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Stakeholder Submission to the UN Human Rights Council's Universal Periodic Review of the Islamic Republic of Iran

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Iran Human Rights Documentation Center (IHRDC) is a non-profit organization dedicated to documenting human rights abuses in Iran. Founded in 2005 by Iranian lawyers and scholars, IHRDC has published dozens of in-depth reports on various human rights violations in Iran. Having obtained ECOSOC consultative status with the UN Social and Economic Council in 2018, IHRDC advocates for human rights in Iran at the Human Rights Council and engages with UN mechanisms for this purpose.

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Introduction

1. The Iran Human Rights Documentation Center (IHRDC) welcomes the opportunity to submit written information to the 4th cycle Universal Periodic Review (UPR) of the Islamic Republic of Iran (Islamic Republic or IRI) at the 48th session of the UPR Working Group. This report relies on legal analysis of relevant laws and regulations regarding financial debts and insolvency in Iran, open-source investigations, and interviews conducted by IHRDC with individuals affected by the implementation of these laws by the Islamic Republic.
2. This report will focus on the following:
 - a. Imprisonment due to insolvency and bankruptcy.
 - b. Imprisonment due to unpaid penalties and financial commitment.
 - c. Absence of fair judicial process for debtors.
 - d. Mass incarceration of debtors.
 - e. Unintended consequences of incarceration of debtors.
 - f. Recommendations.

Relevant 3rd cycle UPR Recommendations Not Yet Implemented Include the Following:

3. Recommendations supported by Iran:
 - 26.89 Consolidate the progress made towards reaching the Sustainable Development Goals and improving the human development indicators (India).¹
 - 26.1 Uphold its international commitments under the human rights treaties that it is a party to (Ukraine).²
4. Recommendations partially supported by Iran:
 - 26.13 Accede to the Optional Protocol to the International Covenant on Civil and Political Rights (Czechia).³
 - 26.173 Promptly allow an impartial trial process that weighs evidence and ensures defendants, and lawyers of their choosing, can have timely access to the charges and evidence (United Kingdom of Great Britain and Northern Ireland).⁴
 - 26.176 Put in place measures aimed at respecting legal safeguards, for instance, through the publication of the sentences handed down and the possibility of appealing them, as well as complying with international standards in cases in which persons are

¹ United Nations Human Rights Council, Thematic List of Recommendations: UPR of Iran (Islamic Republic Of) (3rd Cycle - 34 Session), U.N. Doc. MatriceRecommendationsIran (2019), available at <https://www.ohchr.org/en/hr-bodies/upr/ir-index>.

² *Id.*

³ *Id.*

⁴ *Id.*

temporarily detained (Spain).⁵

Normative and Institutional Framework of the State

5. Iran has ratified several international conventions related to the protection of human rights and fundamental freedoms, including the International Covenant on Civil and Political Rights (ICCPR).⁶ Under Article 11 of the ICCPR, “[n]o one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.”⁷ This provision explicitly prohibits the incarceration of individuals solely for failing to pay debts.
6. Additionally, the Islamic Republic is obligated to uphold the right to be free from inhumane or degrading treatment, (Article 7), the right to legal aid (Article 14), and the right to privacy (Article 17) for individuals facing bankruptcy and insolvency.⁸ Moreover, the Islamic Republic must implement measures that enable individuals to rehabilitate and reintegrate into the economic system after experiencing bankruptcy and insolvency (Article 10).⁹
7. Despite this, various groups of individuals in Iran may face incarceration due to their inability to meet financial obligations, including contractual debts, financial commitments, and unpaid fines and penalties. Among these groups, those who owe financial debts or have issued non-fraudulent bounced checks constitute the largest proportion of such prisoners.¹⁰
8. Recourse options for those imprisoned due to debt are largely limited to relying on government entities such as the *Diya* Task Force, which was established in

⁵ *Id.*

⁶ The Pahlavi government (predecessor of the Islamic Republic of Iran) ratified the International Convention on Civil and Political Rights on 24 June 1975.

⁷ 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. No. 95-20; 6 I.L.M. 368 (1967).

