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Human rights situations that require the Council's attention

Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*

Summary

The present report is submitted to the Human Rights Council pursuant to resolution 28/21. The report communicates developments in the human rights situation of the Islamic Republic of Iran that have transpired since the submission of the Special Rapporteur report to the 70th session of the General Assembly in October 2015.

The present report outlines the Special Rapporteur's activities since the renewal of his mandate by the Human Rights Council during its 28th session, examines ongoing issues, and presents some of the most recent and pressing developments in the country's human rights situation. Although the report is not exhaustive, it provides a picture of the prevailing situation as observed in the preponderance of reports submitted to and examined by the Special Rapporteur. It is envisaged that a number of important issues not covered in the present report will be addressed in the Special Rapporteur's future reports to the General Assembly and the Human Rights Council.

* The present report was submitted after the deadline as a result of consultations with the State concerned.

I. Introduction

1. In his 2014 report to the Human Rights Council¹, the Special Rapporteur primarily focused on laws and procedures that govern the administration of justice in the Islamic Republic of Iran. He joined the Human Rights Committee in its concern about aspects of the country's legal framework that undermine national and international principles to better ensure fair trial standards, including concerns about access to legal assistance of one's own choosing; the right to a public hearing before an independent judiciary, which presumes the innocence of the accused; and protections for juvenile offenders. He echoed their recommendation that the Government reconsider legal provisions that dictate criminal procedure, recommended that the Government re-examine its use of capital punishment, and urged it to halt executions for crimes not considered the "most serious", such as drug-related offences.

2. The Special Rapporteur observed a number of positive measures in 2015 that address some of these concerns, including the recent adoption of amendments to the country's Islamic Penal Code (IPC) and Criminal Procedure Code (CPC). He also continued to observe progress in the national discussions aimed at examining the country's use of the death penalty, and the need to reconsider this practice. However, number of other pressing issues in the IPC and CPC remain unaddressed, including the government's use of capital punishment, which continues to surge at a staggering rate. It is also important to note that amendments to these laws do not always apply to individuals that are accused of national security crimes for the legitimate and peaceful exercise of fundamental rights, including the rights to freedom of expression, opinion, belief, assembly and association.

3. Aspects of other laws and practices also continue to undermine or violate Iran's national and international human rights obligations, and the Special Rapporteur notes that there is draft legislation currently under consideration that appears to expand state influence over the legal community, media, and civil society organisations, or that will further negate national and international guarantees for expression, association, and assembly.

4. The adverse effects of these laws and practices can be observed in reports that continued to emanate from the country in 2015 and 2016 about the ongoing arrests of human rights defenders, lawyers, journalists, and religious and ethnic minorities; accompanied by open letters and confidential communications about torture and violations of fair trial standards.

A. Cooperation

5. The Special Rapporteur wishes to highlight the Iranian government's increased engagement with the special procedures through dialogue with his mandate, and by way of invitations in 2015 to the Special Rapporteurs on the right to food and on the negative impact of unilateral and coercive measures on the enjoyment of human rights to visit the country.² The Special Rapporteur urges the Government to also consider facilitating his recurring requests since 2011 for visits to the country and/or to consider requests forwarded since 2002 by the Special Rapporteur's on the independence of lawyers and judges; extrajudicial, summary or arbitrary executions; freedom of religion or belief; minority issues; and the protection of the right to freedom of opinion and expression; as well as requests from the Working Groups on the issue of discrimination against women in law in practice, and on Enforced or Involuntary Disappearances.³

¹ See Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Twenty-second session; http://shaheedoniran.org/wp-content/uploads/2013/12/A-HRC-22-56_en.pdf

² See OHCHR:

http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en

³ Ibid.

6. A total of 24 communications concerning pressing developments or emerging issues detailed in the present report and/or appealing for remedy were transmitted by the Special Rapporteur to the Government in 2015. Of these, 16 were Urgent Actions and six were Allegation Letters joined by several thematic special procedures. The Government responded to 9, which makes 38 percent of the total responses.

7. The Government also continues to respond and length to his reports to the Council and General Assembly, including the present report. Responses are summarized throughout the current report, including the Government's assertion that it accepted 65 percent of the UPR recommendations received in 2014; has replied to "almost all" of the communications received by Special Rapporteurs, and that the representatives of seven special procedures have visited Iran. The Special Rapporteur notes that the last such visit occurred in 2005.⁴

B. Methodology

8. The current report primarily presents information produced by the Iranian government and relayed by alleged victims of rights violations and civil society actors located inside and outside the country. This includes information gathered from Government responses to communications transmitted jointly by the Special Procedures in 2015; information gathered from various websites maintained by various branches and agencies of the Iranian government; details presented in national stakeholder reports submitted by officials for Iran's 2014 UPR, and information gleaned from statements either published by national media sources or by individual government officials.

9. The report also presents details from 128 interviews with Iranians that reported violations of their rights or the rights of others during the reporting period. The Special Rapporteur conducted 48 of these interviews in-person during a fact-finding mission to the United Kingdom, France and Canada from 12 to 21 December 2015, and another 80 interviews were conducted with Iranians located inside the country and elsewhere between 1 October 2015 and 1 February 2016. The Special Rapporteur wishes to extend his gratitude to the Governments of all three countries for hosting his visits. Information contained in open letters, confidential communications and reports emerging from Iran, and reports submitted to the special procedures by credible human rights organisations were also considered. Existing laws, including those recently adopted by the Iranian parliament, and draft legislation that impact concerns identified during the 2014 UPR and other human rights mechanisms were also examined for the present report. In its response, the Government alleges that the sources for the current report are "mostly unreliable," and concludes that its content "is the best proof" that the Special Rapporteur's appointment is "unwarranted."

II. Criminal laws and the administration of justice

10. A total of 72 recommendations concerning the administration of justice were submitted by member states during the second-cycle of the Islamic Republic of Iran's UPR in October 2014. The Iranian government accepted 3 of these recommendations.

A. The Islamic Penal Code

11. A revised version of the penal code was implemented in early 2013 for an experimental period of 5 years. If properly implemented, the amended provisions will remedy some of the problems raised with the Iranian government by the human rights mechanisms

⁴ See annex to the current report

including concerns raised by member states during the Government's 2010 and 2014 UPRs. The Special Rapporteur notes, however, that many other provisions violate the Islamic Republic of Iran's international obligations and the code continues to facilitate serious abuses perpetrated by Iranian officials.

12. In terms of positive amendments, the Special Rapporteur notes that new provisions provide for a more narrow application of anti-terrorism laws, restricting the use of the death penalty to individuals who have carried out armed activities.⁵ Amendments also introduce a statute of limitations for the prosecution of various crimes,⁶ stipulate that individuals serve no more than the maximum sentence for charges carrying the heaviest penalty wherever individuals are convicted on multiple charges,⁷ and allow judges to exercise their discretion in releasing prisoners on good behaviour and in issuing alternative sentences instead of prison terms.⁸

13. In practice many of these provisions either explicitly exempt individuals charged with national security crimes or are reportedly not applied in such cases. The Special Rapporteur has also documented cases since 2013 where authorities failed to observe article 134 of the penal code, which limits sentences for individuals charged with multiple offences to the maximum sentence for the most serious charge.⁹ However, the Government disputes allegations in the report that authorities fail to faithfully observe and properly implement article 134 of the penal code.

14. The Special Rapporteur also notes that vague and broadly defined *hudud* provisions in the penal code, loosely defined as "crimes against God,"¹⁰ often criminalise acts that are either not recognised as crimes under international laws and standards or not considered serious enough to warrant capital punishment. These include crimes such as insulting or cursing the Prophet (*sabb al-nabi*),¹¹ consensual heterosexual or same-sex relations between adults,¹² corruption on earth (*efsad-e-fel-arz*)¹³ and apostasy.¹⁴ Individuals convicted of some of these crimes are not generally allowed to seek a pardon or have their sentences commuted, in contravention of international law.

15. *Hudud* punishments include amputations,¹⁵ as well as flogging and stoning.¹⁶ Rights groups have documented at least three amputations in 2015.¹⁷ In December 2015 Iranian news agencies also reported that a stoning sentence had been issued by a court in Gilan province for adultery.¹⁸ In its response, the Government notes that criminalisation of the aforementioned acts is consistent with its interpretation of Islamic law, and that the punishments reserved for such acts are effective deterrents. It also alleges that the judiciary converted the stoning sentence in Gilan to another punishment, and that in the recent years no stoning sentences have been carried out in the country.

