

**Commentary on the August 2010 Country of Origin Information (COI) Report on Iran
Prepared for the Independent Advisory Group on Country Information (IAGCI)**

Prepared by:

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¹ This commentary is written in a personal and professional capacity. The author is a Lecturer in Islamic Law at Durham University and First Class Attorney in Iran's Jurisdiction. He has written extensively upon socio-legal and human rights issues in Iran, as well as the political regime and Iranian diaspora for eight years, and is an instructed expert in this field. Dr. Kakhki was born and raised in Iran, working within that jurisdiction for most of his adult life. This commentary is based upon professional experience and comparison of the COI report's contents and referenced sources with other widely available information and literature.

Introduction

In the aftermath of the 2009 Presidential elections, the socio-legal and political environment in Iran continues to deteriorate, in addition to the Iranian diaspora becoming increasingly frustrated by the Regime's perceptible disregard for democracy and observance of fundamental human rights. This is notwithstanding the increasing tension patent within the global arena, pertaining both to Iran's economic nuclear capabilities.

It is evident from consultation with recent news articles that opposition to the Iranian Regime appears to be strengthening, as the Government struggles to deal with corruption and quelling internal unrest. This can be juxtaposed the suppression many Iranian's feel, depending upon their particular ethnicity, cultural background and familial ties. Many lack access to decent quality healthcare and education and face ongoing poverty, social problems such as depression and drug addiction, and many suffer violations of their human rights at the hands of Government and anti-Government forces, or in some cases at the hands of their local community or family.

The necessity for those involved in asylum decisions to have access to up-to-date, reliable, balanced and comprehensive information on Iran is affirmed. Thus, the overall aim of this commentary is to provide an evaluation of the August 2010 COI Report on Iran and draw attention to any points of concern that may affect the report's quality, as a resource for those involved in the asylum determination process.

The specific objectives of this commentary are as follows:

- Assess how **up-to-date** the August 2010 COI report is by comparing its content to other widely available sources, as well as previous COI reports.
- Investigate how **accurate** the information presented in the COI report is, by comparing selected referenced material with source documents and cross-checking the report with the sources cited.
- Consider how **user-friendly** the COI report is as a resource and, in particular, how easy or difficult it is to find information on a specific topic without reading the whole report.
- Determine how **representative** the COI report is by examining the extent to which, information cited in the COI report represents a summary of the referenced source material.

Technical Overview of Report

1) Currency of Report

In the main I found the COI report to be up to date, referring to pertinent and timely issues using a range of sources published within the last 12 months. Where necessary, I have added information published after the publication of the COI report, I have identified this as such.

2) Accuracy and Readability

The accuracy and readability of the COI report on Iran has improved over the years and continues to do so by employing an evaluation of the issues therein before publication.

As many legal terms in Islamic law are not written in English, it is suggested that an appendix be included to further inform the reader of non-English terms or their appropriate translation. This is also applicable to calendar dates and events occurring within the religious calendar, which could be included so as to afford the user greater clarity and appreciation of the context in which events may occur.

COIS: Thank you for the suggestion. Although it is accepted that such an appendix may be useful, attempts are made to include the English meaning of any Iranian words throughout the main body of the report. Any suggestions as to an appropriate source for legal terms would be appreciated however.

3) Objectivism and Missing Information

With regards the issue of missing information, this was more challenging than currency, accuracy and readability for this report. In particular, based on key areas focused upon by the Home Office during Asylum and Immigration proceedings, some issues were not sufficiently covered.

By way of example, the authority and size of the Iranian Law Enforcement Agencies (police et al.) was rather inaccurate and there is no mention of exemptions accepted by the authorities from Iranian military service. There was also a lack of emphasis placed on the differences between prisons and detention centres. It is also suggested that there could be more discussion of the internal opposition to stoning within Iran.

COIS: See comments made throughout the review in respect of these points.

Summary and Introduction to Findings

The following section (background) seeks to outline a summary of findings drawn together from the more in depth findings of the following section. Rather than merely just repeat the findings contained in that section, this introductory section will briefly refer to relevant issues that illustrate specific problems raised therein.

Issues and Recommendations

Background

There appear to be no issues present with the background information on Iran supplied in the COI report, save for those outlined below.

My feeling is that there should be more commentary upon Iran's economic health and the impact of sanctions on unemployment within the relevant section of the report, that being at paragraph 2.02. This is because despite Iran's vast energy reserves, economic malaise has been the greatest source of popular discontent in the Islamic Republic.

The information is accurate in the main but does not go far enough to highlight the predicaments faced by average Iranians or an examination of the problems Iran's economy needs to overcome.

For example, there should be discussion of the income disparity existent within Iran and in fact the youth bulge is ending, and fewer young people are entering an already stretched labour market. This will probably lead to higher per capita income, as the labour market absorbs a higher percentage of workers.

COIS: Noted; however, the economy section is intended to give only an overview of the country situation rather than an in depth analysis.

Mention of target economic measures, related to proliferation and terrorism activities, rather than wide scale sanctions could be included in the report. These targeted sanctions are aimed at disrupting Iran's ability to access and ship nuclear materials and at constricting their operating environment. The report would also benefit from analysis of those most targeted by the sanctions, such as the Revolutionary Guard, though by the same token such an organisation is best placed to evade those sanctions placed upon it.

COIS: Further mention of sanctions is made in section 4 under the subheading 'Nuclear Programme and International Diplomacy'. This section will be cross referenced in the new report.

Also, at paragraph 2.04, it states that the exchange rate as of 6 May 2010 was £1: 14,903 Rial (IRR). More up to date information estimates this figure as £1: 16425 Rials.²

COIS: The exchange rate will be updated in the next COI report.

With further reference to Iran's nuclear programme and international diplomacy, as discussed at paragraph 4.22 of the report, I feel it is of note that Iran experienced problems in its uranium enrichment facilities.

² <http://www.bmi.ir/En/default.aspx>

The facts, as widely reported, that a complex computer worm infected the personal computers of staff at Iran's first nuclear power station, capable of seizing control of industrial plants is of mention here. The worm, Stuxnet, which is tailored to target weaknesses in Siemens systems used to manage water supplies, oilrigs, power plants and other utilities, infiltrated Iranian computers in September 2010. The overall relevance of an otherwise seemingly commonplace incidence of a worm or viral detection within computer-based systems is that it is felt that this action is indicative of an electronic war being launched against Iran.

The following report may go some way to explaining the veracity of the issues at play:

"Iranian officials have confirmed reports that a malicious computer code, called Stuxnet, was spreading throughout the nation's nuclear infrastructure. But the officials have given differing accounts of the damage by Stuxnet, said to be capable of taking over computers that operate huge facilities, including nuclear energy reactors.

Taghipour said the government has eliminated the Stuxnet threat. He said no major computers have collapsed.

But other officials said Stuxnet has damaged 30,000 computers. They said Stuxnet might have been introduced by a foreign intelligence agency as early as 2009.

"An electronic war has been launched against Iran," Mahmoud Liai, an official at the Industry and Mines Ministry, said. "This computer worm is designed to transfer data about production lines from our industrial plants to [locations] abroad."

Iran's state-owned news agency, ISNA, reported that leading nuclear scientists and engineers met in late September to examine the threat. ISNA said Stuxnet, discovered by Iran in July 2010, has already harmed Iranian industrial facilities."³

It is reported that if this is an attack, then Iran will not be the first victim of cyber warfare, as we know that cyber warfare was also used against Georgia in the war with Russia two years ago. However, I believe this is worthy of inclusion in the report.

COIS: Thank you for the suggestion . These events in September 2010 were after the cut off date of 30 June 2010. Consideration will be given to mentioning it in the next report.

Turning to a separate issue, that of political parties existing within Iran, there is potentially misleading information (the information itself is accurate as far as the constitution is concerned (i.e. *de jure*) but the situation is deteriorating as the government does not even tolerate pro-regime political parties who want to simply act within the constitutional boundaries, i.e. the information given is *de facto* incorrect) cited within paragraph 6.09 of the report. This states:

³ http://www.worldtribune.com/worldtribune/WTARC/2010/me_iran0944_09_26.asp

“Freedom in the World 2010: Iran, noted that: “The constitution permits the establishment of political parties, professional syndicates, and other civic organizations, provided that they do not violate the principles of ‘freedom, sovereignty, and national unity’ or question the Islamic basis of the republic.”

In reality, it is becoming increasingly more difficult for opposition political parties to survive within Iran. Whilst pro-government parties are already manoeuvring for the next parliamentary election due in early 2012, all the signs are that the government plans to replace the real political competition of past years with a limited contest among parties aligned with the regime.

It was widely reported that key members of the opposition were arrested and jailed during the post-election unrest, and all their websites and newspapers were closed down. A severe illustration of this occurred with the death of the nephew of Mir Hussein Mousavi, Seyed Ali Mousavi, supposedly at the hands of the secret police during the protests.⁴

Whilst there are a few indications that the some of the reformers are beginning to regroup, two major reformist parties, Jebhe-ye Mosharekat (Participation Front) and the Mojahedin-e-Enghlab (of the Islamic Revolution), were dissolved and subject to an indefinite ban by court order. Mosharekat's public activities are now restricted to proclamations on the Norooz website demanding the release of party members from prison. The only way forward for the two parties, therefore, seems to be to use other organisations as cover. According to BBC News,

27 September 2010

Iranian court bans two leading opposition parties

An Iranian court has banned two leading reformist parties, judiciary spokesman Gholam Hossein Mohseni Ejeie has said. The Islamic Iran Participation Front and the Islamic Revolution Mujahideen Organisation were "dissolved", he said. Both supported opposition leader Mir Hossein Mousavi, the main challenger to President Mahmoud Ahmadinejad in last year's disputed election. Members of both parties were jailed during the government's efforts to stifle the mass protests that followed.

Earlier this year, a political watchdog affiliated with Iran's interior ministry accused the parties of undermining national security. "Their case was sent to the court which dissolved both parties and they are not allowed to have any activities," Mr Ejeie was quoted as saying by the ILNA news agency.⁵

The rationale behind the tactics employed is highlighted in the following passage:

⁴ <http://edition.cnn.com/2009/WORLD/meast/12/27/iran.protests/index.html>

⁵ <http://www.evri.com/media/article;jsessionid=10rq0rr6iwy83?title=Iran+bans+two+opposition+parties&page=html>
http://www.bbc.co.uk/news/world-middle-east-11421538&referring_uri=/organization/islamic-iran-participation-front-0xdb738%3Bjsessionid%3D10rq0rr6iwy83&referring_title=Evri

“The front's appearance on the political scene is a clear indicator that the regime has learned lessons from the 2009 election, which it may have won but which nevertheless did significant damage to its reputation. The tactic for next time seems to be to create a semblance of pluralist competition that in reality consists of groups working together to support the status quo”.⁶

COIS: Thank you. This information is dated after the August report was published and will be included in the next report.

Human Rights

a) Crime

i) Drug Smuggling

The information provided in this section is, in the main, adequate, dealing with the laws of Iran relating to drug offences. However, this is with the possible exception that the material cited does not explain in any depth the true totality of smuggling coming westwards through Iran's eastern border and then passing into Europe and further afield. The following passage (or a distillation of the same) in addition to the 2008 UNODC article may go some way as to explaining the nature, scope and size of this issue:

“About 50% of the total opiate production of Afghanistan flows through Iran. There are three main trafficking routes: Northern (Khorasan), Southern (Sistan/Baluchestan), and Hormuzgan. Khorasan province hosts a large number of Afghan refugees, and drug traffickers along this route, usually organized in smaller groups of up to ten people, are mainly Afghans. The Mashad-Tehran road continues to be major trans-shipment highway. Some 90 entry points have been identified along the Khorasan-Afghanistan border. Local Sistani and Baluchi tribes along the Southern route may themselves get involved in drug-trafficking, which is carried out by large well-armed motorized convoys, or by camel caravans which are trained to move along the route without human leadership. Around 50 smuggling routes are currently in use, most of them converging in Mirjaveh (Pak-Iran border check point), Zahedan, and Iranshahr. The Southern and Northern routes are connected to the traditional Balkan route network, maintained from central Iran onwards by Azeri, Persian and Kurdish mafias. The third route flows to Bandar Abbas, Hormuzgan capital, whose important airport, and a port with ferry links to Dubai, make Bandar Abbas an easy trans-shipment point for outgoing deliveries to Europe and to the Gulf, as well as incoming chemical precursors destined for heroin labs in Afghanistan.”⁷

COIS: Consideration will be given to the suggestion. It is felt, however, that as the suggested source is dated 2004 it's currency may be questioned and a more recent source would be preferred.

⁶ <http://www.pbs.org/wgbh/pages/frontline/tehranbureau/2010/11/iranian-opposition-struggles-to-survive.html>

⁷ http://www.silkroadstudies.org/new/inside/research/narcotics_crime/FactSheet/2004/Iran.pdf

Aside from the aforementioned point, the section deals sufficiently with the issues of drugs within the Islamic Republic. It is suggested that the information does not perhaps go far enough when dealing with the concept of asylum related issues.

One relevant issue pertinent to drug smuggling not mentioned in the report is the possibility of *ne bis in idem* (i.e. double jeopardy). This applies to those returned to the Islamic republic having been arrested on charges of drug smuggling in the UK. It should be borne in mind that a concept such as *ne bis in idem* does not exist in Iran currently⁸ as we in the West would understand it, and there is much ambiguity and subjectivism involved in application of the concept.⁹ Similarly, there is the easy method of avoiding a direct implication of violating *ne bis in idem*, in that, for example, the UK would charge one for the offence of importing narcotics, and Iran would later charge them with the offence of trafficking, or exporting narcotics.

COIS: It is agreed that the inclusion of information on double jeopardy would be beneficial. It has been difficult, however, to find such material. The suggested 2004 Journal of Financial Crime source appears to be unavailable unless a copy is purchased. Would Dr Kakhki be willing to include his comments in a document that could be used by COIS in future reports?

According to Article 4 of the Iranian Penal Code, if a part of a crime occurs in Iran but it is completed outside of the country or a part of the crime is committed abroad and the consequences are observed in Iran, it is considered as a crime committed inside Iran.

Article 5 of the same Code states that; “those Iranian citizens, who commit one of the following crimes outside of Iran but are arrested in Iran **or are deported to Iran** [my emphasis], would be punished according to the Islamic Republic of Iran’s Penal Code.

- Any act against the Islamic Republic of Iran, its internal or external security and the independence of the country.
- Forgery of the Supreme Leader’s Order, his signature and stamp or the deliberate use of the forgery.
- Forgery of a document issued by the President, the Speaker of the Parliament or the Head of the Judiciary.
- Forgery of the Iranian Currency.”

Article 7 stipulates that “in addition to the instances given in Articles 5 and 6, every Iranian who commits a crime outside of Iran and is found in Iran, would be punished under the Islamic Republic of Iran’s Penal Laws.”