⁸ *Id.*

⁹ *Id.*

¹⁰ Hananeh Shafiei, *Ra'īs Hi'ti Omanāyī Sitād Dīyi Kishvar: Rahāyī 2415 Zindānī/Bidihkārān Mālī Va Chik Bishtarīn Āmār Zindāniyān Jarāyim Ghiyi 'amd [Chairman of the Board of Trustees of the Country's Diya HQ: The Release of 2,415 Prisoners/Financial Debtors and [Those with Bounced] Check Have the Highest Number of Unintentional Offender]*, IRNA (Jul. 27, 2022), <https://www.irna.ir/news/84834819>.

1990, and the Peace and Reconciliation Committees in different provinces.¹¹ These government-backed charitable organizations are the not designed to end the practice; instead, they have normalized debtors' imprisonment. Members of the same judiciary that enforce the practice have later served in leadership roles within these charities, and in some cases, their offenses extend well beyond the imprisonment of debtors.¹² Furthermore, legal avenues for accessing relief options or preventing debtor imprisonment are scarce under existing laws and regulations, disproportionately affecting the impoverished.

9. Although thousands of individuals in Iran are imprisoned solely due to their inability to pay their debts, the international human rights community has made minimal efforts to pressure the Islamic Republic to abolish this practice. This lack of significant international advocacy enables the Islamic Republic to continue violating its international human rights obligations, adversely affecting the lives and livelihoods of thousands of Iranian citizens.

Imprisonment Due to Insolvency and Bankruptcy

10. In Iran's judicial system, bankruptcy pertains to business owners unable to settle their debts and financial obligations.¹³ Accordingly, a bankrupt individual also known as *varshekasteh*, refers to a business owner unable to meet their financial obligations and debts.¹⁴ Conversely, an individual who incurs a non-business-related debt or financial

¹¹ *Āshnāyī Bā Sitād Dīyih Va Kumak Bi Zindāniyan Kul Kishvar [Introduction to the Diya Task Force and Assistance to Prisoners Nationwide]*, HAMSHAHRIONLINE (Dec. 28, 2014), <https://www.hamshahrionline.ir/news/282289>; See also Bakhshnāmih Dar Khuṣūṣ Ahamīyati Ṣulḥ Va Sāzish Va Naghshi Ān dar Eḥqāq Haq Va Pishgīrī Az Eṭālīh Dādrasī [Directive Regarding the Importance of Peace and Reconciliation and Its Role in Upholding Justice and Preventing Delays in Legal Proceedings], Tehran (1398) [2019], available at <https://rrk.ir/Laws/ShowLaw.aspx?Code=18200> (discussing the importance of Peace and Reconciliation Committees in a directive issues by the head of the judiciary); See also *Fa'āl Kardani Kumitih Ṣulḥ Va Sāzish Bā Ulavīyati Parvandih Hāay Hūghūghī Zarurat Dārad [It is Essential to Activate the Peace and Reconciliation Committee with a Priority on Civil cases]*, IRNA (Apr. 8, 2021), available at <https://www.irna.ir/news/84299214> (discussing that the Basij Organization of Jurists of the IRGC's Tharallah Corps of Kerman Province plays a significant role in these committees, which assist in the release of debtors from prison).

¹² *Juz'iyāt Tahrim Jadid; Asāmi 9 Fard Va 16 Nahād Ki Barāy Entighāl Pūl Bi Sipāh Komak Mikardand [Details of the New Sanction; The Names of 9 Individuals and 16 Organizations that Helped to Transfer Money to IRGC]*, VOA PERSIAN (Mar. 26, 2019), <https://ir.voanews.com/a/iran-sanction/4848642.html>; See also *Khudāhāfizī Jūlāyī Bā Sitādi Dīyih Kishvar [Jualei Farewell with the Diya Task Force]*, IMNA (Jan. 18, 2021), available at <https://www.imna.ir/news/469266> (discussing that Ali Shams Mulavi, a former judiciary official and current head of the Diya Task Force has been placed in the sanctions list by EU because of his role in money laundering for the Islamic Revolutionary Guard Corps (IRGC). He is also accused of human rights violations during his time at the judiciary).