⁵ Articles 279-88 of the Islamic Penal Code.

⁶ Articles 105-113 of the Islamic Penal Code.

⁷ Article 134 of the Islamic Penal Code.

⁸ Articles 64-87 of the Islamic Penal Code.

⁹ See report Annex.

¹⁰ <https://www.hrw.org/report/2012/08/28/codifying-repression/assessment-irans-new-penal-code>.

¹¹ Islamic Penal Code, article 262-63.

¹² Articles 221-41 of the Islamic Penal Code.

¹³ Islamic Penal Code, Article 266.

¹⁴ Apostasy is not specifically codified as a crime in the Islamic Penal Code but is a *hudud* crime under Shari'a law. Iran's judiciary can issue sentences based on apostasy pursuant to Article 167 of the constitution and 220 of the CPC.

¹⁵ Articles 217-88 of the Islamic Penal Code.

¹⁶ HRC Concluding Observations: Sudan, UN Doc. CCPR/C/79/Add.85 (1997), para. 9.

¹⁷ <https://www.iranrights.org/library/collection/142/amputation-and-eye-gouging>;

<https://www.amnesty.org/download/Documents/MDE1319982015ENGLISH.pdf>.

¹⁸ <http://www.darsiakhal.ir/64601/64601>.

16. Other articles in the penal code that restrict the peaceful exercise of a range of other civil and political rights integral to the facilitation of democratic processes in the country often fall under the category of *ta'zir* crimes. These acts are considered to be in conflict with religious or state interests, but have no specific penalties under Shari'a law. These include article 513, which criminalise "insults" against the "Islamic sanctities," article 514 which criminalises "insults" directed at the first Supreme Leader, and article 609 criminalising insults to other government officials. In its response, the Government asserts that "[d]ecriminalization of insults to sanctities is a secular interpretation" and "should not be imposed on other cultures and countries."

17. *Ta'zir* provisions also criminalise so called "national security offences" for which political dissidents are often tried and convicted. Article 498 of the Islamic Penal Code, for example, criminalises the establishment of groups that aim to "disrupt national security"; article 500 calls for up to one year of imprisonment for anyone found guilty of "propaganda against the order of the Islamic Republic of Iran for the benefit of groups or institutions against the order"; and article 610 punishes "gathering or colluding against the domestic or international security of the nation" with two to five years of imprisonment. These provisions are often so vague and broadly worded that they allow the government to severely limit speech and punish peaceful assembly and association. In its response, the Government notes that "more than 230 political parties, 400 professional and trade associations and 60 societies affiliated with religious minorities have received permits to operate," and that the right to organize trade unions and associations is fully recognized."

18. Provisions of the penal code also continue to discriminate against women, girls, and non-Muslims and explicitly stipulates that the value of a woman's life is equal to half of a man's.¹⁹ If a Muslim man murders a Muslim woman, for example, the victim's family must first pay half his *diya*, or blood money, before seeking retributive execution.²⁰ The code also stipulates that while the family of a Muslim murder victim may seek retribution in kind against a non-Muslim perpetrator, the opposite cannot occur—in such cases the judge can only sentence the Muslim perpetrator to prison, monetary damages or other forms of punishment.²¹ In its response, the Government justifies the difference in *diya* for men and women by asserting that "[c]hildren who lose their father and women who lose their husband actually lose their financial and moral support and backbone, while losing a mother or a wife only causes moral harm."

19. The Special Rapporteur notes, with concern, that the penal code retains the death penalty for boys of at least fifteen lunar years of age and girls of at least 9 lunar years for qesas (retribution in kind) or *hudud* crimes, like homicide, adultery or sodomy.²² At least 73 juvenile offenders were reportedly executed between 2005 and 2015,²³ and the number of juvenile offenders reportedly executed in 2014-15 was actually higher than at any time during the past five years. The vast majority of these executions were never officially reported by the government.²⁴ Human Rights organisations documented at least four juvenile executions in 2015, with at least 160 others awaiting the same fate on death row, and the Special Rapporteur has received unverified reports that at least one Afghan national awaiting execution for a drug-related offense was under 18 years of age at the time of his arrest.²⁵

¹⁹ Article 550 of the Islamic Penal Code

²⁰ Article 382 of the Islamic Penal Code.

²¹ Article 310 of the Islamic Penal Code.

²² Articles 146-47 of the Islamic Penal Code.

²³ Amnesty International, Growing Up on Death Row, 26 January 2016, <http://www.amnestyusa.org/research/reports/growing-up-on-death-row-the-death-penalty-and-juvenile-offenders-in-iran>

²⁴ <https://www.amnesty.org/en/documents/mde13/3112/2016/en/>.

²⁵ Ibid.

20. On 12 January 2016, the Committee on the Rights of the Child concluded its review of Iran's implementation of provisions promulgated by the Convention on the Rights of the Child (CRC). The Committee expressed great concern about the ongoing execution of juveniles, and called on the Iranian government to rescind reservations that sanction judicial disregard of CRC provisions. They also called on the Government to define juveniles as anyone under the age of 18, in line with CRC standards, and to raise the age of criminal responsibility without discriminating between boys and girls.²⁶ In its response, the Government argues that there is "[a] lack of consensus [regarding] the age of mental maturity for a child and adolescent[s]," and that juvenile offenders may only be executed after they reach 18 years of age.

21. Amendments to the Islamic Penal Code in 2013 repeal capital punishment for juveniles found guilty of violating drug-related offences. Article 91 of the code requires a judge to assess the mental capacity of juvenile offenders before issuing a death sentence to determine if they understood the consequences of their actions at the time they committed *hudud*-related crimes, like adultery or rape, or *qesas*-related crimes such as murder. In January 2015, Iran's Supreme Court issued a ruling requiring that all courts retroactively apply the new amendment for cases adjudicated prior to 2013 if juvenile defendants petition for a retrial of their capital sentences.²⁷ The Government also notes that it has undertaken efforts over the years to prevent executions of juveniles convicted of *qesas*-related crimes, like murder, where the right of retribution rests with the families of the victims.

22. The Special Rapporteur has received reports suggesting that some child offenders on death row have not taken advantage of this new ruling, in part, because they were unaware of its existence. He has also received reports indicating that the Supreme Court has rejected several petitions for retrial and affirmed the death sentences of at least six juvenile offenders, one of whom was executed in 2015.²⁸ He has also received reports suggesting that the criteria used by courts to assess mental capacity vary widely and are inconsistently applied by courts throughout the country.²⁹ The Government refutes the allegation.

B. The Criminal Procedure Code

23. Parliament adopted a number of amendments to the new Criminal Procedure Code (CPC), which came into effect on 22 June 2015.³⁰ The amended code was much celebrated and praised by government officials for the level of protection it affords to those suspected of crimes. During an interview with the state-run Islamic Republic News Agency in July 2015, the Head of Iran's Judiciary, Ayatollah Sadeq Larijani, stated that "the criminal procedure code has undergone many reforms to protect the rights of the accused."³¹ The National Union of Bar Associations of Iran also welcomed the adoption of the code asserting that the law now "contains many positive innovations that may be unprecedented in the history of legislation in Iran," but also noted that the law has some problems that needed to be "resolved."³²

26 Review of the Islamic Republic of Iran's Third and Fourth Periodic Reports on the Implementation of the Convention on the Rights of the Child, January 2016.

27 <http://www.rrk.ir/Laws/ShowLaw.aspx?Code=2460>

28 <https://www.amnesty.org/en/documents/mde13/3112/2016/en/>

29 Ibid.

30 <https://www.amnesty.org/en/documents/mde13/2708/2016/en/>

31 <http://khabaronline.ir/detail/428897>.