As can be seen from the above articles, the law is legislated in a general manner and there is no difference between people who are arrested outside of Iran and punished according to the foreign country’s domestic law or those arrested in Iran for the first time. Currently (after the latest presidential elections) there is much ambiguity as to what constitutes an ‘act against the

⁸ Although has existed in the past, pre the Islamic Revolution.

⁹ For a more in depth analysis see: Rahmdel, M. “The *ne bis in idem* rule in Iranian Criminal Law” 2004 Journal of Financial Crime 277.

Islamic Republic of Iran', as it is increasingly widely interpreted by the Iranian judiciary and there is no reason to believe that drug smuggling would fail to qualify as an offence under this article, or that a prosecution would not succeed. It is stated by the legislator that 'every Iranian national who commits an offence abroad will be punished according to Iranian penal laws upon return'. Such a statement should be taken to mean that there is a high likelihood of secondary prosecution in Iran on the return of a convicted drug smuggler, the consequences of which are laid out in the COI report to some extent.

COIS: We will include more information on the Penal Code in the next report. Additional information on this issue has been provided to decision makers via our information request service.

As for the severity of punishments imposed for such activity, the statistics speak volumes, specifically in the case of the recent Mashhad executions of October 2010:

"23 more prisoners were hanged in secret at the Vakil Abad prison in Mashhad in October. The victims were charged with transporting drugs, and were executed without the knowledge of their families or lawyers, and were not even themselves informed until a few hours before their deaths

According to reports from Iran, there have been widespread mass executions carried out in secret at Vakil Abad Prison in the northeastern city of Mashhad. On two known occasions, on October 5 and 12, a total of 23 prisoners were hanged.

...

These executions were carried out without compliance to the regime's own rules and due process. A number of the prison's former inmates have also revealed that they were forced to make confessions under torture."¹⁰

Behaviour such as this is clearly indicative of the regime's attitudes towards and treatment of those accused of drug smuggling in particular, and drug related offences more generally. Such behaviour is stated quite clearly in the Anti-Narcotics Law of 1997¹¹. Perhaps more shocking than the executions themselves, is the seemingly ad-hoc manner in which they were ordered:

"Based on reports by Neday-e Sabz Azadi, some of the people who were allegedly arrested in connection with drug smuggling had already received their sentences. The sentences issued did not include the death penalty, and in some cases, they had only been sentenced to pay a fine. But, in a sudden unannounced move, a judicial order was issued to execute them"¹²

¹⁰ http://www.ncr-iran.org/en/index.php?option=com_content&view=article&id=9220:secret-mass-executions-continue-in-mashhad&catid=157:human-rights&Itemid=132

¹¹ <http://www.unhcr.org/refworld/country,,,LEGISLATION,IRN,,4c35b0a52,0.html>

¹² <http://persian2english.com/?p=13540>

With specific reference to drugs offences, it is not unknown (or indeed uncommon) for people in Iran to be arrested on suspicion of drug related offences in order to ‘cover-up’ the true nature of their appeal to the authorities, such as political opposition. Similarly, there are reports of the Iranian authorities ‘planting’ drugs upon those they seek to arrest for other purposes. Vice versa, it is not unknown for people to be arrested on drugs charges, only in order to be actually charged with another, unconnected offence. The following article illustrates this point:

Zahra Bahrami under Pressure to Make False Confessions
20th September , 2010

Iranian-Dutch citizen Zahra Bahrami is under pressure by the interrogators to make false confessions such as “involvement in sale and possession of drugs.”...According to the report, she appeared in front of Judge Salavati, the head of the 15th branch of the Revolutionary Court, on September 8 and September 11. She refused to speak in the court since her attorney, Nasrin Sotoodeh, is in prison and the trial was postponed. Judge Salavati has emphasized the heavy sentence that awaits her if she is convicted of sale and possession of drugs... She was detained during the Ashura protests and has been held in Ward 209 since her arrest. According to the reports, the interrogators and Judge Salavati have threatened that she will either receive a death sentence or life in prison.¹³

COIS: The above cases occurred after the publication of the August report and will be considered for inclusion in the next report.

b) Security Forces

Nota Bene: Overview of Intelligence Services

Due to the complex nature of the Iranian Security service both domestic and foreign, civilian and military, it will be useful to provide a brief overview of the services as a single entity, before diverging to discuss the relevant individual organizations.

Iran's information operations occur under the auspices of a large number of disparate organisations. Due to the complex, interconnected nature of the Iranian secret services, it is easier to deal with them as a single ‘block’ in this report, differentiating between them in specific instances. A good overview:

“The leadership of the country is quite obscure for the observers abroad, and thus, Iran's intelligence services, collateral and incumbent, are more efficient. The Islamic Revolutionary Guards Corps (IRGC) - one of the Iranian intelligence services, is a complex combination of institutions - army forces, intelligence services, undercover and special operations forces, police, paramilitary forces and business groups with implications at a global level.

¹³ <http://www.rahana.org/en/?p=7143>

The Ministry of Intelligence and Security (MOIS) - another Iranian intelligence service, is more traditional and has both foreign and domestic intelligence responsibilities.

The "secrecy" that characterizes the Iranian regime and organizations is specific to the intelligence services too. The president has more authority with the MOIS, one of the ministries of the government, while the IRGC has become a national institution under the leadership of Iran's Supreme Leader. Iran's Supreme National Security Council (SNSC) - the state official organization that makes foreign and military decisions and Supreme Leader's Intelligence Unit are two semi-collateral organizations that gather all the intelligence authorities. Their decisions must ultimately be approved by the Supreme Leader."¹⁴

COIS: Thank you for this suggested overview dated November 2010. It will be used in the next COI report.

Recent events have confirmed the reputation of the myriad Iranian Security Services in the eyes of foreign observers, namely the March 2010 cross-border rescue of an Iranian diplomat in Pakistan, which although potentially exaggerated:

“it does not reduce Iran's reputation for having an intelligence organization capable...to take care of the militants abroad - in the name of the preservation of the regime”¹⁵

The priorities of the Iranian intelligence and security system seem to be directed towards the maintenance of domestic stability, the surveillance of foreign powers that could threaten Iran, the warning over possible actions and redirecting attention from them as well as the procurement of better defence capabilities. As we can notice from Iran's domestic and foreign actions from the recent years, the accomplishment of these priorities depends on the President of the country and on a reduced group of people loyal to the system and it does not have rational limitations. The pressures of the international community and of the global and regional security organizations do not appear to have any of the expected results.¹⁶

Although the overview provided in the COI remains mainly accurate, there are a few parts which require updating, specifically the reference to the US State Department *Country Report on Human Rights Practices 2009* Iran. This states that:

“*Civilian authorities did not fully maintain effective control of security forces.*”

This is an ambiguous and potentially very misleading understatement of the facts. The Revolutionary Guard Corps, responsible for large parts of Iranian Security Forces (both

¹⁴ World Security Network,
http://www.worldsecuritynetwork.com/showArticle3.cfm?article_id=18470&topicID=44

¹⁵ STRATFOR report 21 June 2010

¹⁶ http://www.worldsecuritynetwork.com/showArticle3.cfm?article_id=18470

internal and external), with a membership of 125,000 personnel¹⁷ is a purely military organisation:

“Although the IRGC operated independently of the regular armed forces, it was often considered to be a military force in its own right due to its important role in Iranian defence”¹⁸.

COIS: Thank you. The Global Security source material will be included in this section of the next report.

Especially when one considers the large role played by ‘unofficial’ militia groups such as the Basij and the Ansar-e hizbollah, ostensibly under the supervision of the IRGC, it is very difficult to establish the existence of any direct and definitive chain of command to civilian hierarchy. It should be added here, for the sake of completeness, that it may be possible to consider the Supreme Leader a ‘civilian’, but as the head of the armed forces, one has to question whether or not this warrants the description of ‘civilian control’. An illustration of this control, by the Supreme Leader is given below:

July 28, 2010

On July 14 in a meeting with the members of IRGC Khamenei reminded them their reason for existence and said: “in regard with the anti-Revolutionists IRGC has preserved its identity in Tehran’s streets, in Kurdistan events, during eight years of war (Iran-Iraq war) and in other events and scenes. It has been flexible enough to reorganize itself according to the necessities of the time so that it can act to its duties”.

Khamenei expressed his fear from the international pressures and vast sanctions on one side and the uprisings of people of Iran on the other side and demanded that his suppressive IRGC members act to ‘their main task and be ready’.

Khamenei continued by talking about the sayings of US authorities on change in regime’s behavior and said: “their real intention is to try to change the course of ‘Islamic Revolution’”. He said in regard with sanctions: “they speak as such that we would think there is something terribly dangerous behind these threats.

Whether these threats are hollow or real we should undoubtedly be ready for preserving the Revolution in any circumstances.

During the ‘sedition’ of the last year they jumped in the middle of the scene and supported those responsible for the sedition”¹⁹.

ii) Law Enforcement Forces (inc. Police)

¹⁷ Not to mention the potentially up to 1,000,000 members of the Basji that it indirectly controls

¹⁸ <http://www.globalsecurity.org/military/world/iran/pasdaran.htm>

¹⁹ <http://iranstudentscommittee.blogspot.com/2010/07/brief-sanctions-khamenei-and-irgc.html>

There are a number of issues to be raised in this section, beginning with the quotation from Jane's *Sentinel Country Risk Assessment*, stating that the strength of the police force numbers around 400,000. Depending upon how this figure is interpreted, this is either a huge underestimation or a large overstatement; in either alternative clarification is necessitated.

Should the report merely be referring to standard policemen (i.e. not militia men, secret services men or members of the IRGC) then the number is circa. 60,000.²⁰

Should, however, the report be referring to all law enforcement agencies (including unofficial 'reserve' forces), then this number rises sharply. If one only refers to 'active' members of such services, then they number around the 200,000 mark. If however, one refers to all members capable of mobilization, then this amount increases to over 1,000,000:

*"The Basij (Mobilization of the Oppressed) is a popular reserve force of about 90,000 men with an active and reserve strength of up to 300,000 and a mobilization capacity of nearly 1,000,000 men."*²¹

COIS: As the CSIS source quoted is dated 2006, we would usually try to use a more recently dated source. It is stated in the footnotes for ²⁰ and ²¹ that the same numbers are also quoted in more recent material and information on these sources would be appreciated.

This is by no means an exaggeration of the potential force that can be, officially or unofficially, deployed. Recent protests within Iran have seen the authorities transporting in many, many thousands of Basij as counter-demonstrators:

"Mir Hussein Moussavi, the opposition presidential candidate, decried the violence carried out by the Basij in the wake of the disputed presidential election in June 2009, although he did not name the group directly. Saying that the Basijis lack uniforms, proper identification or anything that denotes them as public employees, he said they appeared with hoses, clubs, iron bars, truncheons and sometimes firearms.

'Just before the police show up they attack the demonstrations,' he wrote.

...

*The Basij was reinvented in the late 1990s, Iran experts said, after the government felt that it had lost control of the streets during spontaneous celebrations when Iran won a spot in the World Cup soccer championship in 1998 and again during student protests in 1999."*²²

COIS: The Basij section will be updated in the next report and source ²² will be considered for inclusion. Additional information on the Basij has been made available to decision makers via the COIS information request system.

²⁰ http://csis.org/files/media/isis/pubs/060728_gulf_iran.pdf

²¹ http://csis.org/files/media/isis/pubs/060728_gulf_iran.pdf - Such numbers are repeated in more recent studies and articles, and seem to be the objectively agreed view.

²² http://topics.nytimes.com/topics/reference/timestopics/organizations/b/basij_militia/index.html

Islamic Republic of Iran Police (IRIP)

Perhaps the area most overlooked in this part of the COI report is the use of electronic methods of surveillance and monitoring by the Law Enforcement Agencies. In terms of providing electronic services in Iran, the police are pioneers for providing electronic services through the agencies. They call this e-police system “police + 10” which 10 major police services are providing through these police agencies such as applying for passports, fingerprinting, printing car fine history and etc. The IRIP's description on the Islamic Republic News Agency (IRNA) reads,

"The newly launched police + 10 project is aimed at offering faster, more careful services to the Iranian citizens, respecting their personality more than ever before, and assuring their security by the police force."

One of the results of this development into the digital age of law enforcement has been the updating and improvement of the infrastructure of the police and other law enforcement agencies, such as the communications and IT networks. Looking at the website of the Iranian Police force, one can see the services offered including; statistics on crime, general news, announcements by the police and the provision of information about the face-to-face services offered by the police. The gamut of services offered by the police far exceed what we may expect the police to do in the UK, ranging from the granting of passports and driving licences to granting business permits to premises and general traffic enquiries.

The more important fallout of such development and improvement of IT systems have spilled over into the wider range of law enforcement agencies present in Iran. I shall list, and give a brief outlay, of these services below, taken from the Iranian Police website²³ and launched in late 2008:

1. Police Emergency System - incorporating both the reporting of crime by the public through the provision of an online database and then monitoring the responses to this information by the police force. This project was designed to make police action more 'accurate, fast and precise'.
2. Military Service Integrated System – this system is designed to bring together the numerous aspects concerning military service in Iran under one roof. It aims not only to reduce the man-power needed to monitor conscription and streamline its implementation, but also to create a central database of all those serving within the military to aid with internal military reorganisations, e.g. transfers.
3. Traffic Integrated System –
4. Information Integrated System – this system is designed to control and monitor the borders of Iran, dealing with both border control and the issuing of passports, again seeking to streamline and slim-down these services.

COIS: Source ²³ will be considered for inclusion in the next report.

²³ <http://www.police.ir/Portal/Home/Default.aspx?CategoryID=85ba0621-abf3-47f9-a300-c962313ce280>

The only further information specifically lacking from this section of the report is that concerning the detective branch of the police, rendered more important due to recent developments concerning surveillance methods employed by them. The law lays out specific responsibilities for this service, and these include the following: "fighting against illicit (activities), crime detection, investigation and detection, preserving crime evidence, arresting convicts and culprits, identifying, scientific crime detection by implementing the plans and instructions, detecting convicts by gathering crime evidence, using scientific examinations on the obtained evidence and documents, researching and investigating on the motives of committing crime, detecting and identifying crimes using obtained documents and scientific fundamentals and observing their enforcement, researching on the modern scientific methods which would optimize the efficiency and finally analyzing crimes and Detective Police activities."²⁴

The responsibility particularly relevant to this report is the use of electronic surveillance, particularly against perceived dissidents or opposition supporters:

Iran Police Chief Warns Opposition Against SMS, Email Communication

January 15, 2010

Iran's police chief has warned opposition supporters against using SMS text messages and e-mails to organize antigovernment rallies. Ismail Ahmadi Moghaddam said spreading word of such demonstrations was a crime that carried a "heavy penalty."

Cell-phone and e-mail messages emerged as a key form of communication for Iran's opposition in the unrest that erupted in Iran after June's disputed presidential election -- including to organize demonstrations and disseminate news and images. The messages have also become an important source of information for foreign media who are banned from directly covering the protests.

