.

⁽³⁵⁾ For the KDPI, see also the official report of 31 March 1998 on Northern Iraq, p. 12.

3.2 Position of specific groups

3.2.1 Homosexuals

Cases of persecution or condemnation on grounds of homosexuality have not been observed in recent months ⁽³⁶⁾. It has been known to happen on occasions, as also mentioned in the official report of 5 March 1998, that homosexuality is included in a broad range of punishable offences.

Affording opportunity

Some research has gone into the question of whether a person can experience problems if he/she has afforded the opportunity for homosexual and/or adulterous contact. It is important, in answering this question, to know that the Ta'azirat, the criminal code which applies in this instance, was drastically amended in June 1996. A distinction therefore needs to be made between the old and new versions of the Ta'azirat in answering the question.

According to Article 103 of the Ta'azirat of November 1983 (valid until June 1996), this offence is punishable by a sentence of imprisonment ranging from one to ten years as well as a maximum of 74 lashes. In addition if the activities are perceived as corruption of public morality, possible punishment is on grounds of an "Act against God and corruption on earth", which may lead to the death penalty. According to Article 639 of the revised version of the Ta'azirat which has been applicable since June 1996, the penalty imposed is a sentence of imprisonment ranging from one to ten years, with the possible additional penalty of the closure and possible expropriation of the premises where the forbidden activities took place. The threat of lashes and the death penalty are thus omitted from the latter version. In practice, no information is available to us about persons who have been sentenced for affording the opportunity for homosexual and/or adulterous contact.

⁽³⁶⁾ The Nabard organisation points out in its reaction to the official report of 5 March 1998, pp. 10-11, that an accusation of homosexuality cannot be withdrawn. We do not subscribe to this view. An accusation of homosexuality can be withdrawn if a witness withdraws his/her testimony. Nabard also rightly points out that the penalty for lesbianism is 100 lashes, and not 110 lashes.

3.2.2. Women

The position of women in Iran has improved in recent years. Women are gradually achieving greater prominence in public life ⁽³⁷⁾. This does not alter the fact that in many areas women find themselves in a position of inferiority ⁽³⁸⁾. Despite the wishes of President Khatami, Iran has not acceded to the Convention on the Elimination of All Forms of Discrimination against Women. On 30 June 1998 Mullah Mohsen Saidzadeh was arrested by order of a special court for the clergy. He is known as the author of articles championing women's rights. In one article, Saidzadeh called for reinterpretation of Islamic legislation. His arrest caused quite a stir in the Iranian press. The IHRC is also taking an interest in his case.

Dress code

The passage in the official report of 5 March 1998 regarding breaches of dress and behaviour codes has lost none of its relevance. Observance of the dress code is strictly enforced ⁽³⁹⁾. Particularly in the capital, Tehran, the dress code is frequently pushed to the limit. In response, large-scale checks are carried out from time to time, to see whether women are properly wearing the *hejab*. The impression to

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- Women's role in the legal system has expanded. Increasing numbers of women are entering the judiciary. Ms Pourangnia has been appointed assistant public prosecutor at the Iranian Supreme Court. Eighteen women all took office as magistrates (or assistant magistrates) on the same day ("Zan", 10 September 1998). Some occupational categories have also been opened up to women, e.g. recently the post of police officer.
 - There are currently fourteen women members of parliament. Fatemeh Hashemi, of the Ministry of Foreign Affairs, has stated that the first female Iranian ambassador will be appointed as soon as the post of Permanent Representative at the United Nations in New York falls vacant.
 - Of the new intake of students, 52% are women.
 - "Zan", the first daily newspaper for women, has been appearing since August 1998.
 - Legislation expanding sporting opportunities for women has been adopted. The ban on women's football was lifted in April 1998 and women are now allowed to cycle in public.

⁽³⁸⁾ To give a few examples:

- Women do not enjoy equal rights as regards the law of inheritance.
- A man may divorce at will, but a woman has to fulfil twelve conditions.
- A man has a decisive say over medical treatment of a woman. If the man is opposed to treatment, the woman goes untreated.

⁽³⁹⁾ Some institutions make the wearing of a *chador* (a full-length black gown) compulsory. The President's adviser for women's affairs recently came out against compulsory wearing of the *chador*.

emerge is nevertheless that latitude for women in this respect has increased over the past year.

Proposed discriminatory legislation

Two bills discriminating against women were recently passed by the Iranian parliament. In August 1998 the Majlis passed a law imposing greater restrictions on the use of photographs of women in newspapers and periodicals. That bill does not yet have force of law, but most publications already seem to be operating self-censorship in this respect. The second bill concerns compulsory segregated medical treatment. After having been passed by the Majlis, that bill was rejected by the Council of Guardians on the grounds that it would entail higher costs.

Divorced women

A few reports have recently been received regarding the situation of divorced women in rural areas. The reports show that it is not uncommon for such women, after their divorce, to find themselves socially isolated and also to have considerable difficulty in making ends meet financially. A similar situation often arises for lower-class women living in large towns and cities.

Custody

The amended rules on custody, giving women a greater chance of being awarded custody of their children following a divorce, are now being applied in practice ⁽⁴⁰⁾.

3.2.3. Career members of the armed forces and police officers

Career members of the armed forces and police officers are automatically pensioned off after thirty years' service, regardless of age. It is thus not a question of them being discharged after thirty years, but rather of retirement on a pension.

If anyone has demonstrable reasons to apply for a discharge earlier, the case has to be referred to a board with an explanation of the grounds. Where a doctor issues a medical certificate, this may be sufficient for an application for a discharge to be granted. If the application is not granted, the person has to serve out his full time. A rejected application for a discharge does not have any adverse effects for the person concerned.