32 <http://www.mehrnews.com/news/2852676/%D9%86%D8%A7%D9%85%D9%87-%DA%A9%D8%A7%D9%86%D9%88%D9%86-%D9%88%DA%A9%D9%84%D8%A7-%D8%A8%D9%87-%D8%B1%D8%A6%DB%8C%D8%B3-%D8%AC%D9%85%D9%87%D9%88%D8%B1%DB%8C->

24. The Special Rapporteur maintains that one of the most important achievements of the CPC is improved protections for access to legal counsel, especially during the interrogation of suspects by either law enforcement or judiciary officials. Article 48 of CPC provides that the accused can request access to counsel as soon as he is approached by law enforcement officials or during criminal proceedings, and article 190 of the code guarantees the right of the accused to access a lawyer during preliminary investigations.³³ The law calls for defendants to be informed of these rights before the investigation begins, and if he is summoned, the right to access to lawyer must be mentioned in the summons. Violations of these rights, or failure to communicate them to the accused will result in disciplinary action, but will not impact the admissibility of evidence obtained under these conditions.³⁴ Article 190 of the code also states that the court must appoint a lawyer for persons accused of capital crimes or offenses that incur sentences of life imprisonment if the accused fails to retain one themselves, but does not require court-appointed lawyers for other serious cases.³⁵ The Special Rapporteur also congratulates the Government of Iran on the adoption of article 197, which explicitly acknowledges the right of the accused to remain silent during preliminary investigations, and notes that article 60 of the code explicitly prohibits the use of coercion, obscene/derogatory language, suggestive/deceptive or irrelevant questioning. Any information gathered from the accused through the aforementioned means is considered null and void.

25. Another significant amendment to the CPC involves the right of appeal. Articles 428 and 570 now require that all death sentences be reviewed by the Supreme Court. This provision annuls article 32 of the Anti-Narcotics Law, which previously authorised the country's Prosecutor General, and not the Supreme Court, to affirm death sentences for drug-related offences adjudicated by revolutionary. On December 7, 2015, Iran's Supreme Court issued a ruling obliging all revolutionary courts to send death sentences for drug offences for review and appeal to the Supreme Court.³⁶ The Special Rapporteur applauds this significant improvement in light of the fact that a majority of the death sentences issued in Iran are for drug-related offences in contravention of international law. However, he emphasizes that this ruling must be properly implemented.

26. Despite these improvements, concern remains over CPC provisions that exempt individuals accused of national security crimes from these protections. This includes COC revisions by the Guardian Council, which now require individuals accused of national security, capital, political or press crimes, and those accused of offences that incur life sentences, to select their counsel from an official pool of lawyers chosen by the Head of the

%D8%A7%D8%B5%D9%84%D8%A7%D8%AD-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%AC%D8%AF%DB%8C%D8%AF-%D8%A2%DB%8C%DB%8C%D9%86-%D8%AF%D8%A7%D8%AF%D8%B1%D8%B3%DB%8C-%DA%A9%DB%8C%D9%81%D8%B1%DB%8C.

33 <https://www.amnesty.org/en/documents/mde13/2708/2016/en/>. Under the old code discretion was given to judges to decide whether to allow the involvement of a lawyer during the investigation phase in national security cases or in cases where he determined that such involvement would result in "corruption." In practice, this meant that individuals accused of national security crimes were almost never granted the right to a lawyer during the investigation and pretrial phase phase, rendering them vulnerable to abuse such as ill-treatment, torture, coerced confessions or enforced disappearance by law enforcement forces, Intelligence Ministry officials or others. Article 33 of the Criminal Procedure Code (1999).

34 Article 190, note 1 of the CPC (2015). It is important to note that prior to the latest round of amendments to the CPC, this note said that any investigation resulting from the violation of the right to allow the accused access to a lawyer would be "null and void." Last-minute amendments changed this and instead provided for punishment of judicial officials and others who violate this right.

35 Article 190, note 2 of the CPC (2015). This requirement does not, however, exist for other heavy punishments such as amputations and long-term prison sentences.

36 <http://www.rnk.ir/Laws/ShowLaw.aspx?Code=8008>.

Judiciary during the investigative phase of the trial.³⁷ On 6 July 2015, the Iranian Bar Association reportedly called upon the Head of Judiciary, the Parliament and President to reconsider the amendment.³⁸

27. Of serious concern is the Code's allowance for restrictions on defendants' access to evidence gathered in support of allegations in national security cases,³⁹ and the Special Rapporteur notes that restricted access to this information appears to be the rule rather than an exception. The vague and expansive language of these provisions threatens to nullify improvements under the code which allow access to lawyers at all stages of criminal proceedings—a major impediment to realising due process and fair trial rights.⁴⁰ In its response, the Government asserts that limiting the accused or her lawyer's access to information is “an accepted norm,” and that if such a decision is made the Judiciary must provide a legitimate reason for doing so.

28. While the Special Rapporteur commends these positive amendments, he is concerned these new provisions often fail to be implemented. The Special Rapporteur continues to receive reports of individuals who are arrested without being shown a warrant, and he has documented several such cases in the current reporting period where individuals and their families were not provided with information regarding the circumstances of their arrest or their whereabouts. He notes with concern that authorities reportedly prevented Isa Saharkhiz and three other journalists arrested on 1 November 2015 by the intelligence unit of the Revolutionary Guards from contacting their family members or lawyers for more than a month, and refused to provide information regarding the circumstances of their detention. He also continues to receive reports, including after the CPC came into effect, that individuals arrested by the Intelligence Ministry or intelligence unit of the Revolutionary Guards are routinely subjected to blindfolding, harassment, ill-treatment, torture and coerced confessions during pretrial detention and interrogations.

29. In its response, the Government notes that torture is forbidden under Iranian law. It also asserts that over the past four years it has carried out 38,557 inspections of “thousands of police centers, judicial complexes and prisons nationwide,” that it had received 11,093 complaints “concerning violations of citizens' rights,” and that “all necessary measures were taken to address these complains.” The Government claims that “[as a result of these measures, 622 warnings were issued to judicial personnel, 385 reprimands to administrative personnel, 128 cases were referred to judges' disciplinary court[s] and [another] 116 other cases were referred for further judicial investigation.” As a result of these inspections, 511 persons were allegedly compensated for the violations of their rights.

C. The Anti-Narcotics Law

30. Iran's anti-narcotics law, adopted by the Expedience Council in 1997 and amended in 2010, mandates the death penalty for a range of drug crimes including nonviolent drug related offences that do not amount to “most serious” crimes under international law. The law lists 17 drug crimes punishable by death. The minimum threshold for capital punishment sentencing is the possession, in any form, of 30 grams or more of heroin, morphine, cocaine or their chemically derived substances.⁴¹ The death penalty can also be applied for a range of other crimes such as, armed drug smuggling, smuggling in prisons or government run facilities, or hiring individuals with the intent of violating the anti-narcotics laws. These policies have

37 Article 48, note, of the Criminal Procedure Code (2015).

38 <http://icbar.ir/Default.aspx?tabid=55&ctl=Edit&mid=435&Code=22124>.

39 Article 191 of the CPC (2015).

40 <https://www.amnesty.org/en/documents/mde13/2708/2016/en/>

41 Anti-Narcotics Law, Article 8.

resulted in over 500 executions in 2015 alone, accounting for 65 percent of the total amount of individuals executed in the country.⁴² The Government alleges that it has not received any communications from international bodies “concerning nonobservance of norms of law in relation to drug-related offences” that resulted in the death penalty. The Government also asserts that “severe punishments meted out to large[-scale] drug traffickers have brought about considerable reduction in the harm resulting from the flow of drugs to Iran and beyond.”

31. As previously mentioned, the recently amended CPC mandates that all death sentences, including those for drug offences issued by revolutionary courts, be reviewed by the Supreme Court. The Special Rapporteur applauds this reform but expresses great concern at recent reports alleging that drug offenders are often deprived of basic due process and fair trial rights. This includes long periods of incommunicado and pretrial detention, and lack of adequate access to a lawyer and/or to a proper defence. These reports also indicate that drug offenders are subjected to beatings and coerced confessions which are later used in revolutionary courts to secure their death sentences. In some cases judges reportedly convicted and sentenced drug offenders to death based on their “intuition,” and despite what appeared to be a lack of evidence.⁴³ In his most recent report to the General Assembly, the Special Rapporteur discussed his September 2015 meetings with Iranian officials to discuss the impact of this law on the country’s human rights situation, particularly its impact on the Government’s use of capital punishment. He has also repeatedly expressed his concern regarding the execution of nonviolent drug offenders. In its response, the Government refutes allegations regarding abuse of due process and fair trial rights against individual convicted of drug crimes, including reports that judges sentenced drug offenders to death based on their “intuition,” and claims such assertions are “false and biased.”

32. Some government officials have increasingly voiced their belief that the country’s anti-narcotics law requires reconsideration, due in large part, to its ineffective deterrent effects and due to increasing international criticism of the country’s human rights record.⁴⁴ The Head of the High Council for Human Rights in Iran, Mohammad Javad Larijani, was recently quoted as saying, “My personal opinion is that there should be some practical changes to the laws related to the fight against drugs. This has to go through the legislative process but until then Westerners should respect our current laws.”⁴⁵ On December 27, 2015, in a panel discussion at Sharif University, Mohammad-Javad Larijani asserted that 93 percent of executions in the country are for drug-related crimes, that the death penalty has not led to a significant decrease in drug-related crimes, and that the policy must be reevaluated.