Moghaddam said anyone using SMS or email messages to organize opposition rallies should know their messages were being monitored. He said it was possible to trace both sender and recipient, and he warned that anonymous proxy servers would not protect user identities.

The warning comes amid a continuing clampdown on media in the wake of the most recent opposition protests in late December, in which at least eight people died in clashes between security forces and demonstrators. Earlier this week, authorities closed a conservative newspaper, "Hemmat," for "slander and dissemination of lies with the intention of agitating public opinion."²⁵

Iran police chief warns protesters emails, text messages monitored

[RIA Novosti](#)

²⁴ <http://www.police.ir/Portal/Home/Default.aspx?CategoryID=ebd92592-3f27-4802-8691-337c7c50e634>

²⁵ <http://www.globalsecurity.org/wmd/library/news/iran/2010/iran-100115-rferl01.htm>

15/01/2010

MOSCOW, January 15 (RIA Novosti) - The head of Iran's police warned protesters on Friday that all emails and text messages in the Islamic republic are monitored, the ILNA news agency reported.

Security forces in Iran clashed with opposition protesters in late December. Fifteen people died and more than 300 demonstrators were arrested. Iranian police used tear gas to disperse the crowds and were reported to have fired shots into the air. Several police officers were injured.

People were reportedly told how to participate in the illegal demonstrations through emails and text messages.

The clashes came as the country marked Ashura, a 10-day period of religious ceremonies commemorating the death of Imam Hussein, a grandson of the prophet Mohammed who was killed and beheaded in the Battle of Karbala in 680 AD by the armies of the Sunni caliph Yazid.

Ahmadi Moghaddam said police would make no concessions to protesters following the December events.

"Let those who use the services of anonymous proxy servers not think we can't monitor their activity. We just went easy on them before today," he said.

Moghaddam pledged harsh punishment for those who organize illegal protests that turn into large-scale public disorder."²⁶

Such revelations should be taken with a pinch of salt, when one considers that such a threat by the authorities may by itself be adequate to prevent the use of electronic communications by dissidents, students and opponents of the government. In spite of this and whichever way you interpret the information, it would seem appropriate to include it.

COIS: Further information on this issue is included in the Freedom of Speech and Media section of the report. It is agreed, however, that further updated information on electronic surveillance would be beneficial for the next report.

iii) Iranian Revolutionary Guard Corps (Pasdaran)

Most of the information in this section appears to remain correct with consideration of and comparison with the last report. One issue worthy of reflection is paragraph 9.09. This is an excerpt from Jane's Sentinel Country review, which states that the Basij and Quds divisions are part of the IRGC. Although technically accurate, this information could potentially be misleading.

²⁶ <http://www.globalsecurity.org/wmd/library/news/iran/2010/iran-100115-rianovosti01.htm>

IRGC was founded in 1979 by a decree issued by Ayatollah Khomeini as a guard of the new regime. According to Article 150 from the Constitution of Iran, IRGC operates as a "guarantor of the Revolution and of its achievements". For that purpose, the Supreme Leader placed under political control all the levels of the organization, this should not however be confused with 'civilian' control as the West would understand.

The intelligence element - the Intelligence Office of IRGC - (Ettalaat-e-Pasdaran) had 2,000 personnel (in 2006). This element of the IRGC is responsible for the security of the Iranian nuclear program. This means that it monitors all scientists, leads the security forces from the nuclear installations, provides guard against sabotages and performs counterintelligence operations in order to prevent the recruit of Iranian nuclear scientists by other countries. The other activities of the Intelligence Department of IRGC are not clear. Apparently, they also include the coordination of intelligence gathering by another element of IRGC - the Basij Force - for domestic security and for the foreign operations of the Quds Force.

It should not be forgotten, however, that the Basij are a paramilitary force, and although ostensibly under the command of the IRGC, are not an official part of that organisation *per se*. In spite of the Government ordered merger in November 2009, it would be a fallacy to state that the Basij are a 'military' organisation, certainly in terms of accountability or organisation. Similarly, there is some degree of disagreement between analysts as to how the hierarchy of Quds is organized. Quds force reports directly to the supreme leader, and so falls outside of the usual hierarchy of the IRGC. These quasi-independent conclusions are semi-implied by the different sections offered in the report to these differing groups, but the report could benefit from this fact being explicitly stated. More detail shall be provided below on these 2 organisations and their capabilities and roles.

According to STRATFOR sources, the intelligence office of the IRGC is at least as powerful as the MOIS, if not more so. The IRGC is as much a military force as an intelligence and security service, boasting an air force, navy and army. It is also a social, political and business organization that permeates Iranian society, producing a large number of political and business leaders and involved in many aspects of Iran's economy. The IRGC's intelligence office seems more active internally while its key operational group abroad is the Quds Force. The IRGC intelligence office and the MOIS are, in fact, parallel intelligence and security organizations, and regime critics claim that the former currently includes the most conservative and violent elements of the latter. This may be an exaggeration, but it is clear that the members and missions of the two organizations do flow back and forth. While Iran's two main intelligence organizations may oppose each other bureaucratically, in the end they both share the same goal: preservation of the clerical regime.

[COIS: Thank you. The above comments on the IRGC would be useful if they are provided as a source document.](#)

a) Quds

The Quds is the arm of the IRGC (see above caveat) responsible for the “export of the revolution” or, more practically speaking, the foreign activities of the IRGC. I would suggest that this fact be explicitly stated at the head of the section concerning the organisation.

It is also not stated that the USA considers the Quds to be a terrorist organisation.

One main responsibility of the IRGC/Quds is training the Hezbollah Special Security Apparatus, which is the most elite force within Hezbollah, Iran’s principal proxy movement. In recent years, Quds operations have been most prevalent in Iraq and Afghanistan.

The word "al-Quds" is the Arab name of Jerusalem and the name given to the force refers to the fact that one day it will liberate the holy city. The operations of the force are led by the General Staff of the Quds Force for the Export of the Revolution. According to STRATFOR, the Quds Force also performs counselling operations in Bosnia, Chechnya, Somalia and Ethiopia. One of the most important missions of the Quds Force is to train Hezbollah's special operations department, which is the elite force of the movement. In the recent years, the Quds Force deployed important operations in Iraq and Afghanistan.

COIS: Thank you for the suggestions which will be considered for next report; however, any recommended sources for this information would be appreciated. STRATFOR is a subscription website to which COIS does not have access.

b) Basij

Although the information present is accurate, it would seem appropriate to provide, either directly or in the form of a reference, some reports on the actions of the Basij in order to illustrate their non-official status. Particularly recent and relevant may be the following:

<http://news.bbc.co.uk/1/hi/8506489.stm> - Attack on Italian embassy
http://news.bbc.co.uk/1/hi/world/middle_east/8121540.stm - Post election rioting
http://news.bbc.co.uk/1/hi/world/middle_east/8200719.stm - General commentary on the behaviour of the Basij.

It may also be useful to provide some idea of the structure of the organisation, a brief layout of which is provided below, dealing with the two main distinctions between differing sections of the Basij:

The Basij has several branches dealing with their role. There are three main armed wings with distinct, but sometimes overlapping remits:

- 1) Ashoura and Al-Zahra Brigades - the security and military branch tasked with “defending the neighbourhoods in case of emergencies.”
- 2) Imam Hossein Brigades - composed of Basij war veterans who cooperate closely with the IRGC ground forces.

3) Imam Ali Brigades - deal with security threats.²⁷

The second distinction is more of a ‘recruitment’ distinction, ensuring that the Basij has a ‘counterweight’ faction to oppose non- (or anti-) governmental organisations within workplaces and professions, e.g. unions and student bodies: Basij of the Guilds, Labor Basij, Basij of the Nomads, Public Servants’ Basij, Pupil’s and the Student Basij.

It may also be worthwhile further analysing the size of the Basij, rather than simply providing a few figures that are open to much debate, both within Iran and in the wider world. The following illustrates the differences of opinion:

“Estimates of the total number of Basij vary widely (as mentioned above). In 2002, the Iranian press reported that the Basij had between 5 million to 7 million members, although IRGC commander Gen. Yahya Rahim Safavi claimed the unit had 10 million members. By 2009, IRGC Human Resource chief Masoud Mousavi claimed to have 11.2 million Basij members—just over one-half the number originally called for by Ayatollah Khomeini. But a 2005 study by the Center for Strategic and International Studies, a Washington think-tank, put the number of full-time, uniformed and active members at 90,000, with another 300,000 reservists and some 1 million that could be mobilized when necessary. Persian language open-source material does not provide any information about what percentage of the force is full time, reservists or paid members of the organization.”²⁸

One of the potential reasons for such disagreement, and such wide discrepancies in the figures given could be explained by the Basij statute distinguishing between three types of members:

- i) Regular members, who are mobilized in wartime and engage in developmental activities in peace-time, regular members are volunteers and are unpaid, unless they engage in war-time duty.
- ii) Active Members, who have had extensive ideological and political indoctrination and also receive payment for peacetime work.
- iii) Special Members, who are paid dual members of the Basij and the IRGC and serve as the IRGC ground forces.

It is important however, that bearing in mind the political instability in Iran, particularly at times surrounding the elections that the influence, power and impact of the Basij will only grow, and as such any information provided about them can only be considered a ‘snapshot’. The following example illustrates the ill-preparedness of the Basij the last time, and it should not be assumed that they will take this ‘lying-down’:

“The Student Day protests in December 2009 proved equally challenging for the Student Basij, who had mobilized several thousand members but were still unable to

²⁷ <http://iranprimer.usip.org/resource/basij-resistance-force>

²⁸ *ibid*

suppress dissidents at campuses in Tehran, Shiraz and Tabriz. The Basij were also unable to contain the massive demonstrations three weeks later during Ashoura, the holiest time of the year for Shiite Muslims. Senior military officials admitted that the IRGC had to mobilize militia members from the capital's outskirts and even from other provinces in order to suppress the unrest.

The regime signalled its displeasure with the Basij's performance. In October 2009, Taeb was removed as Basij chief. A few days later, the militia was formally integrated into the Revolutionary Guards ground forces, with Brig. Gen. Mohammad Naghdi as the new chief. In 2010, the Basij focused significant attention on combating perceived threats to the regime from the Internet. Thousands of members were educated in blogging and filtering of dissident websites, Basij officials acknowledged.”²⁹

COIS: Further information on the Basij has been made available to decision makers through COIS's information request service. Some of the material suggested above has been included in these responses. The Basij section will be updated in the next report.

iv) Ministry of Intelligence and National Security (MOIS)

The information provided by the COI report on the MOIS is primarily correct as far as it goes, it may be worthwhile to 'bulk' out slightly the information concerning the factual role of the MOIS. A crucial role played by the MOIS (also known as VEVAK) is that of assassinating dissidents, although this has reduced recently, such capabilities should not be forgotten³⁰. New responsibilities occurred, referring to subversive activities and the export of revolutions abroad. Iran currently extends its connections with groups from Algeria and with the Taliban group from Afghanistan. Despite the ideological differences, they use similar tactics and have common global goals as far as the fight against the non-Islamist influence is concerned.

From what we have presented above it is easy to see that MOIS and the intelligence arm of the IRGC are parallel intelligence and security services which, although are opposed at a bureaucratic level, ultimately serve for the same purpose: to support the criticized regime from Teheran. Again, this is a fact that I feel should be included in the report, illustrating the 'infighting' nature of Iranian Intelligence.

COIS: Source ³⁰ is dated 2003 and therefore considered rather old for current reports. It has been challenging to find material in the public domain that brings out the complex interactions of the Iranian intelligence services. If the above comments were provided as a source document they could be included in the next report.

v) Ansar-e Hezbollah

²⁹ Ibid

³⁰ http://news.bbc.co.uk/1/hi/world/middle_east/2704023.stm

The information here appears to be accurate and up-to-date, as above however, it may be of some use to provide further reading to illustrate the practical use of the Ansar-e Hezbollah by the authorities:

<http://persian2english.com/?p=5994> – Protests on Feb. 6th 2010.

COIS: Thank you. Source will be considered for inclusion in next report.

vi) Armed Forces

Estimates as to the size of the Iranian Armed Forces vary from source to source, and it may be helpful, rather than providing just one figure, to give a range.

COIS: Any recommended sources would be appreciated.

vi) Other Organisations

There is no information provided in this section about the intelligence gathering activities of the Iranian Intelligence Services in the West. Similarly, no information is given about the potential for the intelligence services to put pressure on Iranian émigrés. Purely because one is outside the physical sphere of Iran, does not mean that an individual remains outside its sphere of influence. I feel this to be a significant omission, and will provide some examples here to illustrate the point:

“Iranian agents are spying on opponents of the Islamic regime in Germany, German media reports say.

"We know that the Iranian secret service has its people circulating in demonstrations," a TV report on German public broadcaster ARD quoted the deputy head of German intelligence in Hamburg, Manfred Murck, as saying. "We have evidence that people are being filmed, that the services want to identify people."

The TV report also stated the German foreign ministry had said that Tehran had urged the German Foreign Ministry to prevent anti-Iranian demonstrations in Europe. Ali Reza Sheikh Attar, Iran's ambassador to Germany, denied those allegations. "There has been no letter or written message from us on this. There have been a lot of lies spread in the media about the protests," he told ARD.

But Iranian opposition figures in Europe claim they have been photographed, filmed and even hassled by Iranian agents.

Javad Dabiran, a spokesman for the National Council of Resistance of Iran, which is leading the protests in Europe, told United Press International in a telephone interview Friday that Iranian expatriates who have taken part in anti-regime demonstrations in Europe have received threatening phone calls, that people are arrested when they visit relatives back in Iran, and that those relatives are hassled by Iranian authorities.

"They are trying to intimidate people," Dabiran told UPI...

A bearded Iranian man driving a black Mercedes with a diplomat's license plate recently filmed the protesters, Dabiran said. When police asked the man why he was filming, he said it was for "private purposes," Dabiran told UPI...³¹"

COIS: Some information on the actions of the Iranian authorities outside of Iran is included in the Political Affiliation section of the report (Sub section - Political dissidents outside Iran) which is cross referenced to the Security Forces section.

In a similar vein, some more in-depth information pertaining to the Iranian security forces, including intelligence and regime preservation might enhance the scope of discussion of the topic, as would an analysis of the modern history of Iranian intelligence and a representation of the hierarchal organisations and operations therein.

COIS: A discussion of this kind may be too detailed for the scope of the COI report. However, if any publicly disclosable sources could be suggested they will be considered.

The current report alludes to covert Iranian intelligence operations but should also consider the more pervasive competing services that form the core of its intelligence community: the Ministry of Intelligence and Security (MOIS) and the intelligence office of the Islamic Revolutionary Guard Corps (IRGC). The bureaucratic battle between the two, as well as many examples of cooperation, may suggest the future makeup and character of Iranian intelligence and, by extension, the regime itself.