¹³ *Qanuni Tijarat [Commercial Code]*, Tehran (1311) [1932], art. 412, available at [قانون-تجارت.pdf](https://ekhtebar.ir/قانون-تجارت.pdf) (ekhtebar.ir); See also *Qanuni Edarih Tasfiyih Omour Varshekastegi [Bankruptcy Administration Law]*, Tehran (1318) [1939], available at [قانون اداره تصفيه امور ورشکستگي](https://ekhtebar.ir/قانون اداره تصفيه امور ورشکستگي.pdf) (ekhtebar.ir).

¹⁴ Commercial Code, art. 128 and 412.

obligation they cannot fulfill is termed “insolvent,” also referred to as *mo ‘ser*.¹⁵

11. While the differentiation between bankruptcy and insolvency in Iran’s legal system mirrors commercial and consumer bankruptcy in other countries, it lacks the protective measures and safeguards, such as the discharge of debts option, that other jurisdictions provide for individuals experiencing non-fraudulent bankruptcy or insolvency.
12. In Iran, bankruptcy at fault (non-fraudulent) is punishable by six months to three years’ imprisonment.¹⁶ An individual can be found bankrupt at fault if: “(1) [h]is personal or family expenses in normal times have been excessive compared to his income. (2) It is proven that, in proportion to his capital, the bankrupt person has used large sums in transactions considered fictitious by commercial practice or in speculative ventures. (3) With the aim of delaying his financial failure, the bankrupt person has engaged in purchasing above or selling below current market prices, or has resorted to detrimental practices to obtain funds through borrowing, issuing bills of exchange, or other means. (4) After ceasing payment, the bankrupt person has shown undue favoritism towards one creditor.”¹⁷ If there is no criminal intent, individuals should not be imprisoned for conducting these actions in the course of their business.
13. The Law on Enforcement of Financial Judgments addresses personal insolvency and applies the same principle, penalizing individuals who become insolvent due to fault.¹⁸ Even in cases of no-fault insolvency, an insolvent individual may face imprisonment if they fail to pay court-ordered debts. The court may seize assets such as cars or houses equivalent to the debt. If specific assets cannot be seized or if the debt is not tied to a particular asset, other property will be seized according to relevant laws to settle the debts.¹⁹ If the debt remains unpaid through these means, the insolvent may be imprisoned at the creditor’s request until the court order is carried out, the debtor’s claim for recovery is approved, or the creditor’s demands are satisfied.²⁰
14. If an at-fault bankrupt individual, as specified in Article 541 of the Iranian Commercial Code, lacks criminal intent, they should not be imprisoned for actions undertaken in the course of their business. Similarly, an at-fault insolvent individual should not be imprisoned under Article 17 of the Law on Enforcement

¹⁵ Qanuni Nahviah Ejraie Mahkumiyat Hayi Mali [Law on Enforcement of Financial Judgments], Tehran (1394) [2015], art. 6, available at [قانون-نحوه-اجرای-محکومیت-مالی.pdf \(ekhtebare.ir\)](https://www.ekhtebare.ir/qaanun-nahviah-ejraie-mahkumiyat-hayi-mali) (The Law on Enforcement of Financial Judgments (2015) substituted and nullified Qanuni E’sar [Insolvency Law], Tehran (1313) [1934], available at <https://www.dastour.ir/Brows/?lid=20012> and also substituted and nullified Qanuni Nahviah Ejraie Mahkumiyat Hayi Mali [Law on Enforcement of Financial Judgments], Tehran (1377) [1998], پایگاه خبری اختیاری - ۱۳۷۷ قانون نحوه اجرای محکومیت‌های مالی مصوب (ekhtebare.ir)).

¹⁶ Commercial Code, art. 543.

¹⁷ *Id.* art. 541.

¹⁸ Law on Enforcement of Financial Judgments, art. 17.

¹⁹ *Id.* art. 1 and 2.