33. In December 2015, 70 members of Parliament presented a bill that, if approved by the legislature and the Guardian Council, would reduce the punishment for non-violent drug related crimes from death to life imprisonment. On 11 January 2016, the bill was introduced on the main floor of the parliament for review.⁴⁶ While reserving judgement on the particulars of the bill, the Special Rapporteur welcomes attempts to reduce the staggering number of executions in the country and appreciates the government’s willingness to reevaluate existing law with consideration for human rights obligations.

42 <http://www.iranhrdc.org/english/publications/human-rights-data/chart-of-executions/1000000564-ihrc-chart-of-executions-by-the-islamic-republic-of-iran-2015.html>.

43 <https://www.hrw.org/news/2015/12/16/iran-bid-end-drug-offense-executions>.

44 <http://www.mehrnews.com/news/2995003/%D8%AC%D8%B2%D8%A6%DB%8C%D8%A7%D8%AA-%D8%B7%D8%B1%D8%AD-%D8%AD%D8%B0%D9%81-%DB%8C%DA%A9-%D9%85%D8%AC%D8%A7%D8%B2%D8%A7%D8%AA-%D8%B7%D9%86%D8%A7%D8%A8-%D8%AF%D8%A7%D8%B1%D9%82%D8%A7%DA%86%D8%A7%D9%82%DA%86%DB%8C%D8%A7%D9%86-%D9%85%D9%88%D8%A7%D8%AF-%D9%85%D8%AE%D8%AF%D8%B1%D9%BE%D8%A7%D8%B1%D9%87-%D9%85%DB%8C>

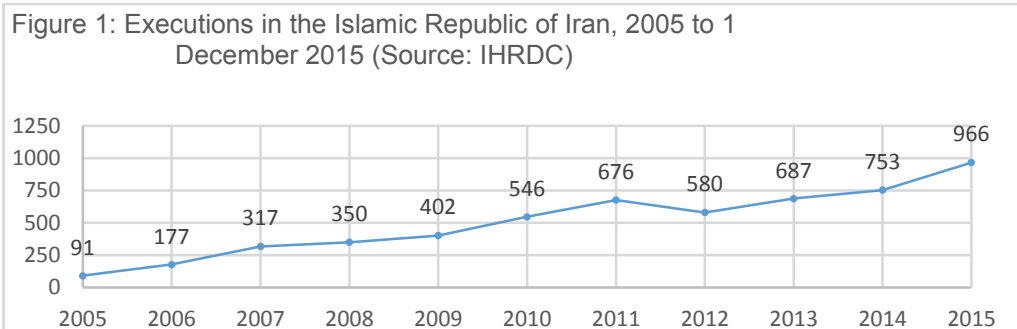
45 <http://www.iranhumanrights.org/2015/12/bill-to-end-death-penalty-for-drug-crimes/>.

46 <http://www.farsnews.com/13941021000764>

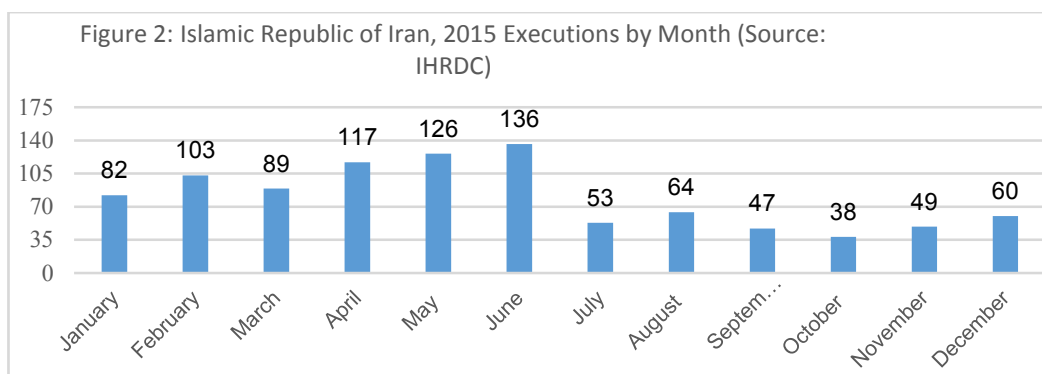
III. Civil and Political Rights

A. The right to life

34. The Iranian government received a total of 29 and 41 recommendations related to its use of capital punishment during the first and second cycles of its UPR in 2010 and 2014, respectively. Recommendations include calls on the Iranian Government to abolish the death penalty for juvenile offenders; establish a moratorium on the death penalty for crimes not considered “most serious” by international standards; establish a moratorium the use of capital punishment; and ban stoning and public executions.



35. Human rights organisations tracking executions in the Islamic Republic of Iran estimate that between 966-1,05447 executions have taken place in 2015, the highest rate in over 10 years (See Figure 1).⁴⁸ Execution rates reached especially alarming rates from April 2015-June 2015, resulting in an average of 4 executions per day during that time period (See Figure 2).



36. As in previous years, the majority of the executions in 2015 - approximately 65 percent - were for drug-related offences. Twenty-two percent of the remaining executions carried out in 2015 were for qesas-

47 <http://www.iranhrdc.org/english/publications/human-rights-data/chart-of-executions/1000000564-ihrc-chart-of-executions-by-the-islamic-republic-of-iran-2015.html>;

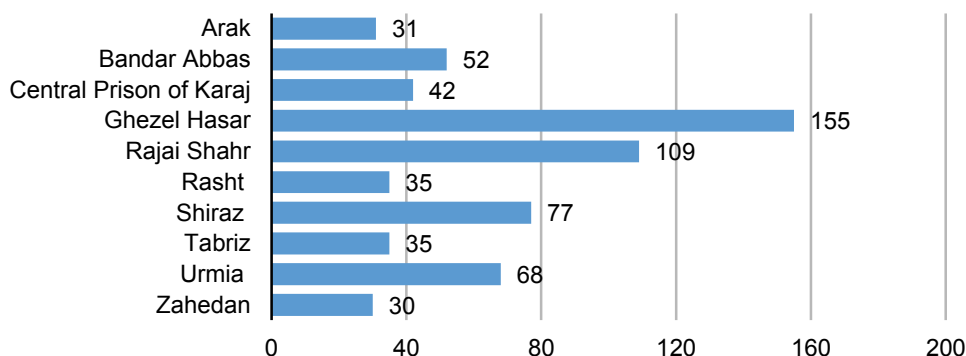
<https://www.iranrights.org/>; <http://iranhr.net/en/>.

48 <http://www.iranhrdc.org/english/publications/human-rights-data/chart-of-executions/1000000564-ihrc-chart-of-executions-by-the-islamic-republic-of-iran-2015.html>; <https://www.iranrights.org/>; <http://iranhr.net/en/>; <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/>

related crimes (homicide), 6% were for rape, 3% were for murder, and 4% were for other crimes including financial corruption (See figure 5). In its response, the Government asserts that an “excessive concentration on the claims concerning [an] increase in executions... reduces the credibility of the report, and noted that drug-related executions account for 80 percent of all executions in the country.

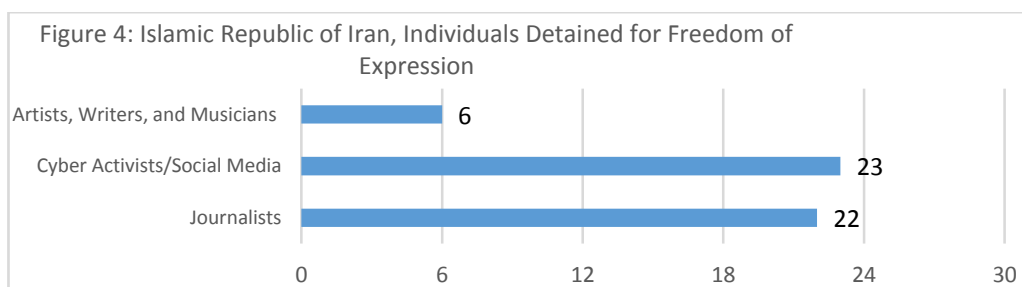
37. Executions remain concentrated in large prisons in major urban areas, such as Ghezel Hesar and Rajai Shahr in Karaj, and Adel Abad in Shiraz (See Figure 3). The government continues to conduct public executions which accounted for 6 percent of the total executions in 2015 (See Figure 3).