The tri-focal nature of Iranian intelligence as discussed in the following article is noteworthy:

"The operations of Iran's intelligence and military services are directed first and foremost at maintaining internal stability, particularly by minimizing the internal threat posed by minorities and their potential to be co-opted by external powers...

The second focus of Iranian intelligence is maintaining awareness of foreign powers that could threaten Iran, and utilizing Iran's resources to distract those powers. This involves traditional espionage (obtaining secret information on an adversary's intentions or capabilities) and disinformation operations to obfuscate Iran's capabilities and redirect attention to militant and political proxy groups such as Hezbollah in Lebanon, the Badr Brigades in Iraq and even elements of the Taliban in Afghanistan. These non-state entities give Iran a threatening power-projection capability with a significant degree of plausible deniability....

The third focus is acquiring better capabilities for Iran's defense. This includes everything from Iran's nuclear program to missile and naval technology to spare parts for aging military equipment such as the F-14 jet fleet. The Iranians are also

³¹ [http://www.upi.com/Top_News/Special/2009/10/16/Iranian-spies-active-in-Germany/UPI-42771255712668/]

constantly recruiting and developing insurgent capabilities in case of war — both in and outside Iran.”³²

The purpose of inclusion of this material would be to show that the parallel and overlapping structures of the intelligence and military services allow even more effective obscurity leadership at the top and links to proxies at the bottom:

“The prime example of this is the IRGC, which is a complex combination of institutions: military force, intelligence service, covert action/special operations force, police, paramilitary force and business conglomerate, with proxies worldwide”.

Another issue worthy of mention is the paradigm shift-taking place, which sees young and disaffected guerilla fighters taking on roles of influence within secret proxy militant groups.

“In February 1982, about a month after Israeli forces invaded Lebanon to quash the Palestinian resistance, an unnamed IRGC officer met in Lebanon with Imad Mughniyah, a young and disaffected Lebanese man of Shiite faith. Mughniyah also was an experienced guerrilla fighter, a member of Fatah’s Force 17 and a bodyguard to Yasser Arafat. For years there was no record of this meeting, even among the world’s premier intelligence agencies, even though it would mark the inception of Iran’s first militant proxy group, an organization that would later become known as Hezbollah.

Although the name of the IRGC officer is still unconfirmed, he was likely Hussein Moslehi, the IRGC’s liaison with Hezbollah in the years afterward.

The new Shiite militant group would conduct many terrorist attacks orchestrated by Mughniyah (and many different organizational names would be used, such as the Islamic Jihad Organization, or IJO, to create ambiguity and confusion). During that first meeting in Lebanon, and unbeknownst to many, Mughniyah received an officer’s commission in the IRGC and would later be named commander of a secret IRGC proxy group, Amin Al-Haras, or Security of the Guards, for which he was told to recruit family members and friends from his time in Fatah to wage a new jihad under the IJO banner.”

A further example of this pattern can be seen in the actions of secular Iraqi Shiite politician Ahmed Chalabi, whose influence contributed to U.S. tactical failures in Iraq that allowed Iran’s unseen hand to gain power through other Shiite proxies, most notably the Islamic Supreme Council of Iraq (ISCI), known at the time as the Supreme Council for Islamic Revolution in Iraq (SCIRI). In May 2004, U.S. officials revealed that Chalabi gave sensitive intelligence to an Iranian official indicating that the United States had broken the MOIS communications code. And the fact that Chalabi was able to pass the intelligence revealed certain clandestine

³²http://www.stratfor.com/memberships/165348/analysis/20100617_intelligence_services_part_2_iran_and_re_gime_preservation

capabilities on the part of Iran, particularly the ability to use proxies for direct action and intelligence gathering while keeping its involvement plausibly deniable.

In terms of organizational structure and operations of the Intelligence ministry, more information could be included to show the authority and jurisdiction of the requisite departments. This could be done by way of diagram for clarity. There could also be reference to the fact that at face value, the MOIS' domestic responsibilities remain a higher priority than its foreign responsibilities, but its primary duties no longer involve managing the domestic security environment. The IRGC has largely taken over domestic security, although the MOIS still maintains a few parallel responsibilities.

COIS: This will be further researched and if found, a diagram of this will be included in the new report.

Two further points, which might contribute to the report, are that assassinations of Iranian dissidents abroad have decreased as the intelligence services have evolved and also reference to "Department 15". With regards the former, this is largely attributable to politically active Iranians living in other countries being involved in many different and competing opposition groups and are not united. This leads them to report on each other's activities to the local Iranian Embassy or consulate, and it has resulted in a shift in intelligence-service tactics, from assassination to harassment, intimidation and de-legitimization. In terms of 'Department 15', the following is of note:

"The MOIS has its own section (reportedly called "Department 15") that is responsible for subversive activities abroad, or what the service calls "exporting revolution." It has done this by establishing liaisons with many types of resistance and terrorist movements throughout the world, not just Islamist groups (it shipped weapons, for example, to the Irish Republican Army). However, the MOIS concentrates on groups within or near Iran's borders. Although the Iranians will never fully trust a Sunni group, the MOIS has had a long-standing relationship with elements of al Qaeda, though it is as much an infiltration of the group for intelligence purposes as it is an alliance. As long as these elements share similar goals with Tehran, Iran will work with them.

The primary reason for Iran to have such non-ideological relationships is to collect intelligence on militant groups competing for the leadership of the worldwide radical Islamism movement. The secondary reason is to distract Iran's adversaries by forcing them to deal with militants in other countries".

COIS: The above extracts appear to be from Stratfor and, as previously noted, COIS does not have access to this source which is available on subscription only.

ix) Extra Judicial Killings

This section appears relatively complete, as noted at 23.79 it is difficult to acquire accurate and specific information regarding honour killings in Iran. There are a few areas, which require further comment, which I will address in turn.

Acquiring accurate data regarding honour killings within Iran is detailed in the following news report, covering the difficulty in achieving an adequate percentage of survey results. The article alludes to how a small percentage of city-dwelling Iranians perceive the subject of honour killing within their country:

Survey on honour-killings in Iran finds few willing participants Survey
01/11/10

Though over 60% of those approached by Shahrzad News are generally willing to take part in surveys, the number was much fewer when it came to the controversial subject of honour-killing. Only 25 out of 300 interviewees in the main Iranian cities were prepared to express their opinion, the rest refusing to be drawn and replying 'nothing' when asked what they thought about it.

Several thousand Iranian women are murdered every year. The home-news pages of Iranian newspapers, particularly in the provinces, are full of stories of horrific killings. According to police statistics, 20% of all the homicides in the country are honour-related, that is to say, they have a religious or cultural motive.

What leads people to commit these murders, and what does the public think about them? More than 52% of those who answered questions on the subject, and all those who live in European countries, blamed general lawlessness and lack of security. A further 38% thought religious fanaticism and family disputes were the main cause. With regard to religious fanaticism 5% of the women and 37% of the men said it was the root cause of the phenomenon. 44% of interviewees under 30 blamed family disputes. 44% of those under 30 also said the laws of the land gave insufficient protection to women, while the figure for those over 30 was 54%.

8% singled out pro-regime, backward-thinking fundamentalists. 30% percent of interviewees over 30 said cultural backwardness played a role in honour killing. 52% of interviewees came from Tehran, 28% from other Iranian cities, with Iranians living in Europe forming the remaining 20%. The number of those who were willing to take part in the Shahrzad News' survey on this subject was much lower when compared with surveys about other major social issues in Iran. While on average 60% of those approached for an interview are normally willing to take part, only one tenth of that figure were willing to answer questions about honour-killing. Out of 300 interviewees in the major Iranian cities of Isfahan, Kermanshah, Aradabil, Karaj, Khoramshahr, Ahwaz and Tehran for example, only 25 people were willing to participate. Shahrzad News has made numerous attempts to include questions on the subject in earlier surveys.³³

³³ <http://www.1001nights.org/index.php?page=2&articleId=2494&Language=en>

COIS: The results of this survey will be included in the next COI report.

It should be noted that honour punishment is not limited to killing, although clearly the deprivation of life is the most serious consequence, other punishments can be justified to appease a family's shame.

Further to the information at 23.82, and detailed above in the Shahrzad report, Robert Fisk examines in his article '*The Crimewave that Shames the World*' for the Independent (7th September 2010) some of the motives used to justify honour killings:

*Tribal feuds often provoke "honour" killings in Iran and Afghanistan. In Iran, for example, a governor's official in the ethnic Arab province of Khuzestan stated in 2003 that 45 young women under the age of 20 had been murdered in "honour" killings in just two months, none of which brought convictions. All were slaughtered because of the girl's refusal to agree to an arranged marriage, failing to abide by Islamic dress code or suspected of having contacts with men outside the family.*³⁴

COIS: This source will be considered for inclusion in the next COI report. The 2003 stats are stated in the current COI report using the UN Special Rapporteur's report (paragraph 23.82).

Honour killings in Iran largely take place in tribal, rural, communities as detailed in 23.84. The conservative interpretation of social and religious values can be seen as a cause. Worldwide, honour killing occurs irrespective of religion:

*These murders occur in the Islamic World; but, they also take place in other countries, such as India and victims can be Muslim, Christian, Hindu or Sikh.*³⁵

It should be noted that individuals who carry out honour killings might try to use their religion to justify their actions. However, as can be seen from the above, honour killing is not unique to a particular religious demographic. Although there may be certain religious teachings that discourage 'immoral' behaviour – such as *zina* (illicit sexual activity) in Islam – this does not translate into authorisation within the scriptures for extra-judicial punishment for the persons involved. Religious values may be a factor in honour killing, however it is not the breach of moral guidelines being punished *per se*, rather the potential embarrassment and shame brought upon the family, and lack of 'respect'. The sanctity of life is a pervasive value throughout various different religions, including Islam, and consequently any attempt to use religion to justify illegal actions is ill founded:

...[A] devout Muslim who understands their religion correctly would certainly never take another life. In reality, such tragedies have nothing to do with true faith. Her father's sense of shame at his daughter's actions led to him taking her life in the erroneous belief that this act would redeem the family name. The concept of respect or

³⁴ <http://www.independent.co.uk/opinion/commentators/fisk/the-crimewave-that-shames-the-world-2072201.html>

³⁵ <http://www.awid.org/eng/Issues-and-Analysis/Issues-and-Analysis/Honor-Killing-Is-Violence-Against-Women-a-Universal-Problem-Not-an-Islamic-issue>

izzat is a very strong motivating factor amongst non-Caucasian races, regardless of their religious affiliation. Its origins appear to stem from tribal, clan or village origins. This is in sharp contradistinction to the teachings of our noble religion Islam, in which it is held that all individuals are personally responsible for their own actions. Her father's un-Islamic action is liable for punishment under Islamic law. This practice of 'honour killing' is a form of murder without trial, which is contrary to Islam. Islam upholds the sanctity of human life, as the Holy Qur'an declares that killing one innocent human being is akin to killing the entire human race (Qur'an 5:32, 6:151, 17:33). Like all other faith traditions, Islam considers all forms of life as sacred. There is certainly no justification for such a practice of "Honour Killing" in Islamic Law (Shariah).³⁶

The fact that perpetrators of honour killings often receive short sentences is noted at 23.80. Although there is no religious justification for honour killings in Islamic teaching, there is a legal basis within the Iranian (Islamic) legal system for a reduced sentence in certain cases – those that involve Article 220. The following report identifies the relevant provisions:

***A father killed his 18 years old daughter in Birjand
20/05/08***

A father had killed his 18 years old daughter by strangulation, reported teh [sic] government news paper Iran today. According to the report the police found the body of the 18 years old in a river near the town of Birjand, with a head scarf around her neck. The girl is identified as Asieh and was 18 years old. The girl's father who first told the police that his daughter had committed suicide, confessed later that he had strangled his daughter on Saturday May 17. He told the police that he did it because he was suspicious of his daughter and had warned her not to continue her acts and respect his and her husbands honor. The father is identified as Brat Ali (47) according to the report.

The incidence of honour killings [sic] has been increasing in the past years in Iran. The experts believe it is due to the laws included in the Iranian constitution after the revolution of 1979.

For instance Article 220 of the Iranian Criminal Code states, "If a father – or his male ancestors – kills his child, he will not be condemned for a murder". Likewise, article 1179 of the Civil Code states, "Parents have the right to punish their children within the limits prescribed by law." A father killed his 17 years old daughter in Isfahan last week. Another father killed his daughter in the city of Dezful on April 30.³⁷ [Emphasis added]

As this report clarifies, a father (or paternal grandfather, for example) will escape serious punishment for the killing of his child, based on a notion of 'blood ownership'. Under Iranian law, a father 'owns' the blood of his children (and the blood of their children), contrasting sharply with the position of a mother. If a mother kills her child, she is punished as a murderer,

³⁶ http://www.islamawareness.net/HonourKilling/honour_killings.pdf

³⁷ <http://iranhr.net/spip.php?article367>

and may face *qisas* (retaliation) and be required to pay *diyaa* (blood money) – of which she receives neither should the father kill the child. Consequently, it is usual for the father of the family to carry out an honour killing due to both his position as head of the family, and the available legal sanction.

COIS: We will include more information in the next COI report on the Iranian Criminal Code relating to honour killings.

Military Service

There is no mention in this section of exemptions accepted by the authorities from military service. Such exemptions include:

- Single fathers.
- Only Children; Men who do not have brothers or sisters under the ideology that their mother and/or father need the assistance of their only son.
- Only Son; Men who are the only male in their family.
- Men who are the sole carer of a disabled or mentally problematic parent, sibling, or 2nd line family members.
- Doctors, fire fighters and other emergency workers who their uptake for military duty or service jeopardizes local health and emergency services.
- Workers of vital government institutions that assist or indirectly serve the military (exempt at time of war).
- Workers of businesses that serve the military, e.g. military equipment factories (exempt at time of war).
- Those having 3 brothers whom pass the conscription.

COIS: It is agreed that this information would be beneficial; however, a publicly available source detailing the exemptions has been difficult to find. Could the above be made available for use as a source in the COI report?

There are reasons to believe that military service may be cut in length from 2011 for those in possession of a university degree:

“According to the latest Majlis ratification, military service for conscripts with a PHD falls 10 months. Master and bachelor graduates will serve 8 and 6 months lesser respectively.”³⁸

COIS: This source will be included in the next report.

Information such as this would add to the completeness of this section of the COI report and will surpass the information provided by the CIA World Fact Book, which will be published at some point in the coming year, it may well be worth adding this information as a caveat.

³⁸ <http://www.wri-irg.org/node/8180>

Neither does the COI currently discuss the issue of conscription and national service of Iranian with dual nationality. Should someone be born outside of Iran, to at least an Iranian father, then they are considered by Iran to be an Iranian national and thus liable for the performance of national service, although practically this will only become a realistic issue should they enter Iranian territory. In order to exempt oneself from this obligation, one has to pay a fee at one's Iranian Embassy.

COIS: A suggested source for this information would be appreciated. Alternatively, could the above be made available as a source?