²⁰ *Id.* art. 3.

of Financial Judgments. The judicial system of the Islamic Republic detains bankrupt or insolvent individuals to enforce payment rather than to punish them, thereby imposing penalties for actions devoid of criminal intent. These debtors are neither charged with nor convicted of a crime. Instead, they are held in detention until they can settle their debts or obtain forgiveness from their creditors. This process can be significantly prolonged due to the necessity for charitable contributions or debt forgiveness, often resulting in indefinite imprisonment.

Imprisonment Due to Unpaid Penalties and Financial Commitment

15. In addition to individuals who have incurred debts in commercial transactions or face insolvency, those who fail to settle their penalties or fines may also be subject to incarceration. Most of this group have committed unintentional offenses, such as causing unintended bodily harm or involuntary homicide resulting from car or workshop accidents. Article 145 of the Islamic Penal Code (IPC) provides that, “[i]n cases of unintentional offenses against the body and life, including quasi-intentional offenses or absolute negligence, the provisions of Books *Qisas* and *Diyat* shall be applied.”²¹
16. Accordingly, if the aggrieved parties, including victims or their families, request *diya* [blood money], the offender must pay it as per the calculations outlined in relevant laws and regulations.²² In the Islamic Republic’s retributive judicial system, aggrieved parties wield significant authority to grant forgiveness, which can be extended at any point before or during legal proceedings, or they may demand full payment of *diya*. Although the offender can claim insolvency after being sentenced to pay *diya*, this offers no protection.²³ If the offender fails to pay *diya* promptly, the aggrieved parties can request imprisonment until the *diya* is settled.²⁴
17. Moreover, forgiveness from the legal obligation of *diya* has led to the development of intricate mechanisms that encourage financial settlements between parties, particularly in major disputes such as homicide cases. However, access to legal support in these situations is dependent on the financial ability to hire attorneys to negotiate on one’s behalf. For those unable to afford such support, even in cases involving bodily harm from traffic accidents, imposing a hefty fine or penalty can result in imprisonment.
18. Another demographic at risk of imprisonment includes husbands who fail to fulfil their obligations to pay alimony and *mehrieh* to their wives. *Mehrieh* is a pre-determined sum

²¹ Islamic Penal Code, art. 145.

²² *Id.* art. 448-456, and art. 549.

²³ Qanuni Ayin Dadresi Keyfari [Criminal Procedure Code], Tehran (1392) [2013], art. 534 (note), available at ekhtebare.ir. قانون آیین دادرسی کیفری - مصوب ۱۳۹۲

²⁴ Ayin Name Nahviah Ejraei Ahkam Hudud, Salbi Hayat, Qat’ Ozv, Qisas Nafs, Ozv va Jarh, Diyat, Shalaq, Tab’id [Regulatory Code on Implementing Sentences of Hudud, Capital Punishment, Amputation, Retribution, Body Injuries, Diyat, Flogging, and Exile], Tehran (1398) [2019], art. 97-119, available at adlajou.com. نحوه اجرای محکومیت به دیه | مجموعه قوانین

of money or other property owed to a wife by a husband upon her request. Upon marriage, a woman becomes the owner of her *mehrieh* and has full control over it.²⁵ In cases where the *mehrieh* is a specific amount or a debt owed by the husband, the woman becomes the creditor upon marriage and can demand payment from her husband, unless a specific timeframe for payment is stipulated in the marriage contract. The payment of the entire *mehrieh* or part of it can be agreed upon for a specific period or in instalments.²⁶ If the husband cannot meet this obligation, he may be imprisoned until he pays it.²⁷ Additionally, if a husband, despite having the financial means, fails to provide alimony to his eligible wife, he may also face imprisonment.²⁸

Absence of Fair Judicial Process for Debtors

19. The courts overseeing bankruptcy and insolvency cases do not evaluate evidence in the same manner as in other matters, leading to discrepancies in court rulings and unequal treatment of individuals. According to Article 170 of the IPC, a bankrupt individual's confession is valid in criminal matters, but it is not valid concerning financial liability arising from bankruptcy.²⁹
20. Additionally, there is no consistent judicial approach to calculating individuals' debts and late payment penalties. Although Article 522 of the Civil Procedure Code provides a unified metric for calculating damages in cases of currency depreciation during insolvency procedures, different courts have issued varying rulings in similar cases.³⁰ Judges also often do not consider the country's challenging economic conditions when determining installment debt repayments. Furthermore, in some instances, late payment penalties exceed the principal debt, and there is no standardized method to prevent the arbitrary escalation of these penalties or to systematically calculate debt repayments.³¹