Figure 3: Islamic Republic of Iran, Prisons with Highest Rates of Executions 2015 (Source: IHRDC)



B. Freedom of expression, opinion, and access to information

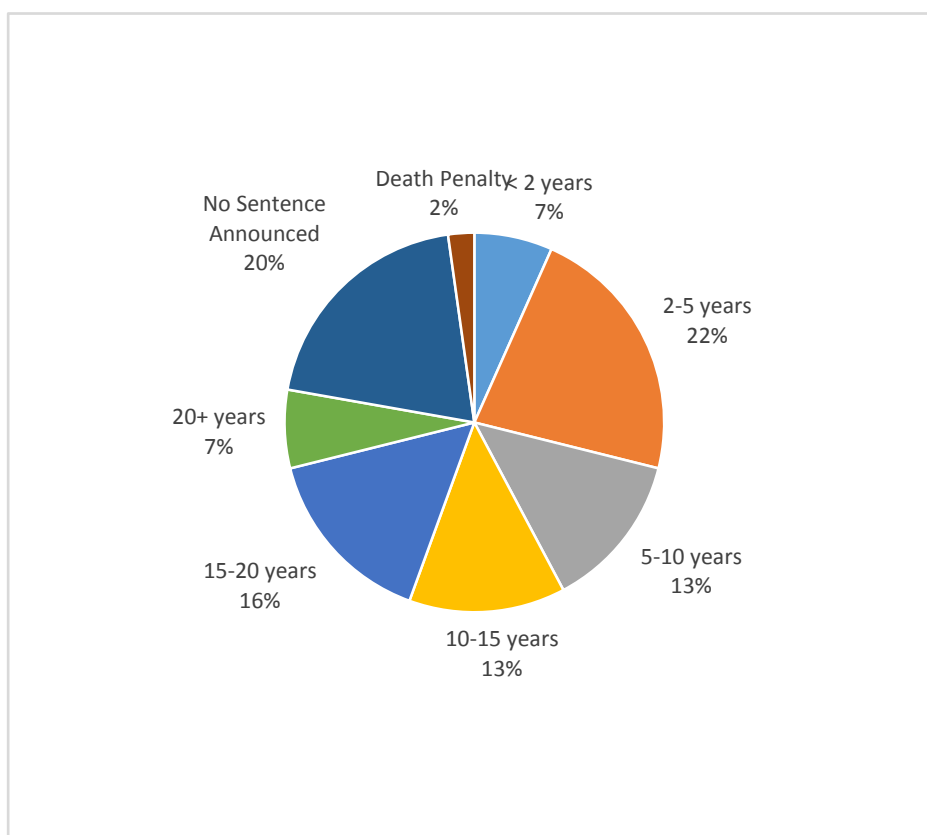
38. The Islamic Republic of Iran received 11 UPR recommendations related to freedom of expression in 2014 of which Iran accepted two and partially accepted 4 recommendations, including to “take the necessary steps to ensure and that it citizens fully enjoy the rights and freedoms awarded to by the Iranian constitution with special emphasis on the right to freedom of expression, the right to political activity and their right to assemble” and to “strengthen and promote freedom of expression, particularly that of the press.”⁴⁹ In its response, the Government notes that it rejected a number of recommendations with regard to freedom of expression, because they were “contrary to our fundamental values, Islamic tenets, and the Constitution.”



⁴⁹ Islamic Republic of Iran Universal Periodic Review, 2014. Responses to Recommendations. http://www.upr-info.org/sites/default/files/document/iran_islamic_republic_of/session_20_-_october_2014/recommendations_and_pledges_iran_2014.pdf

39. On 19 January 2016, the Special Rapporteur welcomed the release of *Washington Post* reporter Jason Rezaian who had been unlawfully detained by security and intelligence forces since July 2014, and encourages authorities to “pave the way for the release of all remaining detainees unlawfully held in the country’s prisons.”⁵⁰ As of January 2016 at least 47 journalists and Internet users were reportedly imprisoned in the country.⁵¹ At least six prominent artists, writers and musicians have been arbitrarily detained or prosecuted since October 2015. Iran ranks among the seventh most censored country in the world.⁵² Iran also ranked 173rd out of 180 countries on the World Press freedom index.⁵³ In its response, the Government noted that restrictions imposed on the freedom of expression “are consistent with Articles 18 and 19 of the International Covenant on Civil and Political Rights. It also alleges there were “several pieces of corroborative evidence that prove the[] charges against [Jason Rezaian.]

Figure 5: Journalist and Cyber Activist Prison Sentences



40. The Special Rapporteur regrets what appears to be a widening crackdown on freedom of expression and opinion during the reporting period, punctuated by a series of arrests carried out by the intelligence unit of the Revolutionary Guards and harsh sentences against journalists, cyberactivists and artists. President Rouhani has reportedly criticised the

⁵⁰ <http://shaheedoniran.org/english/dr-shaheeds-work/press-releases/un-human-rights-experts-welcome-freeing-of-iranian-americans-and-call-for-more-releases/>

⁵¹ <http://www.en.rsrf.org>; <http://www.cpj.org>; <http://www.journalismisnotacrime.org>; www.iranhumanrights.org

⁵² <https://cpj.org/2015/04/10-most-censored-countries.php>

⁵³ <https://index.rsrf.org/#/>

string of arrests against individuals likened to an “infiltration network,” and noted the apparent connection between allegations made in ultra-conservative news outlets, and arrests that follow.⁵⁴

41. Security forces have reportedly increased efforts to monitor internet cafes across Iran, especially in the capital Tehran. Tehran’s chief of security forces, Hossein Sajedu, stated: “The scheme that has been in force since the beginning of the year has meant that the FATA [cyber] police, along with security force agents, have carried out 5,280 inspections on internet cafes in the Greater Tehran region.⁵⁵ The operation is meant to maintain calm and security in Tehran neighbourhoods and the security forces will crack down on any immoral and illegal act by internet café owners.” Over 272 internet cafe businesses have been repeatedly shuttered in 2015 for their alleged “threat to societal norms and values.”⁵⁶ In its response, the Government notes that according to article 22 of the Cybercrime Law, a committee operating under the guise of the Judiciary is tasked with identifying websites that “intend to threaten security and public calm... promote offenses against public moralities and chastity, spread falsehoods and support terrorist groups.”

42. The parliament is currently considering a Political Crimes Bill in an attempt to operationalise Article 168 of the Iran’s Constitution requiring the parliament to define “political crimes.” The bill mandates the Judiciary to prosecute such crimes in open court, before a jury. On 24 January 2016, Iran’s parliament reportedly approved several key provisions of the draft bill, including Article 1, which would effectively criminalise attempts to “reform the country’s policies” and Article 2 reaffirms the government’s authority to criminalise the “publication of lies,” as well as insults or defamation against government officials such as the president and his deputies, the head of the judiciary, and parliamentary members.⁵⁷

C. Freedom of Association and the right to free and fair elections

43. Elections for the Islamic Consultative Assembly (Majlis or Parliament) and the Assembly of Experts, which selects the Supreme Leader and has the power to supervise him, was held in Iran on 26 February 2016. The Guardian Council vets all candidates, monitors the voting process and certifies election results for all elections,⁵⁸ effectively dictating the pool of candidates from which Iranians may select government officials. Candidates are qualified based on a range of criteria, most notably their full “practical” loyalty to the Supreme Leader and their recognition of his authority over all matters of the state (i.e., the principle of *velayat-e faqih*).⁵⁹

Year of election (Parliamentary)	1980	1984	1988	1992	1996	2000	2004	2008	2012	2016
Number Of Candidates Registered to Run	3,694	1,592	1,999	3,233	5,365	6,853	8,172	7,600	5,283	12,123

⁵⁴ <https://www.iranhumanrights.org/2015/12/90-iranian-journalists-statement/>

⁵⁵ <http://en.iranwire.com/features/6771/>

⁵⁶ Ibid.