Prison Conditions

The primary issue with this section of the report is the lack of emphasis placed on the differences between prisons and detention centres. Whilst this distinction is raised (once) in Para. 13.05, I feel insufficient attention is afforded to the distinction. For this reason, I shall provide a brief analysis of the differences between the two systems.

The purpose of a detention centre is to provide very temporary accommodation for detainees whilst they are interrogated by the relevant security service. Detention centres can be operated by particular security services and may be contained within their headquarters/ stations, in the manner of 'holding cells' comparable to Western police stations, similar to the concept of being held on remand. However, there are also a number of secret and unidentified holding facilities that operate with looser ties to the security services. It is well established that Ettela'at, as a security service responsible for targeting internal dissent, operates its own detention centres for purposes of processing and investigating largely political suspects during the initial stages of the investigation/proceedings against them. It is not possible to definitively state a tangible period of detention for detainees, but as the underlying purpose of detention is the conduct of interrogation (often physically intensive), the period would usually be limited to weeks rather than months. A great deal of time spent by detainees would be dedicated to interrogation and investigation, as the natural consequence of them being detained in the proximity of those interrogating them means that they are available 24/7 rather than requiring interrogators to obtain the authority to travel to a regular prison, gain entry and interrogate them there. Examples of centres of this type include: Prisons 209 and 59 in Tehran, run respectively by the VEVAK and the IRGC.

Regular prison facilities as distinctive from specific-authority-associated detention facilities/centres are intended to have both the capacity and amenities to allow the long-term detention of individuals rather than just detention pending interrogation (although interrogation may still take place in regular prisons). Prisons naturally hold individuals serving prison sentences as passed by the court, but also hold those who are awaiting trial/sentence—a process that can take a substantial period in Iran. Individuals would be transferred to regular prisons once the initial and most active phase of interrogation/investigation is completed, meaning that they are no longer needed on a regular basis for interrogation and must free up detention centre space for more current cases still within that initial period.

COIS: It is agreed that more information on the differences between detention centres and prisons and the conditions therein should be included. Could the above be made available as a source?

The 2010 Amnesty International report, ‘from protest to prison: Iran one year after the election’³⁹, gives a useful, brief breakdown:

“Once the interrogation of detainees has ended – because they have “confessed” or have refused to do so, and the authorities wish to conclude their case – they are usually transferred to cells or prisons within the regular prison system to await trial. This period awaiting trial can last for months. They may also be released on bail. If convicted and sentenced to prison, those held may be transferred to different prisons, which may be far from a prisoner’s home, particularly if their sentence includes the additional penalty of the imprisonment to be served in exile.”

It should be pointed out, for the sake of completeness, that there are some places, such as Evin Prison, that function as both Detention Centres and as Prisons for those serving a sentence.

COIS: The 2010 Amnesty International report is included in the current COI report and consideration will be given to including more from it, as suggested, in the next update.

It may also be valuable to provide more accounts, or at least references to accounts, of individuals who have suffered whilst in detention (either in detention centres or in prison proper). For example:

- <http://presenttruthmn.com/wp-content/uploads/2010/07/prison-conditions-in-iran.pdf>

This article also provides a neat first hand account of the practical differences between a detention centre and a prison.

COIS: This is an informative account and consideration will be given to including it, or a reference to it, in the next report.

Furthermore, there is no mention in this section that Iran refuses to recognise the existence of ‘political prisoners’, although in practice such people are separated from the general prison population, at least in terms of accommodation.⁴⁰ Prisons in Iran house a mixture of political and ordinary criminals, who use shared facilities during the day (yard, shop etc.) although are often housed separately in specific political-prisoner blocks or wings for purposes of sleeping accommodation. This means that political and ordinary prisoners can have access to similar facilities, regardless of the initial cause for their detention. The underlying rationale for this is that it is too expensive to duplicate facilities such as a prison yard, for the various groups of prisoners.

³⁹ <http://www.amnesty.org/en/library/asset/MDE13/062/2010/en/a009a855-788b-4ed4-8aa9-3e535ea9606a/mde130622010en.pdf>

⁴⁰ <http://news.bbc.co.uk/1/hi/5077180.stm>

COIS: The issue of non recognition of political prisoners will be included in the next report.

A discussion of the deterioration in the treatment of prisoner's would also benefit the report. Whilst paragraph 4.17 goes some way to show the increased zeal the Iranian authorities employ when seeking to quell political unrest in the streets, there is also evidence of pressure being placed upon prisoners behind closed doors.

COIS: Any suggested sources detailing such deterioration would be appreciated.

Death Penalty

a) Overview

Although the first paragraph is accurate, it might be of some use to provide figures (or links to figures) illustrating exactly how many people Iran has executed in any given year (e.g. 2009). Amnesty states that at least 388 people were executed in 2009, but it should be stated that this figure will not (and indeed cannot) give a full picture, especially when one considers suspicious deaths in custody/prison, extra-judicial killings (e.g. by Basij militiamen, the IRGC, etc) and murders committed by private citizens and retro-actively sanctioned by the state⁴¹. I feel it should be stated in the report that the precise number of people 'executed' (in a broad sense) in Iran is impossible to ascertain, but is almost certainly higher than official figures:

*"Amnesty International recorded 388 executions in Iran. The authorities of the country do not release official statistics on executions, and the true figure is likely to be higher. At least 14 executions took place in public. In one eight-week period between the presidential election on 12 June and the inauguration of Mahmoud Ahmadinejad for a second term as President on 5 August, Amnesty International recorded 112 executions. By contrast, in the five and a half months between 1 January and 12 June, at least 196 executions had taken place."*⁴²

COIS: Estimated figures of those executed are included later in the section in paragraphs 14.10 and 14.11 where it is also stated that the true figure is likely to be higher than those reported.

Concerning the second paragraph, regarding the judicial process concerning the death penalty, it appears incomplete in that it does not state what happens in capital cases where the public court is not the final court of appeal. In such a case, appeal can be made to the Supreme Court of Iran.

COIS: The second paragraph represents the contents of the source. A suggested source for the additional information would be appreciated.

With reference to the fourth paragraph in this section, dealing with offences that can be capital in nature, the information therein is not entirely correct in stating that lesbianism is a capital

⁴¹ <http://www.rferl.org/content/article/1076041.html>

⁴² <http://www.amnesty.org/en/death-penalty/death-sentences-and-executions-in-2009/mena>

offence, this is a ta'zir offence (a discretionary punishment, short of death)⁴³. This is stated further on in paragraph 7 of the section (UN Secretary General's report of 23 September 2009), but could be misleading, and is certainly contradictory. Similarly, theft is not *per se* a capital offence, unless it is banditry (i.e. armed), and then, presumably, it would fall under the categorisation of *mohareb*. Instead of providing a number of repetitive lists of capital offenses, it may be beneficial to provide merely one authoritative list and then to modify this with any necessary secondary data required.

COIS: This will be reviewed to see if the information could be more clearly presented;

More emphasis could be placed on the issue of execution of minors; the following extract from the Freedom House 2010 report on Iran illustrates the point well:

*“In 2009, at least three prisoners were executed for crimes they committed while juveniles, and 142 others remained on death row. The government had announced in 2008 that it would no longer execute juveniles, but it later clarified that the death penalty remained an option under the parallel “retribution” system, in which the sentence is imposed by the victim’s family rather than the state. This would be allowed for male offenders over the age of 15 and female offenders as young as 9.”*⁴⁴

It is a commonly used device within Iran to wait until a juvenile offender reaches his majority (18 years) before executing them for their crime, and thus avoiding the *de facto* execution of juveniles. This is in spite of it being technically illegal to execute people for offences committed whilst a juvenile, and certainly against provisions of International Law:

*“On October 18, 2008, Hossein Zabhi, Deputy State Public Prosecutor, announced that a new Iranian judicial directive, initially issued more than a year before, would ban the execution of juvenile offenders for drug crimes but would keep capital punishment for those convicted of murder. The new directive doesn’t apply to the 120 minors currently on death row, according to Zabhi.”*⁴⁵

*“There was also a rise in the number of executions of juvenile offenders – people sentenced to death for crimes committed when they were under the age of 18. Iran is one of only a handful of countries to continue such executions, in clear violation of international law. According to UN Special Rapporteur Philip Alston ‘No state really tries to defend it as a matter of principle - it's clearly outlawed. And yet Iran continues to not only charge juveniles, but to execute them in significant numbers.’”*⁴⁶

COIS: There is a separate section in the report dealing with the death penalty for children and the sections are cross referenced to signpost the reader to the additional information in paragraphs 24.20 to 24.27.

⁴³ Punishable by 100 lashes. On the 4th offence, the punishment will be death.

⁴⁴ <http://www.freedomhouse.org/template.cfm?page=22&year=2010&country=7842>

⁴⁵ <http://www.handsoffcain.info/bancadati/index.php?tipotema=arg&idtema=13310629>

⁴⁶ <http://www.amnesty.org/en/news-and-updates/iran-executions-send-chilling-message-2010-03-30>

There is no mention made in the report as to the sudden, mass executions carried out at prisons within Iran, such as the Mashhad executions of April this year:

“There are reports that in the past few days more than 70 people detained in Mashhad prison were executed suddenly and without prior notice. Based on the information available, prisoners under the age of 18 years were among the executed.

Based on reports by Neday-e Sabz Azadi, some of the people who were allegedly arrested in connection with drug smuggling had already received their sentences. The sentences issued did not include the death penalty, and in some cases, they had only been sentenced to pay a fine. But, in a sudden unannounced move, a judicial order was issued to execute them.”⁴⁷

COIS: This source, dated after the cut off date for information in the August report, will be included in the next report.

Whilst the report notes the crackdown on human rights and civil society in 2010, following political unrest after the disputed June 2009 presidential election, I think a discussion of the specific arbitrary exercise of power by the authorities, and in particular the Revolutionary Guard would further inform. The following passages contextualise the situation with regards capital punishment:

The use of capital punishment has reached alarming proportions. One of the most notable trends in 2010 was the government’s broadening the definition of Moharabeh (or “enmity against god”), a capital offense. It should be applied only in cases of armed insurrection. Political activists have routinely been charged with this crime, but officials also now speak of charging armed robbers and even unarmed hooligans with “enmity against god.”⁴⁸

Of particular interest is that Iran also appears to be increasing secret group executions: ‘*credible accounts have emerged of mass secret executions in a prison in Mashhad, near the Afghan border*’.

Notwithstanding the statistic that Iran already executes more people per capita than any other country, the move toward mass show trials, is particularly alarming. The reports indicate secret executions of over 100 prisoners with more than 600 persons, mainly convicted drug traffickers, on death row.⁴⁹ This development is most likely an attempt by the hardline ruling regime to reinforce its hold on power and deter any further attempts to undermine its authority. There is also evidence to show that the Iranian authorities are increasing the scope of their

⁴⁷ <http://persian2english.com/?p=13540>

⁴⁸ <http://iranprimer.usip.org/blog/2010/dec/16/patterns-iran-human-rights-abuses-2010>

⁴⁹ Ibid

legal dragnet and imposing capital sentences in a rather arbitrary and indiscriminate manner, against anyone perceived as a political threat. The following passage highlights this point:

In January 2010, three political prisoners were hanged: Ehsan Fattahian, Mohmmad Reza Ali Zamani, and Arash Rahmani Pour. A long-time political prisoner, Farzad Kamanger, and four others including, Shirin Alam Holi, were executed on May 9, reportedly without due process. Kamangar was a Kurdish teacher and social worker convicted on security charges despite his lawyer's claim that the court had "zero evidence" against him. Mohammad Valian, a 20 – year- old student, was sentenced to death for throwing three stones during a demonstration; his sentence was reduced to three years after sustained intentional protests. Eight other post-election protestors were also sentenced to death.⁵⁰

COIS: This source was published after the August COI report was issued. Information on the execution of Ehsan Fattahian is included in the Kurdish section of the COI report, paragraph 20.16. This section will be updated in the new report.

b) Stoning

The one issue not raised in this section that may benefit the report by its inclusion, is that of internal opposition to stoning within Iran. The 2008 note by Amnesty International on Stoning within Iran states as follows:

"In spite of this gloomy reality, there are grounds to hope that death by stoning will be completely abolished in Iran in the future. Courageous efforts are being made by local human rights defenders in Iran who launched the 'Stop Stoning Forever' campaign following the May 2006 stonings in Mashhad. Since they began, their efforts have helped save four women and one man - Hajieh Esmailvand, Soghra Mola'i, Zahra Reza'i, Parisa A and her husband Najaf - from stoning. As well, another woman, Ashraf Kalhori, has had her stoning sentence temporarily stayed.

'We urge the Iranian authorities to heed our calls, and those of the Iranians who are striving relentlessly to obtain an end to this horrendous practice,' said Malcolm Smart.

But these efforts have come at a high price. Campaigners in Iran continue to face harassment and intimidation from the authorities. Asieh Amini, Shadi Sadr and Mahboubeh Abbasgholizadeh, another leading member of 'Stop Stoning Forever', were among 33 women arrested while protesting in March 2007 about the trial of five women's rights activists in Tehran. Thirty-one of the detainees were released by 9 March. Mahboubeh Abbasgholizadeh and Shadi Sadr were released on bail of 200 million toumans (over US\$215,000) on 19 March. They are likely to face trial, possibly on charges including 'disturbing public order' and 'acting against state security'."

⁵⁰ Ibid

There are also reports that in order to avoid the international condemnation that goes hand in hand with verdicts of stoning, that the judiciary are substituting the actual offences with ones that result in death by hanging instead. A good and well publicized example of this occurred in the case of Rahmi Mohammadi, referred to in the COI, but perhaps more emphasis needs to be placed on the mechanism of substitution of offences to avoid international scrutiny.

COIS: This issue, including the case of Sakineh Mohamamadi Ashtiani, will be included in the next report.

Medical Issues

a) Overview of availability of medical treatment and drugs

The primary issue omitted from this section of the report is that concerning the availability of medical treatment to all citizens. Although touched on briefly in Para. 26.01, I feel it is deserving of more detail, in order to fully explain the extent of the problem. In spite of the fact that Iran, on the whole, provides high-quality healthcare, there is a significant gap at the ‘bottom of the market’.

COIS: It is agreed that further information would be beneficial and this will be looked into. Any suggestions of appropriate sources would be appreciated.

On a similar note, it is important to address the provision of medical attention and treatment within the prison system. It should be made clear that only the most basic attempt at provision is made by the authorities in respect of those incarcerated, and that this condition does not apply solely to so-called ‘political’ prisoners, but to ‘ordinary’ prisoners as well. Of course the Iranian authorities *de jure* make no distinction between political and general inmates, refusing to acknowledge the existence of political inmates. Political prisoners may suffer worse treatment even than that usually provided for inmates as another form of pressure upon them:

“We desperately yearn to draw your attention to the grave situation existing inside the Iranian prisons; Prisoners are deprived of medical care and refused access to the care facilities inside the prison. This has put the lives of the imprisoned in great danger and exposed them to immense peril and made their families anxious and worried.