⁽⁴⁰⁾ See the official report of 5 March 1998, p. 22.

Ministry of Foreign Affairs

If conscientious objections result in medical complaints, as confirmed in writing by a doctor, an application for a discharge may be submitted and a board then decides whether or not to accept it. Mere raising of conscientious objections by the person concerned is not sufficient for the case to be referred to the board.

3.3. Compulsory military service and desertion

The Iranian authorities are reported recently to have enacted new provisions on buying exemption from military service and for dealing with desertion cases. The provisions appear in practice to form an extension of existing practice, under which it was already possible to buy out the time (still) to be served. In desertion cases a prison sentence may be imposed, and can then be bought off.

An Iranian having taken out Netherlands nationality who latterly returned to Iran on a visit had deserted from the air force while serving as a pilot during the Iran-Iraq war. He was arrested by the Iranian authorities and released after a month, upon payment of a fine. He also had to repay the cost of his pilot training.

The chief of staff of the Iranian army has announced in the Iranian press that the length of compulsory military service is over the next four years to be reduced by three months to 21 months ⁽⁴¹⁾.

3.4. Conclusions for (Section 3)

The human rights situation in Iran is in a state of flux. Iran has made progress in some respects, but little or none in others. On the one hand there are a number of points of concern regarding human rights observance in Iran, while on the other the Khatami government is making cautious attempts to bring about improvements in this area.

There has been no change as regards the categories at risk referred to in the official report of 5 March 1998. In particular, those groups or individuals regarded in Iran as (potentially) posing a threat to a society founded upon Islamic values and standards remain at risk of being victims of human rights violations. The main such are intellectuals (such as journalists, publishers and writers), Baha'is, members of banned

⁽⁴¹⁾ Weekly Press Digest, Vol. 11, No 42, 10-16 October 1998.

political groups active in Iran and Christians engaged in proselytising or people who have converted to Christianity.

4. Repatriation

As stated in the official report of 5 March 1998, thousands of Iranians living abroad return to Iran for varying lengths of time each year. In the vast majority of cases such voluntary return does not give rise to any problem ⁽⁴²⁾.

In recent times a few Iranians with resident status in the Netherlands or a Netherlands passport have reported to the Netherlands embassy. They had returned to Iran of their own accord. Upon their return, they were discovered by the authorities to have not yet completed their compulsory military service or to have deserted. They are all going through a procedure to buy out the time (still) to be served. In one case, a person's political background was investigated. That person was not convicted and has since left Iran.

4.1. Other countries' policy

Countries in a similar situation to the Netherlands are continuing to expel Iranian asylum seekers who have exhausted all remedies ⁽⁴³⁾. The Netherlands' current policy of not expelling any Iranians who have exhausted all remedies is thus not being followed by others. Other western countries' experience shows that the Iranian authorities take hardly any interest in asylum seekers who have exhausted all remedies. They seem to realise that western countries only repatriate those whose asylum applications have been found, in a thorough procedure, not to have been submitted on political grounds.

In general, Iranian embassies are cooperative in issuing a laissez-passer ⁽⁴⁴⁾. Various other countries' practice has shown that Iranians who have exhausted all remedies

⁽⁴²⁾ On this point, however, see the reply of 18 December 1998 to written parliamentary questions. See also the official report of 5 March 1998, pp. 14 and 26-27. President Khatami recently repeated that Iranians living abroad can return to Iran, even if no longer in possession of a valid identity card. He said this also applied to Iranians who had in the past fled the Islamic revolution.

⁽⁴³⁾ See also the official report of 5 March 1998, p. 27.

⁽⁴⁴⁾ The Netherlands will be consulting the Iranian authorities on a wide range of consular and migration matters, including issue of a laissez-passer. See the letter of 2 November 1998 from the Minister for Foreign Affairs to the Chairman of the Standing Foreign Affairs Committee of the Lower House of the Netherlands Parliament, p. 4 (DAM/GO-402/98). See also reports of parliamentary proceedings for the 1997/98 session, 19637, No 330, p. 14.

5. Summary

The conflict between conservatives and reformers in Iran has increasingly come to the fore in recent months.

The human rights situation in Iran is in a state of flux. On the one hand there remain a number of points of concern regarding human rights observance in Iran, while on the other the Khatami government is making cautious efforts to bring about progress in this area.

There has been no significant change with regard to the categories of people referred to in the official report of 5 March 1998 as facing persecution or inhuman treatment. Countries in a similar situation to the Netherlands take it that asylum seekers rejected following a careful procedure can be repatriated to Iran without running any particular risk. The same view is taken by the UNHCR.

For the Minister for Foreign Affairs

The Director for Movements of Persons, Migration and Consular Affairs

P.P. van Wulfften Palthe

can return even without Iranian papers. Where Iran cannot be shown ever to have been left legally, a small fine is payable.

4.2. UNHCR policy

The UNHCR told the State Secretary for Justice in a letter of 24 February 1998 that: "The office has no grounds to object to the return to the Islamic Republic of Iran of Iranian nationals who, after due consideration of their applications in full and fair asylum procedures, have been found neither to qualify for refugee status nor to be in need of international protection".

4.3. Conclusions (Section 4)

Every year thousands of Iranians return to Iran for varying lengths of time. In the vast majority of cases such voluntary return does not give rise to any problems. Countries in a similar situation to the Netherlands are continuing to expel Iranian asylum seekers who have exhausted all remedies. The Netherlands' current policy of not expelling any Iranians is thus not being followed by others. The UNHCR takes the view that repatriation of Iranians who have exhausted all remedies is possible, provided a careful asylum procedure has been carried out.