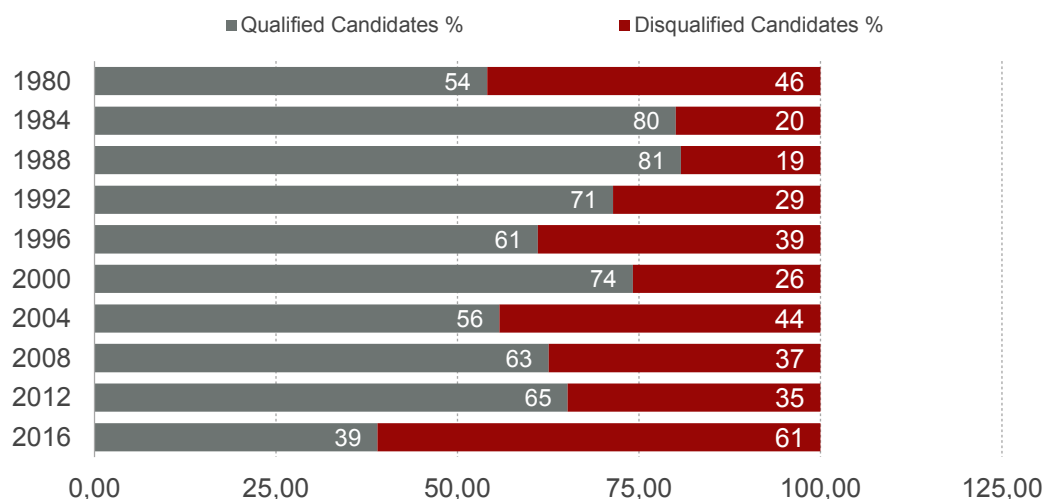
⁵⁷ <http://www.reuters.com/article/us-iran-politics-idUSKCN0V20P9>. It is important to note that these actions are already criminalised in the Islamic Penal Code and other laws such as the Press Law. This bill, however, would allow defendants the right to a jury trial in open court if it is determined that the crimes they committed qualify as “political.”

⁵⁸ Article 99, Iran Constitution

⁵⁹ Article 28, Iran Election Law

Year of election (Parliamentary)	1980	1984	1988	1992	1996	2000	2004	2008	2012	2016
Number Of Candidates Allowed to Run	2,000	1,275	1,615	2,310	3,276	5,083	4,559	4,755	3,444	4,720
Number Of Candidates That Were Disqualified	1,694	317	384	923	2,089	1,770	3,613	2,845	1,839	7,403

Percentage of Qualified Candidates Vs. Percentage of Disqualified Candidates (Parliamentary Elections)



44. On 15 February 2016, the Guardian Council approved 52 percent of the 12,123 candidates that registered to run for the parliamentary election. Previous to that, on 20 January 2016, the Supervisory Board of the Guardian Council qualified 49 percent of the 12,123 candidates that registered to run for the parliamentary election. According to reports only 30, or 1 percent, of some 3000 “reformists” candidates that registered for the election were approved by the body during the 20 January decision.⁶⁰ Some of those rejected appealed to the Guardian Council and were approved on 15 February 2016. In its response, the Government notes that the Guardian Council’s supervision of the elections “is not beyond the law,” and that its activities are “in full compliance” of international law.

45. The Guardian Council invited 540 of the candidates, including the 6 female hopefuls, to sit for an examination to determine whether they were qualified to run for the Assembly of Experts.⁶¹ On 26 January 2016, the Guardian Council disqualified 640 of the 801 candidates registered for the Assembly of Experts, including 6 women that registered for the election.⁶² To date no woman has ever been approved by the Guardian Council to serve on the Assembly of Experts.

46. On 19 August 2016, President Rouhani reportedly called on the Guardian Council to play a less intrusive role in elections, calling the Council an “eye” that “cannot do the job of a hand.”⁶³ Highlighting the council’s practice of disqualifying entire political groups in recent years, Mr. Rouhani said that all legal groups should be respected and individual

60

61 <http://www.farsnews.com/newstext.php?nn=13941015001193>62 <http://www.radiofarda.com/content/f2-iran-elections-tens-not-vetted-women-left-out-khomeini/27512087.html>63 <http://ir.voanews.com/content/iran-president-election/2924066.html>

candidates should be judged on their merits rather than political affiliations. On 11 December 2015, President Rouhani said that all individuals wishing to serve to the country should be allowed to run for office.⁶⁴

47. On 20 January 2016, Supreme Leader, Ali Khamenei, commented on the disqualification of thousands of candidates, saying: “Nowhere in the world do decision-makers allow those who have no faith in the system to run.”⁶⁵ He had previously called on all Iranians, including ones who do not approve of the government's views, to vote in the February elections.⁶⁶

48. On 14 October 2015, the Parliament voted against the Domestic Affairs Commission's recommendation to qualify blind candidates for Parliamentary elections. Among the reasons cited by the parliamentarians for voting against the bill was the great financial burden this move would create for the government.⁶⁷ The election law prohibits individuals with hearing, visual or speech disabilities from registering as candidates, in violation of the Convention on the Rights of Persons with Disabilities to which Iran is a party.⁶⁸

49. The Special Rapporteur expresses serious concern that former presidential candidates and reformists, Mir Hossein Mousavi and Mehdi Karroubi, and Zahra Rahnava, will have spent five full years under house arrest in the absence of charges or a trial as of 14 February 2016. The Special Rapporteur has repeatedly called on Iranian authorities to immediately and unconditionally release these opposition figures from house arrest.⁶⁹ Security and intelligence forces placed the three under house arrest in February 2011 after they protested against the results of the disputed 2009 presidential election. In response, the Government notes that the “charges leveled against... Mousavi and Karroubi... are strongly founded and ascertained,” and that their current situation is reflective of “the Islamic establishment's clemency towards them” and the need to “protect[] their lives.”

50. From November until December 2015, at least 12 public gatherings related to elections were reportedly cancelled or disbanded, as a result of threats to speakers or participants.⁷⁰ On November 19 in the city of Varamin, several men reportedly attacked the Interior Minister to former president Mohammad Khatami after he attempted to give a speech about the upcoming election, and security forces dispersed the crowd of attendees using teargas.⁷¹

⁶⁴ <http://www.irna.ir/fa/News/81873881/>

⁶⁵ <http://bigstory.ap.org/article/69738e15e76f48f6beed498b667fa4e3/iran-reformists-call-reversal-candidate-ban>; <http://farsi.khamenei.ir/speech-content?id=32040>

⁶⁶ <http://farsi.khamenei.ir/speech-content?id=31906>

⁶⁷ <http://www.ilna.ir/%D8%A8%D8%AE%D8%B4-%D8%B3%DB%8C%D8%A7%D8%B3%DB%8C-3/313386-%D9%86%D8%A7%D8%A8%DB%8C%D9%86%D8%A7%DB%8C%D8%A7%D9%86-%D9%86%D9%85%DB%8C-%D8%AA%D9%88%D8%A7%D9%86%D9%86%D8%AF-%D8%A8%D8%B1%D8%A7%DB%8C-%D9%86%D9%85%D8%A7%DB%8C%D9%86%D8%AF%DA%AF%DB%8C-%D9%85%D8%AC%D9%84%D8%B3-%D8%AB%D8%A8%D8%AA-%D9%86%D8%A7%D9%85-%DA%A9%D9%86%D9%86%D8%AF>

⁶⁸ Article 28, Iran Election Law

⁶⁹ March 2013 report of the Special Rapporteur on the Situation of Human Rights in Iran, Paragraph 77(c)

⁷⁰ <http://www.ilna.ir/%D8%A8%D8%AE%D8%B4-%D8%B3%DB%8C%D8%A7%D8%B3%DB%8C-3/330173-%D8%A7%D8%B5%D9%84%D8%A7%D8%AD-%D8%B7%D9%84%D8%A8%D8%A7%D9%86-%D8%AF%D8%B1-%D9%81%DA%A9%D8%B1-%D8%A7%D9%86%D8%AA%D8%AE%D8%A7%D8%A8%D8%A7%D8%AA-%DB%8C%D8%A7-%D8%AD%D9%81%D8%B8-%D8%A7%D9%85%D9%86%DB%8C%D8%AA-%D8%B3%D8%AE%D9%86%D8%B1%D8%A7%D9%86-%D8%AC%D8%AF%D9%88%D9%84>

⁷¹ <http://www.radiofarda.com/content/o2-mosavi-lari-was-attacked/27375994.html>

51. On 29 November 2015, several students were allegedly injured during an incident that took place in the city of Yasuj, when a former member of the reformist, and now banned, Islamic Iran Participation Front (known as *Hezb-e Mosharekat*), and a current member of the newly-formed reformist United Iran party (known as *Ettehad-e Mellat-e Iran*), attempted to give a speech about the upcoming parliamentary election. The event was reportedly disrupted by a group of hardline Basij members.⁷² Both events had secured official permits.⁷³ The Basij are affiliated with Iran's Revolutionary Guards. At the time of this writing none of those responsible for the disruptions had been arrested or punished by the authorities. Iranian officials note that “[t]ear gas canisters were thrown by those accompanying the speaker and this incident has nothing to do with security forces.”