The physicians in the prisons are being pressured by the government not to act according to their oath and obligations. These doctors will risk their jobs and lives if they would to follow their professional obligations and treat the prisoners. It is these matters amongst others which have led to the prisoners’ mistrust of the health care inside the prison.”⁵¹

The objective danger posed to life and limb due to incarceration within the Iranian penal system would need to be considered in the light of subjective circumstances such as the health

⁵¹ <http://www.astreetjournalist.com/2010/05/09/an-open-letter-by-the-families-of-the-iranian-prisoners-to-the-United-Nations/> - Letter to General Secretary of the UN (Ban-ki Moon) 8th May 2010

of the prisoner in question. Whilst there may be no ‘active’ basis on which to determine that the prison conditions cross this threshold, there may well be a passive, subjective basis, based upon the likelihood the inmate would suffer further due to lack of medical attention should he be ill or wounded. This is of particular relevance when considering the subjective health care requirements of an individual claiming asylum.

An example of such danger is laid out in September 2010 by, Nobel Peace Laureate and human rights lawyer Shirin Ebadi, who stated:

“The plight of prisoners, specifically in the areas of health and nutrition, has gotten worse. Whoever is bailed out from prison, and usually on very heavy bail, has to go to the hospital directly. The example I will give you is Ms. Narges Mohammadi who is under treatment for her periodic muscular paralysis after she was released from jail.”⁵²

COIS: Some information on the provision of medical treatment in prisons is included in Section 13 of the report (Prison Conditions) rather than in the Medical Issues section. It is agreed that some further information may be beneficial and the suggested sources above will be considered for inclusion in the next report.

Human Rights Institutions, Organisations and Activists

The information provided here is accurate as far as it goes, though it may be of some use to stress the exclusion of Human Rights NGO’s from the country, for example, Amnesty.

COIS: This information is included in the introduction to the Human Rights section, paragraph 7.10 however these sections will be cross referenced in the new report.

Similarly, perhaps further information should be provided to illustrate the behaviour of the authorities towards Human Rights activists within Iran:

“Amnesty International has called on the Iranian authorities not to imprison a prominent human rights defender and journalist sentenced to a total of seven years in prison, including six for recording an interview with a reformist cleric.

Emadeddin Baghi, the head of the now-banned Association for the Defence of Prisoners’ Rights (ADPR), who had been released on bail in June after six months’ detention, was told on Wednesday of his conviction for "propaganda against the system" and "gathering and colluding with the aim of harming national security" while attending a trial session for another case.

...

⁵² <http://www.iranhumanrights.org/2010/09/young-activists-harsh-sentences/>

Baghi, who won the 2009 Martin Ennals Award for human rights, has been systematically targeted by the authorities and has several other cases pending against him.

*According to Baghi's website, in the past 30 years he has been summoned to court or for interrogation more than 85 times, fined once, prevented from publishing 13 books, been given a five-year ban on engagement in public life and received a total of 18 and a half years in prison sentences, and has already spent four and a half years in prison.*⁵³

Recently, not only are activists themselves being arrested by the authorities, but also their lawyers, purely on grounds of 'getting in the way of security forces'. Amnesty International, a few of which are included below, gives numerous examples from 2010:

"Maryam Kiyani Ersi, Maryam Karbasi and Sara Sabaghian were detained on Saturday upon returning from Turkey, and now face security charges and charges of 'violating moral standards outside Iran.'

Sara Sabaghian is believed to have been the last remaining free lawyer of Sakineh Mohammadi Ashtiani, a woman whose stoning sentence for adultery is currently under review by Iran's Supreme Court.

Tehran prosecutor Ja'fari Dowlatabadi reportedly confirmed that they, along with two other lawyers, not named but believed to be Rosa Gharachaloo and Mohammad Hossein Naiyri, were arrested on Saturday 13 November.

*In a 15 November letter to Iran's Head of Judiciary, Ayatollah Sadegh Larijani, Amnesty International called for the three women and their two colleagues to be immediately and unconditionally released if they are being held solely for their work as lawyers or for the exercise of their right to freedom of expression and assembly.*⁵⁴

COIS: Further updated information on the treatment of human rights activists/lawyers will be included in the next report.

Corruption

The data provided in Para. 18.01 is now out of date, with Transparency International, having published its 2010 report⁵⁵. In this more recent publication, Iran now ranks 146th in the World Corruption table, with an overall rating of 2.2. Thus, Iran's levels of perceived corruption have fallen.

⁵³ <http://www.amnesty.org/en/news-and-updates/iran-urged-end-harassment-rights-activist-facing-seven-years-prison-2010-09-24>

⁵⁴ http://www.amnesty.org.uk/news_details.asp?NewsID=19092

⁵⁵ http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results

COIS: Noted. The 2010 report was published after the publication of the last report but will be included in the next one.

I feel that Para. 18.03 could benefit from the inclusion of some ‘ballpark’ figures to illustrate the economic influence of the IRGC, some reports stating that they control a third of the economy⁵⁶. Similarly, to clarify the link between these figures and corruption, it might be helpful to state, briefly, the historical relationship between Ahmadinejad and the IRGC, i.e. one of close co-operation and his alleged membership of the IRGC intelligence division during the Iran-Iraq war.

COIS: Noted. There does not appear to be a source cited for reference ⁵⁶. Annex C (Prominent people) does note that Ahmadinejad was a member of the IRGC citing a BBC report on the IRGC.

Apostasy

This section covers the necessary areas for consideration adequately and in an accurate manner. The following news article highlights the harsh treatment of those who convert, even being punished many years after conversion:

***Unprecedented Death Sentence for Christian Pastor on Charge of Apostasy
“Apostasy” Not Even a Crime Defined in Iranian Laws
(07/12/10)***

The Supreme Court of Iran should immediately reverse the apostasy conviction and death sentence of Christian pastor Youcef Nadarkhani and release him from prison, the International Campaign for Human Rights in Iran said today. The judiciary should also release another pastor, Behrouz Sadegh-Khanjani, who faces a similar prosecution.

Nadarkhani, 33-year-old who became a Christian at age 19, is a member of the Church of Iran ministry and the pastor of an approximately 400-person congregation in the northern city of Rasht. Despite being sentenced to death for apostasy, no articles in the Iranian legal code refer to such a crime.

“It is the low point of any judicial system to sentence a person to death outside of its own legal framework,” said Aaron Rhodes, a spokesperson for the Campaign.

“To execute someone based on the religion they choose to practice or not practice is the ultimate form of religious discrimination and disregard for the freedom of conscience and belief,” Rhodes added...

...Apostasy, the act of renouncing one’s religion, is not a crime under Iran’s Islamic Penal Code. Instead, the presiding judge in Nadarkhani’s case rested his opinion on texts by Iranian religious scholars.

⁵⁶

According to the judgment, Nadarkhani was born to Muslim parents but converted to Christianity at 19. The judgment stated that during interrogations Nadarkhani made a written confession admitting he left Islam for Christianity. But at his trial, Nadarkhani said his interrogators pressured him into making the statement.

“I am not an apostate ... prior to 19 years old I did not accept any religion,” Nadarkhani said at trial. After repeated questioning, “my interrogator coaxed me [into thinking] that a person who is born to Muslim parents, and does not accept a religion other than Islam before reaching the religious maturity age [15 for males], is automatically a Muslim.” ...

...Articles 13 and 26 of the Islamic Republic’s constitution recognize Christianity, granting Christians the right to freely worship and form religious societies. Article 14 obligates the Iranian government to uphold the equality and human rights of Christians.

The judge in Nadarkhani’s criminal cases grounded his decision on provisions in the Constitution and the Revolutionary Court’s civil procedures that instruct judges to consult sources when there is no codified-law that addresses a matter. The judge also cited a provision in the penal code that allows judges to draw upon their personal knowledge when adjudicating cases.

“More and more, the Iranian judiciary is departing from any recognized form of due process, issuing arbitrary judgments based on vague, open-ended laws,” said Rhodes. “Laws and evidence are increasingly irrelevant and unrelated to judicial outcomes in Iran.”

Another Christian pastor, 33-year-old Behrouz Sadegh-Khanjani, is facing a possible indictment for apostasy in the southern city of Shiraz.

Referring to Nadarkhani and Sadegh-Khanjani’s cases, Firouz Sadegh-Khanjani, brother of Behrouz and member of the Church of Iran’s Executive Council, told the Campaign, “This is part of a greater trend of persecution against Christians.”

“My brother was arrested in June 2010. Eight members of his congregation including his wife were arrested two days later but were eventually released,” Firouz Khanjani told the Campaign. “For several months he was in solitary confinement; we had no word from him and he had no contact with his lawyer. He has been moved to [prison] but we worry about the type of pressure he was under while in solitary confinement.” After his release from solitary confinement, Behrouz Sadegh-Khanjani and his lawyer, Mahmoud Taravatroy, attended one pretrial investigatory hearing [dadsara] where prosecutors sought to indict him for apostasy along with the crimes of acting against national security, propaganda against the regime, and insulting sanctities...

...According to his brother, Sadegh-Khanjani was born to Christian parents and was never a Muslim. Behrouz Sadegh-Khanjani’s mother is a Christian immigrant from the Congo and his father converted before he was born.

“Technically speaking, the court should dismiss this charge,” said Taravatroy, “but the judge has to review the accusations first.”

“We asked some top clerics to issue opinions on [apostasy under Islam],” Taravatroy told the Campaign. “Four Ayatollah’s [including the late Grand Ayatollah Hossein-Ali Montazeri], said that changing one’s religion from Islam to one of the Abrahamic religions [including Christianity], is not construed as apostasy and [the convert] should be treated the same way as people of other religions would be.” ...

*...*Correction on 13 December 2010: the ages of Youcef Nadarkhani and Behrouz Sadegh-Khanjani were incorrectly stated as 32 and 35, respectively. Both men are 33 years of age.⁵⁷[Emphasis added]*

It is important to observe from the above, despite the existence of Articles 13, 14 and 26 within the Constitution, there is a noteworthy lack of religious freedom and protection experienced by converts (as noted within COI). Also, as demonstrated above, in the absence of any specific evidence, it can be imputed from circumstance (or the judge’s ‘own knowledge’) that the prior religion was Islam. Considering the seriousness of the penalties (death is an available sentence for a convert who refuses to renounce their Christian values), the lack of a clear basis for prosecution and sentencing is in direct contradiction to the principles enshrined within the Constitution – based on religious freedom and tolerance, rather than criminal liability.

Additionally, it should be emphasised (as identified in the above article) that some Iranian Islamic clerics do not support the view that conversion to Christianity constitutes apostasy. As noted in the article, judges may consult a range of sources (including religious texts) when adjudicating on a matter not explicitly provided for in the Penal Code as well as their ‘own knowledge’. However, these supplemental sources are open to a significant degree of subjective interpretation – hence the opinion of a cleric, regarding the matter of conversion, may be at direct odds with that of a presiding judge.

A further issue raised in the article is the concept of apostasy and further offences. A pastor, by virtue of his position, has some responsibility to spread the word of God – by preaching to his congregation, for example. In the context of an Islamic State, things said or done by a Christian pastor can be seen as un-Islamic – and thus can be interpreted as ‘propaganda against the regime’ or ‘insulting sanctities’. The definition of these offences is broad (and arguably covered elsewhere in the COI Report), as is ‘acting against national security’; therefore they can be used as additional means of punishment for converts (as demonstrated in the above account).

COIS: The suggested source will be included in the next report.

Evangelical Christianity (as mentioned in COI) is effectively prohibited, and thus Evangelists are widely reported as the principal target for punishment.⁵⁸ However, it may be prudent to

⁵⁷ <http://thepersecutiontimes.com/two-christian-converts-from-islam-to-face-trial-april-13/2010/04/10/>

include some information regarding other denominations. As the below article demonstrates, other Christian groups often considered able to practice freely have encountered difficulties with the authorities when accused of permitting Farsi-speakers access to their Church:

Persecution of Christians in Iran
03/04/09

*... Following a court ruling, even churches are closed down if they preach in Farsi...
...On 25 March 2009, the Farsi Christian News Network FCNN reported that the Assyrian church in the town of Shahrara was to be closed down following a ruling by an Iranian revolutionary court. On 19 March, Jonathan Betkolia had informed the Assyrian community in the Iranian capital Tehran of this decision. The reason for the ruling was given as “Farsi-speaking Iranians newly converted to Christianity taking part in church masses”.*

Court ruling on church closure

Jonathan Betkolia, who represents Iran’s 35,000-strong Assyrian community in the Islamic “Parliament”, has come into conflict with Iranian priests in the Assyrian community. As a politician, in the past few months he has often criticised the activities of the priests, who had allegedly enabled Farsi-speaking Christians to gain access to the Assyrian church. After warnings from the Assyrian politician, Father Viktor admittedly announced that only Assyrians could take part in church masses, otherwise the church would be closed down. A court ruling to close down the church has nonetheless been issued...

Sermons only allowed in the Armenian or Assyrian languages

The alleged aim is to “cleanse Iranian Christians”, thereby preventing the Christian faith from spreading among Iranians who are not members of the ethnic groups of Assyrians and Armenians. The Armenian and Assyrian churches are regarded as ethnic churches. Preaching in Farsi is not allowed there, with sermons only allowed in Armenian or Assyrian. Human Rights Activists in Iran write that the Iranian state is depriving Iranians of their human rights to change religion and faith. Nor is there any right to speak about one’s own faith collectively and publicly, in Farsi, in the context of churches’ religious instruction and in church masses. In the past eight years the Assyrian church in Shahrara has held additional events and masses on Fridays and Sundays for Farsi-speaking, non-Assyrian people...

...The Islamic government, they said, regarded any “non-Islamic activity as anti-Islamic and directed against the religion”. This meant that the government could paint any religious movement as a measure of “gentle subversive revolution”. [Emphasis added]⁵⁹

⁵⁸ <http://planet-iran.com/index.php/news/10630>

⁵⁹ <http://www.iranpresswatch.org/post/2074>

The above-mentioned Assyrian church has been closed on the basis of converts attending masses, however, it should be noted that for a period of eight years alternative ‘events and masses’ had taken place for Farsi-speakers – for a prolonged period the authorities had not reacted. Just as all citizens who do not speak Farsi are not necessarily Christian, Farsi-speaking Christians are not necessarily converts (see previous article re Behrouz Sadegh-Khanjani). Admittedly, preaching in Farsi is not permitted in the ‘ethnic churches’ – however, as noted above, the closure took place despite the Father restricting masses to Assyrians only (and thus the Assyrian language). The information contained above suggests it is not only Evangelists being held to account, but rather any Christian group that may have attracted a convert or an individual that does not fit in with the general demographic of that denomination.

COIS: These suggested sources will be considered for inclusion in the next report.