Mass Incarceration of Debtors

21. Between 1990 and 2022, 150,000 individuals imprisoned for debt or other financial obligations were released with the aid of charitable support and public donations,

²⁵ Qanuni Madani [Civil Code], Tehran (1314) [1935], art. 1082, available at [قانون-مدنی.pdf \(ekhtebare.ir\)](https://ekhtebare.ir/qanun-madani.pdf)

²⁶ *Id.* art. 1083.

²⁷ Law on Enforcement of Financial Judgments, art. 18.

²⁸ Qanuni Khanivadeh [Family Law], Tehran (1391) [2012], art. 53, available at [article_158231_c9e1bb61d53a1979949b05564b26629f.pdf \(ghazavat.org\)](https://ghazavat.org/article_158231_c9e1bb61d53a1979949b05564b26629f.pdf). See also Islamic Penal Code, art. 19.

²⁹ Islamic Penal Code, art. 170.

³⁰ Qanuni Ayin Dadresi Dadgah Hay 'umumi va Enghilab (Dar Umor Madani) [The Code of Civil Procedure of Public and Revolutionary Courts (in Civil Matters)], Tehran (1379) [2000], art. 522, available at [قانون-آیین-دادرسی-دادگاههای-عمومی-و-انقلاب-در-امور-مدنی.pdf \(ekhtebare.ir\)](https://ekhtebare.ir/qanun-ayin-dadresi-dadgah-hay-umumi-va-enghilab.pdf). See also *Ārāyi Vahdati Ravīyih [Unified Judicial Decisions]*, DAVOUDABADI, available at <https://davoudabadi.ir/page/0571926/relations/10> [last visited Jul. 10, 2024].

³¹ *Vakīl Dadgustarī: Sīstīm Ghazāiyy Barāiyy Bidihkārān Mālī Az "Ravishi Hāyyi Jāyguzīn Habs" Estifādih Kunad [Lawyer: The Judicial System Should Use "Alternative Methods of Imprisonment" for Financial Debtors]*, ISNA (Jul. 1, 2024), <https://www.isna.ir/news/1403041006642>.

highlighting the substantial number of persons passing through the Islamic Republic's prison system for this reason.³² In 2018, more than 10,000 individuals were incarcerated for failure to pay fines or contractual obligations.³³ According to official records, 8,333 people were imprisoned for debt non-payment in 2022.³⁴ By 2023, this figure had risen to 9,951, marking a 14.5% increase.³⁵ These statistics exclude individuals imprisoned for failing to pay *mehrieh* and alimony. In 2022, 2,093 individuals were in prison for not meeting financial obligations to their spouses, increasing to 2,427 in 2023, a 15% rise.³⁶

Unintended Consequences of Incarceration of Debtors

22. In March 2019, state-sponsored news agencies reported the release of an individual who had been imprisoned for 20 years due to bankruptcy. Identified only by his first name, he was an entrepreneur whose business failed following currency exchange rate fluctuations. Despite the fact that his properties, including his business, were seized and used to pay his creditors, he was unable to fulfil all his financial obligations and remained in prison. During his incarceration, his wife divorced him, and he had no one else to advocate for his case. He was eventually released after charitable contributions satisfied his remaining debts.³⁷ In another similar instance, a prisoner at Great Tehran Penitentiary spent nearly two decades behind bars due to his inability to pay his financial debt. During his imprisonment, he lost all his relatives and had no visitors for ten years. In 2023, he was finally released by the order of the head of the Ministry of Justice in Tehran Province.³⁸
23. On October 9, 2022, amid the Woman, Life, Freedom protests, a deadly clash broke out between security forces and prisoners in Lakan Prison of Rasht, Gilan Province, resulting in the deaths of several inmates and injuries to dozens more.³⁹ The cause of the clashes and the exact number of casualties remain unknown to this day. Among the casualties were at least three individuals imprisoned for their inability to pay financial debts. Mohammad (Saeed) Anoushenia, 31, was in prison for a small amount of debt.⁴⁰

³² Shafiei, *supra* note 10.