D. Women's Rights

52. According to Article 18 of Iran's passport law, married women require their husband's, or in an emergency situation, the local prosecutor's, permission to apply for a passport. On 22 September 2015, local media reported that Ms. Niloufar Ardalan, captain of the Iranian national women's soccer team, was prohibited from traveling abroad to compete in the Asian Football Federation Women's Futsal Championship held in Malaysia, allegedly as a result of her husband's refusal to provide her with his consent to leave the country. Vice President for Women and Family Affairs, Shahindokht Mowlverdi, stated on 30 September 2015 that “until the law is revised, her office will look for [creating] exemptions so female athletes and scientists can leave the country to attend matches and conferences.” On 23 November 2015, it was reported that Ms. Ardalan was allowed to accompany her team to Guatemala on a one-time pass from Tehran's prosecutor to travel in the absence of her husband's consent.⁷⁴ In its response, the Government alleges that restrictions on women's travel exist in order to protect women from harm.

53. On 27 September 2015, the Iranian Parliament rejected the general framework of a draft bill granting Iranian citizenship to children born to Iranian mothers.⁷⁵ Among those particularly affected by the inability of Iranian women to pass their nationality to their children are the reportedly thousands of children born to Iranian mothers and Afghan fathers. Opponents of the bill reportedly cited encouraging illegal migration, particularly from Afghanistan, and changes to the country's ethnic demography, among the reasons they opposed the proposed legislation.⁷⁶ The two recommendations in the 2014 UPR that encouraged the Government to address this issue did not enjoy its support. In its response, the Government notes that a law passed in 2006 allows children of Iranian mothers and non-Iranian fathers to “file for Iranian nationality after reaching the age of 18 provided [] they are born in Iran or are born in Iran at least one year after the adoption of this law.” The Government also notes that it accepted recommendations number 102 and 112 during the UPR and “is planning to put them into practice.”

⁷² <http://www.entekhab.ir/fa/news/237700/%D8%AD%D9%85%D9%84%D9%87-%D8%A8%D9%87-%D9%85%D9%88%D8%B3%D9%88%D9%8A-%D9%84%D8%A7%D8%B1%D9%8A-%D8%AF%D8%B1-%D9%82%D8%B1%DA%86%D9%83%D8%B1%D9%88%D8%A7%DB%8C%D8%AA-%D9%85%D9%88%D8%B3%D9%88%DB%8C%E2%80%8C%D9%84%D8%A7%D8%B1%DB%8C-%D8%A7%D8%B2-%D8%A7%D9%81%D8%AA%D8%A7%D8%AF%D9%86-%D8%B9%D9%85%D8%A7%D9%85%D9%87>

⁷³ <http://iran-newspaper.com/Newspaper/MobileBlock?NewspaperBlockID=99860>

⁷⁴ <http://persian.iranhumanrights.org/1394/09/niloufar-ardalan-2/>

⁷⁵ <http://www.farsnews.com/13940705000334>

⁷⁶ <http://persian.iranhumanrights.org/1394/07/iran-citizenship-rights/>

54. On 2 November 2015, the Iranian Parliament voted in favour of the general framework of the “Comprehensive Population and Family Excellence Plan,” referring the proposed legislation to a special budgetary commission to address the additional financial burden of the bill. The Special Rapporteur has previously noted that proposed legislation includes discriminatory provisions that can potentially lead to other human rights violations. According to article 9 of the bill proposed by 53 members of the parliament to encourage marriage, for example, employment for all governmental and non-governmental sectors shall be granted in the following order: married men with children; married men without children; women with children.” According to article 10 of the same draft, hiring “single individuals to faculty positions in all public and private education and research institutions, will be prohibited for five years after the date that this Act goes into effect.” Only the absence of qualified married applicants would permit the hiring of single individuals, and this would require the approval of the highest ranking authority in the [relevant] organisation.”

55. Articles 19 and 20 of the same bill reportedly mandate that the Iranian Bar Association and the Centre for Judicial Advisors, the country's two major bar association organisations, to reform and redefine procedures for divorce disputes so that “establishing peace between couples would take precedence over divorce” for lawyers’ and judges,’ and that the judiciary grants “bonuses to judges in divorce cases that lead to peace [reconciliation] between the married couple.”⁷⁷

56. On 15 December 2015, Tehran’s traffic police Brigadier General Teymour Hosseini announced that officials had recorded more than 40,000 “cases of bad hijab” since March 2015. He reported, “In most cases, the cars were impounded and cases were referred to the judiciary,” and that “those who were pulled over also faced potential cash fines. Earlier in the year, Hosseini and other officials warned women who loosened their hijab or not wearing one at all could lose their vehicles.”⁷⁸ In its response, the Government notes that regulations regarding the hijab are “a question of culture, philosophy and faith,” and referred to reports and statistics cited surrounding the impounding of vehicles driven by women who were perceived by the authorities to not properly observe the hijab as “odd” and unsubstantiated.

E. Ethnic and Religious Minority Rights

57. The Special Rapporteur expresses serious concern at the continuing systematic discrimination, harassment, and targeting that adherents of the Baha’i faith continue to face in the country. In January 2016, a revolutionary court in Golestan province reportedly sentenced 24 Baha’is to a total of 193 years in prison in connection with the peaceful exercise of their faith.⁷⁹ On the morning of 15 November 2015, Intelligence Ministry agents reportedly arrested 20 Baha’is in Tehran, Isfahan and Mashhad. Authorities failed to provide information about the charges against these individuals, and their families were not informed of their whereabouts for several days. At least 80 Baha’is were reportedly detained as of 31 December 2015 in connection with the peaceful exercise of their faith.⁸⁰ In its response, the Government asserts that “followers of the Bahai cult enjoy citizen rights” pursuant to the country’s laws and that allegations presented to the contrary in the report were “baseless.”

58. In addition to arbitrary arrests, detentions and prosecutions of Baha’is, the Special Rapporteur continues to receive troubling reports that Iranian authorities continue to pursue activities that economically deprive Baha’i’s of their right to work, reportedly in line

⁷⁷ Articles 9 and 10, Comprehensive Population and Family Excellence Plan Draft Bill

⁷⁸ <http://www.independent.co.uk/news/world/middle-east/thousands-of-women-in-iran-have-cars-impounded-for-not-wearing-hijab-properly-a6774366.html>

⁷⁹ Information received by the Office of the Special Rapporteur on the situation of human rights in Iran.

⁸⁰ See report Annex.

with a 1991 directive issued by the Supreme Council of the Cultural Revolution.⁸¹ These policies include restrictions on types of businesses and jobs Baha'i citizens can have, closing down Baha'i-owned businesses, pressure on business owners to dismiss Baha'i employees, and seizures of businesses and property. On 15 November 2015, the Bureau of Public Places in the province of Mazandaran shut down 23 businesses belonging to Baha'is, including in the cities of Sari, Ghaem Shahr, Tonekabon and Babolsar. Actions to close Bahai-owned businesses appeared to follow their voluntary closure by owners in observance of their religious holiday the day before. In its response, the Government alleges that Bahais in Iran live under "normal" conditions despite "the history of their formation cooperation [sic] with the Shah['s] regime and their involvement in the suppression of people and their role in the management of the dreaded intelligence service SAVAK." The Government also asserts that the shutdown of several Bahai-owned businesses in Mazandaran province was related to "administrative issues."

59. Discrimination against the Baha'i community in Iran is legally sanctioned by a lack of constitutional recognition of the faith and the absence of legal protections for its adherents. This situation is further perpetuated by open attacks on the community by state officials or individuals close to the state. On 16 October 2015, for example, the Deputy of the Parliament's National Security Commission, Mr. Haghigharpour, called the Baha'i faith a wayward sect created by Britain, and compared Baha'is to Wahabbis whom he said sought to increase tensions between Shias and Sunnis in the region.⁸² In its response, the Government notes that "[g]iven the history of century-old cooperation between the Bahai sect and the Shah['s] regime and SAVAK, historical facts could not be overlooked as nobody can stop criticizing Nazism in Germany."