Jews

In order to give the full picture surrounding the Jews in Iran, perhaps some factual information should be provided concerning the Jews currently present in Iran. The estimated figure is somewhere around the 25,000 mark⁶⁰, the largest Jewish population in the Middle East, save Israel. Similarly, no mention is made of their reserved seat within the *majiles*.

It should be stated that there is a volume of evidence to state that Jews living within Iran feel no undue discrimination from the authorities⁶¹, and that many are actively supportive of the Iranian regime and proud of their Iranian heritage. It is thus a one-sided view to include only negative sources pertaining to Iranian Jews. Historically speaking, Iran took a view that quite clearly differentiated between Judaism and Zionism⁶², and it seems that many Iranian Jews still adhere to this prime difference, separating nationality and religion:

“An Iranian Jewish leader on Wednesday said his community would not mark this week’s 60th anniversary of the founding of the State of Israel, which he accused of “killing innocent” Palestinians.

‘We are in complete disagreement with the behavior of Israel,’ Siamak Morsadegh, the Incoming Jewish member of the Iranian parliament following a March election, told Reuters.

‘It is not related to us,’ he said about Thursday’s celebrations in Israel to commemorate six decades of statehood. ‘We are Iranians. We have no relations with Israel.’”⁶³

⁶⁰ <http://www.foxnews.com/story/0,2933,207337,00.html>,

http://news.bbc.co.uk/1/hi/world/middle_east/5367892.stm

⁶¹ http://news.bbc.co.uk/1/hi/world/middle_east/5367892.stm

⁶² Although this particular view has been severely eroded since the proclamation of Ayatolla Khomeinei that Persian Jews were to be ‘protected’.

⁶³ <http://www.ynetnews.com/articles/0,7340,L-3540651,00.html>

To conclude: although pro-Iranian rhetoric by the Jewish community needs to be considered carefully, nor its reliability probed (under the circumstances), a far more objective approach to this section needs to be undertaken.

COIS: Noted. We will add further information to this section as suggested in the next report.

Baha'is

Although the information is largely accurate in this section, in order to bring it up to date, it may be considered helpful to include specific reference to the continued imprisonment of 7 Baha'i leaders:

“Two officials of the Baha'i community in Isfahan and one other member of the Baha'i community, arrested in May 2008, reportedly on charges of burying their dead at a particular site that had been used for the past 15 years, remained in Isfahan Prison at the end of the reporting period.

The seven leaders of the Baha'i community--Fariba Kamalabadi, Jamaloddin Khanjani, Afif Naeimi, Behrouz Tavakkoli, Saeid Rezaie, Vahid Tizfahm, and Mahvash Sabet--arrested between March and May 2008 remained in detention. In February 2009 the Judiciary spokesman announced that the seven were accused of "espionage for Israel, insulting religious sanctities and propaganda against the Islamic Republic." In May 2009 state-run media reported the Government also charged them with "spreading corruption on earth," a crime punishable by death. None had been allowed access to their attorney, Abdolfattah Soltani. On June 16, 2009, security agents arrested Soltani without a warrant and took him to an unknown location.”⁶⁴

COIS: The suggested source is the US Department of State International Religious Freedom (USSD IRF) Report, published on 26 October 2009 and this is not the most recent USSD IRF Report. The 2010 report, published on 29 April 2010, gives a more recent account of events. Information on the continuing imprisonment of the seven leaders of the Baha'i community from this later report is included at paragraph 19.69.

Ethnic Groups

There appear to be no issues per se with the content of this section of the report; the most important ethnic groups with specific history, culture, customs, and language are correctly identified as the Turks, the Kurds, the Baluchis, the Arabs, the Turkmans and the Lurs. There are also a number of ethnic minorities, but they have not been given much anthropological attention for a number of reasons, their small population and their extensive mixing with other Iranians being only two. The report is correct to offer only a general outline of the most populous ethnic and national groups.

With reference to the statistical overview of prevalent ethnicities in Iran, the figures cited

⁶⁴ <http://www.jewishvirtuallibrary.org/jsourc/anti-semitism/reIran09.html>

appear consistent with recent data and Farsi is indeed the official language. I feel however, that the report would benefit from the inclusion of more up-to-date information, especially having regard to the striking surge of unrest and terrorist activity within ethnic regions and also the specific treatment of those minorities cited.

The following passage is of note in this regard:

"The growing number of terrorist attacks such as the recent one in Chabahar constitutes a second front of the conflict. This front spreads through three border regions of Iran inhabited by ethnic and religious minorities: Kurdistan, Sistan-Baluchistan, where Chabahar lies, and oil-rich Khuzestan on the border with Iraq.

Admittedly, there are precedents of occasional unrest in these areas. Over the past couple of years, however, there has been a dramatic and almost simultaneous surge of violence in all three regions. Casualties, among government officials and civilians, are in the hundreds.

Ethnic and religious fires stoked in pursuit of short-term political objectives can easily rage out of control, with unpredictable consequences. Examples abound, from the Western support for the Taliban against the Soviets in Afghanistan to the encouragement given to extremist groups opposing India in Kashmir that have turned into a major destructive force in Pakistan. Any covert assistance to irredentist movements as a means to destabilize the current regime in Tehran may carry grave consequences for Iran and its neighbours long after Mahmoud Ahmadinejad's departs."⁶⁵

COIS: This source, released after the last COI Report was published, will be considered for inclusion in the next update.

The blanket and discriminatory treatment afforded to ethnic minorities in Iran is dealt with in the International Federation for Human Rights (FIDH) and the Iranian League for the Defence of Human Rights (LDDHI) report, published on October 21 2010. It states:

"Iran is a real mosaic: the country has many minorities - Azeris, Kurds, Arabs and Baluchis, among others constitute the population of entire provinces of the country, although there are no official statistics on the composition of the population...

...It is through repression and terror that the Iranian regime responds to peaceful calls to put an end to attacks on minority rights: it reacts with violence, arbitrary arrests, torture, unfair trials and even executions."⁶⁶

FIDH and LDDHI also present in their report concrete recommendations to the attention of the Iranian authorities that include a major reform of the Constitution and Iranian legislation both of which are deeply discriminatory. They also recommend the adoption of concrete measures

⁶⁵ <http://iranianminorityshumanright.blogspot.com/2010/12/new-yoek-times-irans-ethnic-tensions.html>

⁶⁶ http://www.humanrights-ir.org/php/view_print_version_en.php?objnr=412

particularly in the areas of education, employment, access to public services and housing, in order to put an end to the persisting discrimination against ethnic communities and religious minorities. The above recommendations provide a useful insight into the present demographic in Iran and can be found at:

http://www.humanrightsir.org/english/doc_files_en/IrandiscrimLDDHI545a_1.pdf

COIS: This FIDH/LDDHI report, released after the publication of the last COI Report, will be included in the next update.

It is stated at paragraph 20.03 of the COI that:

“Members of Iran’s ethnic minority groups from the Ahwaz, Kurdistan, Khuzestan, Baluchistan and Turkmenistan regions ... face increasing intimidation. Large numbers have been detained on charges of endangering national security...

.... On 11 November [2009], Ehsan Fattahian [a Kurd] was executed after a ten-year sentence to be served in exile was increased to a death sentence by a higher court...Many members of minority groups remain on death row accused of terrorism, treason, or acting against national security.”⁶⁷

As this reference to Ehsan Fattahian is the only reference relating to the subjective and discriminatory treatment experienced by Kurds, the following passages may further inform the reader.

“[The] hangings of four Kurdish prisoners are the latest example of the government’s unfair use of the death penalty against ethnic minority dissidents. The judiciary routinely accuses Kurdish dissidents, including civil society activists, of belonging to armed separatist groups and sentences them to death in an effort to crush dissent.

Iranian authorities executed five prisoners, four of them ethnic Kurds, without warning their families, and have so far refused to release their bodies, Human Rights Watch said today. These executions follow convictions that appear to have relied on the use of torture.

The Kurdish prisoners – Farzad Kamangar, Ali Heidarian, Farhad Vakili, and Shirin Alam Holi – were executed by hanging on the morning of May 9, 2010, in Tehran’s Evin prison, said a statement released by the Tehran Public Prosecutor’s office. The government also executed a fifth prisoner, Mehdi Eslamian, an alleged member of a banned pro-monarchist group. Authorities maintain that all five were engaged in “terrorist operations, including

⁶⁷ The Foreign and Commonwealth Office’s *Annual Report 2009 – Iran*, published on 26 March 2010

involvement in the bombing of government and public centers in various Iranian cities.”

The Tehran prosecutor’s statement alleged that Kamangar, Heidarian, Vakili, and Alam Holi had confessed to being members of the outlawed Free Life Party of Kurdistan, or PJAK, and were involved in a series of bomb plots in northwestern Iran as well as Tehran. PJAK is widely regarded by analysts to be an Iranian affiliate of the banned Turkish Kurdish Workers’ Party, or PKK.

The government accused the fifth prisoner, Eslamian, of involvement in the bombing of a religious site in the southern city of Shiraz in 2008. Authorities alleged that Eslamian was a supporter of the pro-monarchist Anjoman-e Padeshahi, or the Kingdom Assembly. The government executed two other alleged members of this group, Arash Ramanipour and Mohammad-Reza Ali Zamani, earlier this year.

Branch 30 of the Revolutionary Court sentenced Kamangar, Heidarian and Vakil to death on February 25, 2008. Khalil Bahramian, one of the lawyers representing Kamangar who was at the closed-door trial of the three men, said that gross irregularities, including the absence of a jury, plagued the initial trial and subsequent appellate court decisions upholding the convictions. Bahramian told the BBC on Sunday that Kamangar’s trial lasted all of 10 minutes, and that when Bahramian asked permission to present his client’s case, the judge simply instructed him to “write down [his] concerns.”

“In the end [the judge] never heard what I had to say,” Bahramian told the BBC. He sharply denied that his client was in any way involved with PJAK or any other terrorist group.

In addition to finding the five persons guilty of various national security crimes, the judiciary sentenced all five to death after convicting them of the crime of moharebeh, or “enmity with God.” Under articles 186 and 190-91 of Iran’s penal code, anyone charged with taking up arms against the state, or belonging to organizations that take up arms against the government, may be considered guilty of moharebeh and sentenced to death.

Security forces arrested Kamangar, a superintendent of high schools in the city of Kamyaran in July 2006 in Tehran. In February 2008, Bahramian informed Human Rights Watch that his client had alleged numerous instances of abuse and torture at the hands of prison authorities in Sanandaj, Kermanshah, and Tehran. Human Rights Watch obtained a copy of a letter Kamangar wrote and smuggled out of prison in which he detailed his torture, including threats of sexual violence. Bahramian also represented Eslamian.

Vakili, Heidarian, and Alam Holi made similar allegations in prison letters, indicating that authorities used torture to secure confessions from them. In a series of letters from prison, Alam Holi, a 28-year-old Kurdish woman accused of bombing a vehicle at a Revolutionary Guards compound in Tehran, described numerous instances of physical and psychological torture suffered at the hands of her captors, including beatings with cables and electric batons.

A family member of one of the other prisoners told Human Rights Watch that the authorities have so far prevented delivery of their bodies to the families for burial. Islamic custom generally requires burials to take place as soon as possible, preferably within 24 hours.

The 17 Kurds presently facing execution are: Rostam Arkia, Hossein Khezri, Anvar Rostami, Mohammad Amin Abdolahi, Ghader Mohammadzadeh, Zeynab Jalalian, Habibollah Latifi, Sherko Moarefi, Mostafa Salimi, Hassan Tali, Iraj Mohammadi, Rashid Akhkandi, Mohammad Amin Agoushi, Ahmad Pouladkhani, Sayed Sami Hosseini, Sayed Jamal Mohammadi, and Aziz Mohammadzadeh.”⁶⁸

COIS: The execution of Farzad Kamangar is mentioned in paragraph 20.18 of the COI Report. The most up to date HRW source will be included in the next report.

Kurds

The section relating to the background and economics of the Kurds raises no issues. However, the following may further the reader’s understanding of the present hardships faced by people of this particular ethnicity.

Kurds in Iran have long suffered deep-rooted discrimination. Their social, political and cultural rights have been repressed, as have their economic aspirations. Kurdish regions have been economically neglected, resulting in entrenched poverty. The use of the Kurdish language in education is frequently thwarted. Religious minorities that are mainly or partially Kurdish are targeted by measures designed to stigmatise and isolate them. The discriminatory gozinesh system – a selection procedure that requires prospective state officials and employees to demonstrate allegiance to Islam and the Islamic Republic of Iran – denies Kurds equality in employment and political participation.⁶⁹

The government attempts to place pressure on the Kurdish minority from multiple sources, including economic deprivation, attacks on minority religions and denial of gainful employment. It is also worthy of note that Iranian Kurds, who are mostly either Sunni Muslims or belong to the Ahl-e Haqq sect, face additional discrimination because of their religion:

⁶⁸ <http://www.hrw.org/en/news/2010/05/11/iran-executed-dissidents-tortured-confess>

⁶⁹ Amnesty International [<http://www.astafe.eu/2008/0808/0803-2.pdf>]

The religious institutions of Sunni Kurds are generally blocked, while those of Shi'as are encouraged and supported by the state. There is not a single Sunni mosque in Tehran and, according to reports; the government has restricted the expansion of Sunni mosques that exist elsewhere in the country. The discriminatory attitude towards Sunnis extends to children's education – UNICEF found as long ago as 1998 that the only two rural secondary schools in Kordestan were located in the Shi'a towns of Ghorveh and Bijar....

Other religious groups include the mainly Kurdish Ahl-e Haq, most of whose members live in Kermanshah and in or around the big cities. Their faith, which shares aspects of Islam's tenets, embodies Kurdish religious identity. The Ahl-e Haq are not recognized under Iranian law and their rituals are prohibited. They are also banned from discussing their faith with the media. In recent years senior state officials have required school heads to report whether there are any members of "subversive sects" (feragh-e zalleh) among staff or students and reminded the heads that "any activity and propaganda is forbidden" by members of these groups... In October 2007, for instance, the authorities in Kermanshah wrote to district governors: "Following instructions issued by the Ministry of Interior... regarding the activities of the Ahl-e Haq in respect to the construction of their Assembly Houses [you are reminded that] these establishments have no legal or canonical basis, therefore please refrain from any correspondence and communication with any public authority concerning them and from issuing any permission that they should be built..."⁷⁰

COIS: Claims from members of the Ahl-e Haq sect are rare and this is why information on them has not been included in the COI report; however, information on the sect has been made available to decision makers via our information request service.

Today, those living in the Kurdish part of Iran still complain of oppression, with Kurdish culture and language not officially recognised by the government. Some Kurds attribute the government's perceived discrimination to the Kurds' alternative denominations, as opposed to the government's Shi'ti beliefs. One Kurdish exile that holds this view stated:

"We Muslim Sunni of Iran bear with daily insults ushered at us by the Shi'a clergy. They destroy our mosques to build and expand theirs, they humiliate our most sacred men and values in the officially controlled media, they encourage religious wars between Sunnis and Shi'as, they arrest, torture and kill Sunni Muftis and personalities, force Sunnis to convert to Shi'ism, forbid Sunni teaching in the schools in Sunni dominated areas, refer to Sunni ulama as apostates, and produce many volumes on Shi'ism while forbidding the printing of Sunni books."⁷¹

COIS: This source is dated 1997, we would prefer to use more recent information if available.