³³ 10 Hizār Maḥkūm Mālī Zindānī Hastand [There are 10,000 Financial Debtors Imprisoned], HAMSHAHRIONLINE (Jul. 0, 2018), <https://www.hamshahrionline.ir/news/410165>.

³⁴ Shafiei, *supra* note 10.

³⁵ Julāiyy: 12 Hizār o 650 Zindānī Jarāyīm Ghīyri 'amd Dar Kishvar Dārīm [Joulai: We Have 12,650 Prisoners of Unintentional Offenses in the Country], ISNA (Aug. 21, 2023), <https://www.isna.ir/news/1402053019064>.

³⁶ *Id.* See also Shafiei, *supra* note 10.

³⁷ Qadīmī Tarīn Zindānī Bidīhkār Ustān Tīhrān Āzād Shud [The Longest Serving Debtor Prisoner in Tehran Province Was Released], ISNA (Mar. 20, 2019), <https://www.isna.ir/news/97122915238>.

³⁸ Āzādī Zindānī Bī Mulāghātī Pas Az 20 Sāl Habs [Release of a Prisoner Without Visitors After 20 Years of Imprisonment], TABNAK (Dec. 6, 2023), <https://www.tabnak.ir/fa/news/1208617>.

³⁹ Shūrish Khūnīn Zindāniyān; Dar Zindān Lākān Rasht Chī Guzasht? [Bloody Riot of Prisoners: What Happened in Lakan Prison in Rasht?], BBC PERSIAN (Oct. 10, 2022), <https://www.bbc.com/persian/iran-63190737>.

⁴⁰ Kamyar.zahmatkesh (@Kamyar2966), X (Apr. 19, 2023, 9:25 AM), <https://x.com/1500tasvir/status/1673687397500964865>. See also @masih.alinejad, فراموش‌تان نمی‌کنیم (۹۱) [We Never Forget You. (91)], INSTAGRAM (Apr. 19, 2023), https://www.instagram.com/p/CrNrDePoBRU/?img_index=1.

According to his mother, he was set to be freed the following week but was fatally shot inside the prison.⁴¹ Aref Ashuri, 27, was imprisoned at Lakan Prison due to his inability to pay *mehrieh* to his ex-wife.⁴² He was also supposed to be freed soon, having arranged to pay the *mehrieh* in installments, but died under suspicious circumstances in prison.⁴³

Recommendations

24. IHRDC calls on the Islamic Republic to take the following actions to protect and promote human rights, access to justice and the rule of law, and encourage members of the Human Rights Council to make similar recommendations during the UPR of Iran:

1. Amend Articles 1, 2, and 3 of the Law on Enforcement of Financial Judgments to decriminalize insolvency and eliminate the option of imprisoning the insolvent until they satisfy or settle their debts.
2. Establish uniform standards for calculating individuals' debts and late payment penalties.
3. Enact new legislation providing legal safeguards and protections in the bankruptcy and insolvency process.
4. Ensure individuals facing bankruptcy and insolvency have the right to a fair judicial process, access to legal representation without discrimination based on their financial status, and guaranteed access to justice.
5. Uphold ICCPR requirements concerning the right to be free from inhumane or degrading treatment, including unnecessary imprisonment for debt, and the right to privacy for individuals facing bankruptcy and insolvency.
6. Facilitate the release of financial debtors imprisoned due to their inability to pay and settle their debts.

⁴¹ *Id.*

⁴² Kamyar.zahmatkesh (@Kamyar2966), X (Apr. 14, 2023, 9:58 AM), <https://x.com/Kamyar2966/status/1646875458070368257>. See also BBC NEWS فارسی (@bbcpersian), X (Jul. 25, 2023, 9:58 AM), <https://x.com/bbcpersian/status/1683839037172482048>.

⁴³ *Id.*