60. The Special Rapporteur also expresses his concern at the treatment of Iranian Christians from Muslim backgrounds, who continue to face arbitrary arrest, harassment and detention despite the fact that article 12 of the Iranian constitution recognises and protects adherents of the Christian faith. The Special Rapporteur notes that many of these individuals are often accused of acting against the national security or "propaganda against the state," and that under Iranian law, individuals, including Christians of Muslim backgrounds, can be prosecuted for the crime of apostasy. Dozens were reportedly detained in Iranian prisons as of January 2016, many for involvement in informal house churches. The Special Rapporteur received reports in December 2015 that an allegedly Shia "religious group" in the capital Tehran had confiscated land belonging to an Assyrian Chaldean church. In an interview with *Shargh* newspaper, the head of the church also complained of broader legal discrimination against Iran's religious minorities, including in the country's civil code.⁸³ In its response, the Government notes that the operation of house churches is unlawful because they have not acquired the necessary permits from the authorities, that the establishment of house churches is "unnecessary" because there are more than "20 active, half-active and historical churches" in Iran, and Christians have not "requested permission to build new churches" in the country. The Government also characterized the situation regarding the Assyrian Chaldean church as "a dispute between two Iranian citizens."

61. In a positive development, news outlets reported in September 2015 that President Rouhani appointed a Sunni Kurd, Dr. Saleh Adibi, as Ambassador to Vietnam and Cambodia. Mr. Adibi is believed to be the first Iranian Sunni to be appointed as permanent representative since the founding of the Islamic Republic.⁸⁴ Iran's Sunnis, which constitute the largest religious minority in the country, have long complained that Iranian authorities do not appoint or employ them in high ranking government positions such as cabinet-level ministers

81 <http://news.bahai.org/documentlibrary/TheBahaiQuestion.pdf>.

82 <http://icana.ir/Fa/News/286516>

83 http://www.radiofarda.com/content/f14_iran_church_christians/27458286.html

84 http://www.bbc.com/persian/iran/2015/09/150902_103_iran_diplomat_sunni

or governors. They have also raised concerns regarding reported restrictions on the construction of Sunni mosques in Shia-majority areas, including the capital Tehran, and the execution or imminent execution of Sunni activists the government alleges were involved in terrorist-related activities. In its response, the Government notes there are more than 10,000 mosques and 3,000 religious schools for Sunnis in the country, that there is no need to build prayer halls for Sunnis in Tehran, and that pursuing policies that encourage Sunnis to have their own mosques or prayer halls is equivalent to “sow[s] the seeds of discord among Muslims.” The Government also refutes the characterization that several Sunnis who have been executed or on death row are peaceful activists, and alleges they engaged in “violent acts and terror.”

62. Indiscriminate killings of *kulbaran* (border couriers), in violation of Iran’s domestic laws and international obligations, continue to be reported in 2015. Human rights organisations report that between 36 and 44 border couriers were killed, and that at least 21 were wounded by government forces between January and December 2015.⁸⁵ These reportedly unarmed couriers from the Kurdish-dominated provinces of Kermanshah, Kurdistan and West Azerbaijan appear to engage in smuggling items such as tea and tobacco due to inadequate employment opportunities in the country. The Special Rapporteur notes that he has also received reports of a high incidence of shootings by police against unarmed civilians in and around the border areas of Sistan-Baluchistan province continues, including of individuals reportedly smuggling goods, such as gasoline. In its response, the Government noted that although it has the authority to exercise police powers at the borders “border guards are [not] authorized to open fire at any suspect without accountability.” The Government also alleges that “it is very difficult to distinguish drug traffickers and armed bandits from real Koulbaran [sic] at [the] borders.

IV. Conclusions and Recommendations

63. **The Iranian government's efforts to address national and international concerns about protections for the accused is welcomed. However, outstanding and emerging issues highlighted in the present report, including serious problems related to the administration of justice and the need for additional legal reform, require immediate attention.**

64. **Despite some positive amendments in 2013, the Islamic Penal Code continues to justify serious human rights violations perpetrated by Iranian officials, including by members of the judiciary. Many provisions in the penal code violate Iran’s international human rights obligations by criminalising the peaceful exercise of fundamental rights, or other acts that are not internationally recognised as crimes. The Code also continues to discriminate against girls, women and religious minorities. He encourages the Government to consider additional penal code reforms in line with its international legal obligations.**

65. **The Special Rapporteur further notes that serious rights violations linked to laws that violate the Government's international obligations are often compounded by the failure of security officials and the Judiciary to properly implement national laws that would otherwise protect the rights of the accused, including fair trial guarantees and strict prohibitions on the use of torture and ill-treatment against detainees.**

66. **The Special Rapporteur is further encouraged by Iran’s willingness to also explore steps to reduce the number of executions observed in the country. He**

⁸⁵ Information received from Association of Human Rights in Kurdistan of Iran – Geneva and Kurdistan Human Rights Network (<http://kurdistanhumanrights.net/en/?p=747>).

reiterates his call on the Government to establish a moratorium on the use of the death penalty, and further encourages it to continue its examination of laws and policies that effectually undermine or violate the right to life. This includes laws that apply the death penalty to acts not considered to be criminal offences, or crimes that do not warrant use of the death penalty under international law, such as drug-related crimes. He also appeals to the Government to abandon piecemeal reforms and to immediately and unconditionally prohibit the execution of juvenile offenders, defined as individuals under 18 years of age at the time they committed a capital offence.

67. The widening crackdown on freedom of expression and opinion that reportedly took place during the reporting period is regrettable and the Special Rapporteur urges the Government to consider amending or rescinding laws, policies and parliamentary measures that contravene freedom of expression and that restrict access to information, including the draft Political Crimes Bill, which would criminalise attempts to “reform the country's policies”.

68. The Special Rapporteur welcomes the recent release of arbitrarily detained persons, but maintains his concern about other journalists, lawyers, religious minorities and individuals that work to defend the rights of women, children, workers, and ethnic minorities that are currently detained of the peaceful exercise of fundamental human rights. He reiterates the concern of the Special Rapporteur on the situation of human rights defenders about the Government’s “overly broad interpretations” of national security and propagation crimes against the State, and strongly urges authorities to release all individuals identified as arbitrarily detained by the Working Group on Arbitrary Detention and other human rights mechanisms.⁸⁶

69. The Special Rapporteur further regrets that concerns remain around the situation of recognised and unrecognised religious minorities and that communities continue to report arrests and prosecution for worship and participation in religious community affairs, including in private homes. He raises particular attention to the situation of Bahai’s due to the existence of systematic policies designed to discriminate, target, harass and economically deprive them of the right to a livelihood. The Special Rapporteur urges the authorities to recognise that freedom of religion or belief entails the freedom to choose a religion or belief, and that measures restricting eligibility for civil, political, social or economic privileges, or imposing special restrictions on the practice of other faiths, violate the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26 of the International Covenant on Civil and Political Rights.⁸⁷

70. The Special Rapporteur calls on the government to amend laws that violate the rights of women, or that undermine their equal and full enjoyment of civil political, social, and economic rights, including the rights to freedom of movement, work, and the right to be free from discrimination, especially in the workplace. Draft legislation currently under consideration that appear to infringe on these rights and that may incite violence against women should be reconsidered as a means of addressing national and international concern. The Government should also reconsider laws that insist that women seek permission to travel from their spouses, and he urges Iran to protect children born within its jurisdiction by facilitating the capacity for women to pass on their citizenship to their sons and daughters.

71. The Special Rapporteur reiterates his firm belief that the Government could significantly improve the country’s human rights situation with the full implementation of recommendations accepted at the outcome of Iran’s 2014 UPR. He,

⁸⁶ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/25/55/Add.3

⁸⁷ Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993)

therefore, renews his requests for further dialogue and for a visit to the country to both discuss the Iranian government's plan for implementing these UPR recommendations and for exploring constructive ways in which the mandate-holder and other special procedure representatives may support Iran's implementation efforts.

72. After almost five years of work to monitor the country situation and to establish a constructive relationship with the Government, the Special Rapporteur believes that the human rights situation in Iran merits a measure of confidence, which must be strengthened by tangible efforts and outcomes that lay the groundwork for perceptible progress. He remains committed to the notion that the outcome of the 2014 UPR offers stakeholders a platform to explore opportunities to ameliorate the current situation, stresses the Iranian government's need to improve its cooperation with all the special procedures, and he encourages the international community to remain steadfast in its engagement. The Special Rapporteur urges the government to facilitate ongoing requests for information, and enjoins Iran to consider a voluntary midterm review, which may contribute to its ability to uphold its international human rights obligations.