⁷⁰ Ibid

⁷¹ Dr. Hossein Khaligi, London Feb. 11, 1997. Taken from Human Rights Watch, *Iran: Religious and Ethnic Minorities, Discrimination in Law and Practice*, New York, Sept. 1997, p.20

With further regard to the availability of education in the Kurdish provinces of Iran, it is evident that:

...Many Kurdish children do not go to school because they have to support their families. They instead begin work directly because their families depend on them. Those children who lost their father or older brother have to mature quickly and support their families due to the lack of government's support. Many children's childhood and education is thus compromised.⁷²

It is stated at paragraph 20.09 of the COI that:

“Although there are no specific anti-Kurdish laws in the constitution, the authorities find pretexts for persecuting Kurds who openly and non-violently profess their group identity. Once arrested many have experienced violations of due process that contravene Iranian law and fall far below international standards.”

Oppression of the Kurds patently permeates law enforcement and the article below highlights the arbitrary and prejudiced mind-set towards Kurds, with this particular ethnicity comprising the majority of those executed:

The Islamic Republic of Iran is still among the top countries that have the largest number of death penalties. The Kurds say that they constitute the “lion's share” of the executed people.

...Everyday at least one person is hung in Iran mainly for the “enmity of God,” and smuggling drugs. But many say that a large number of the suspects, mainly Kurdish ones, are actually hung for political reasons

According to a report by a local rights group, that Rudaw has attained a copy, there were 402 cases of execution in Iran in 2009. The number is higher than each of 2008 and 2007 where there are 350 and 317 cases, respectively. These statistics have all been confirmed by the government.

“The number of hung people is way higher. But since the Iranian government does not officially announce it, we are not able to rely on unofficial sources,” said Mahmoud Amir Muqadam, spokesman for the Human Rights Organization of Iran.

Likewise, Kurdish outlawed opposition parties say that there are a large number of people executed by the Iranian Government secretly.

Aram Mudaris, a member of the Political Bureau of the Kurdistan Tailors' Movement, known as Komala, says “Iran would implement more death penalties, if international sanctions are lifted on it.”

⁷² <http://www.geocities.com/~ghobad/kurds2.html>

Tahir Mahmoudi, Erbil-based spokesman for the Kurdistan Democratic Party of Iran, says that the reason for increasing executed tolls in Iran is that the Islamic regime has increasingly been losing “trust” and “legitimacy” of the people after the disputed elections of 2009 in which Mahmoud Ahmadinejad was reelected president.

“The Islamic Republic of Iran is an ideological and sectarian regime. It considers anyone opposing the government enemy of God,” said Mahmoudi. “It sees itself as the deputy of God on the Earth.”

According to local and world reports, 6 Kurds have been executed since last year for political reasons. There are 16 others behind bars waiting for the possible implementation of their death sentences.

Muqadam, with the Iranian Rights group, accused the government of being selective in announcing press releases about the people who are executed to death in Iran.

“They [government officials] have said that they would not publish all news,” said Muqadam, adding that the Iranian government executes Kurds secretly to avoid any fuss that may arise in the Kurdish cities after the killings.

“Last year when the Iranian government implemented four death penalties on Kurds, all the Kurds closed their shops in Iran as an objection to the practices. Iran feels that it doesn’t seize complete control over [Iran’s] Kurdistan,” said Muqadam.⁷³

COIS: Thank you. This source will be considered for inclusion in the next report.

In closing this section of the report, an allusion to the UN General Assembly officially adopting a resolution that criticises the human rights situation in Iran is worthy of note:

The resolution was passed in the UN third committee on November 18th this year, with unprecedented 80 votes in favour

The resolution highlights “further negative developments in the human rights situation in the Islamic Republic of Iran, including an intensified crackdown on human rights defenders and reports of excessive use of force, arbitrary detentions, unfair trials and allegations of torture”

In the resolution, the UN expresses ‘deep concern’ at the ‘serious on-going and recurring human rights violations in the Islamic Republic of Iran’, including

⁷³ <http://planet-iran.com/index.php/news/25586>

continued discrimination and other human rights violations against ethnic, linguistic, religious or other minorities.

Through the resolution, the UN General Assembly calls on the Government of Iran to respect its human rights obligations, and to eliminate all forms of discrimination and other human rights violations against persons belonging to religious, ethnic, linguistic or other minorities.”⁷⁴

COIS: Thank you. The information on the UN resolution will be included in the next report.

Arabs

The following information would supplement that within the COI.

Arabians have retained their Arabic language and many of their old customs but they have lost some of their ethnological characteristics. This is partly attributable, as the COI correctly identifies, to the fact that the Arab minority, the majority of whose members live in the southwestern province of Khuzestan, like other ethnic minorities, has been denied its cultural rights and has faced repression both before and after the revolution.

Despite constitutional guarantees of equality, members of this minority are subject to discriminatory laws and practices. Further examples of the economic, cultural and social oppression of the Ahwazi Arab community in Iran are cited below:

...A dirty little secret unknown to most of the world, is Iran’s ethnic cleansing of its own minority Arab population. The ignorance and silence of the world—particularly that of the twenty-two member League of Arab States—is absolutely blinding, appalling, and the epitome of hypocrisy. It is long overdue for the selective “poster child” of oppression (the “Palestinians”) to cease to exist, as the world’s cause célèbre, and that if real peace is to come in the Middle East, then all Middle Eastern conflicts must be addressed. Whether it is the Arab-Israeli dispute, the Kurds, the Copts, the Maronites, Kashmir, or Iranian territorial designs and its nuclear program, all of these problems must be addressed equally.

The reports of expulsions, killings, jailing, land confiscation, “Persianization,” banning of Arabic, and general persecution of Iran’s Arabs are well documented by the National Liberation Movement of Ahwaz, the Ahwaz Studies Center, and the Unrepresented Nations and Peoples Organization. Unfortunately, due to the severe and deadly crackdown of the Islamic regime against its own people over the last

⁷⁴ <http://ukiniran.fco.gov.uk/en/news/?view=News&id=353526682>

*year and a half, ongoing events out of Iran, let alone Khuzistan, has been severely curtailed.*⁷⁵

COIS: Thank you. The Arab section will be updated in the next report.

The following passages also describe the treatment endured by Arabs at the hands of government and law enforcement agencies:

On 29 October 2009, three Special Rapporteurs²² drew the attention of the Government to information they had received regarding seven Arab minority men who were convicted and sentenced to death on charges that included acting against national security and killing a Shia cleric, Sheikh Hassam al-Sameri. The seven men reportedly did not have access to counsel either before or during the trial.

COIS: Thank you but this extract does not appear to be sourced.

More recently, in August 2010, Mohammad Hassan Falahieh, an Ahwazi Arab Journalist and Broadcaster was imprisoned for reporting bad Living conditions of Ahwazi Arabs.⁷⁶

COIS: This source will be considered for inclusion in the next report.

Baluchis

The brief historical and geographical overview given in this section, noting that the Baluchis reside mainly in Baluchestan, which is a dry region in the southeastern part of the Iranian plateau, is accurate. It is perhaps worthy of inclusion that Iran and Pakistan had a dispute concerning the border dividing the two parts of Baluchestan, which was resolved by an agreement in 1959. The Iranian Baluchestan is a part of the Sistan and Baluchestan province. Its important towns are Zahedan, Zabol, Iranshahr, Saravan, Chahbahar.

Historically, the Baluchis moved to Makran from Kerman to flee an expedition of the Seljuk in the 11th century. At the time, the Baluchis were nomads. They have never had a federal government and have been living under a tribal system.

The report would benefit from inclusion of information to state that Baluch is the title of several tribes, a small number of which live in the Republic of Turkmenistan. The Baluchis speak Baluchi, which is a West Iranian language of the Indo-European family of languages that has been influenced by the eastern Iranian dialects. It has two branches of northern (Sorhadi) and southern (Makrani) Baluchis. The Iranian Baluch tribes are divided into a number of clans. The most important are the Bameri, Balideh, Bozorgzadeh, Riggi, Sardaar Zaie, Shahbakhsh, Lashari, Mobaraki, Mir Morad Zaie,

⁷⁵ <http://iranianminorityshumanright.blogspot.com/2010/12/cfp-palestinian-arabs-and-forgotten.html>

⁷⁶ <http://iranianminorityshumanright.blogspot.com/2010/12/guardian-from-discrimination-to-death.html>

Naroyee, Nooshsiravani, Barochooyee, Baram-Zehi, and Shir-Khanzayee tribes. The Iranian Baluchis are mostly of the Hanafi sect of the Sunni faith.

A few tribes in the Sistan area are also regarded as Baluch, but they speak Sistani. The language is an abandoned dialect of Persian. The notable ones of these tribes are: Sarbandi, Shahraki, Sargazi, Zamir-Farsyoon, Mir-Arab and Sanjarani.

COIS: A suggestion as to an appropriate source for this information would be appreciated.

At paragraph 26.26 the COI states that the Baluch minority had “frequently been victims of executions”. Further updated information, from 20 December 2010, is cited below:

“Eleven Baluch citizens have been executed for being enemies of God, corrupting the earth and fighting against the “holy Islamic Republic.”/ RAHANA: Sistan-Baluchistan provincial justice department announced that 11 individuals have been executed who were “related to” and “supporters of” Jundollah. In a statement Sistan-Baluchistan provincial justice department said the executed were involved in terrorist operations and they had been charged with being enemies of God, corrupting the earth and fighting against the “holy Islamic Republic.”⁷⁷

1/1/2011

Iranian's head of Justice Department announced that they hanged four Baloch in Zahedan – the capital city (Iranian occupied Balochistan) – prison... The men were accused of kidnapping for ransom.

The names of the hanged men were announced as such:

1. Mahmud Brahovi alias Farhad s/o Nader
2. Jehanbakhsh Brahovi alias Nurbakhsh s/o Nader
3. Shahram Naruvi alias Bibagr s/o Jalal
4. Zahur Ahmad Asefdoust s/o Mohammad Sharif

"These people had kidnapped innocent citizens a number of times, and after receiving money from their families they still killed some of their victims," Fars quoted provincial prosecutor Ebrahim Hamidi as saying.⁷⁸

COIS: Thank you. Information on these executions will be included in the next report.

Azeris

⁷⁷ <http://news.kodoom.com/en/iran-politics/eleven-baluch-citizens-executed/story/1433656/>

⁷⁸ <http://www.balochwarna.com/modules/news/article.php?storyid=3020>

There are no issues with this section of the COI, save that relevant passages pertaining to the treatment of Azeri's during 2010 are omitted. Inclusion of the following may therefore further inform the reader:

*“Azeri is heavily suppressed by the Iranian security service. Azeri political parties’ are banned and political activists are tortured in prison. Many Azeri political activists are killed under torture”.*⁷⁹

Also

“The Iranian government forced Sakineh Ashtiani to confess to murdering her husband and adultery on TV and have sentenced her to death by stoning. She pleaded guilty to these charges.

Her confession was broadcast on state TV in Iran just one week after her interview with The Guardian newspaper[i], where she said that authorities in Iran were lying about her charges and that they wanted to execute her in secret.

Her lawyer, Mohammad Mostafaei, had to escape from Iran after he was threatened by the Iranian security service. Since they couldn't locate him, they arrested his brother and his wife instead.

IMHRO suggests that such confessions are all taken under torture and have no value at all. The Iranian government have broadcast many confessions since 1979 and we know that many are tortured.

IMHRO demands from the Iranian government the release of Sakineh Ashtiani, an Azeri woman, along with other Azeri prisoners. She already suffered inhumane punishment of ninety lashes; the injustice needs to be stopped now.

An interesting point is that she could not speak Farsi and her confession was in the language of Azeri, thus showing that Farsi is not a national language in Iran.

*Azeri, like Kurds, Arabs, Baluch and Turkmen, are forced to be educated in Farsi/Persian. Anyone speaking in their mother tongue could suffer disciplinary actions and even being sent to prison”*⁸⁰.

COIS: These sources will be considered for inclusion in the next report.

Qashqais

⁷⁹ <http://iranianminorityshumanright.blogspot.com/2010/08/imhro-condemn-forcing-sakineh-ashtiani.html>

⁸⁰ <http://iranianminorityshumanright.blogspot.com/2010/08/imhro-condemn-forcing-sakineh-ashtiani.html>

The section allocated to discussion of Qashqais is accurate and informative, detailing that the Turkish speaking Qashqaie tribe is the most reputed tribe in southern Iran and the tribe comprises numerous clans. The major ones are Kashkooli, Sheesh Blocki, Khalaj, Farsi Madan, Safi Khani, Rahimi, Bayat, Darreh Shuyee.

One school of thought maintains that the Qashqaies descended from the ancestors of the Turkish Khalaj clan, who lived between India and Sistan region of Iran, and then migrated to central and southern Iran. The Qashqaie tribe has never played a decisive role in the national political developments, but it has occasionally been the source of short-lived troubles for the government. Some of these troubles are detailed in the COI, such as the religious practices of the group are not entirely in line with those of the mainstream Islamic regime and therefore give rise to suspicions and discrimination against them.⁸¹

Also, following the Islamic Revolution, various Qashqa'i customs, such as public dancing, the playing of traditional music on oboes and skin drums, and stick fighting games performed to music, were declared immoral and anti-Islamic by the new government. Further information detailing the history, cultural relations and socio-political organisation of this tribe is found at:

<http://www.mylovelynomads.com/qashqai/qashqai>

COIS: Thank you. This source will be considered for inclusion in the next report.

Lesbian, Gay, Bisexual and Transgender Persons

a) Legal

This section appears to be mainly conclusive and up-to-date. It may be worthwhile, for the sake of completeness to include the relevant provisions of the Iranian Civil Code regarding the evidence required, to supplement the inclusion of the Penal Code. As methods of proof are mentioned regularly in this section, expansion on the topic may be considered useful.

*“**Article 1258** states:*

The evidence admissible in proving a claim is as follows:

- 1) Confession.*
- 2) Written documents.*
- 3) Witness testimony*
- 4) Circumstantial evidence.*
- 5) Oaths*

⁸¹ http://www.iranchamber.com/people/articles/iranian_ethnic_groups.php

Article 1321 states: “By circumstantial evidence is meant conditions and circumstances which are considered, by virtue of law, or in the view of judge, as proof of a matter.”

Article 1324 declares: “The circumstantial evidence left to the view of the judge are the conditions and circumstances regarding the issue, and can be accepted only in cases where the claim is provable by the evidence of witnesses, or where it (the circumstantial evidence) completes other evidence.”

COIS: Thank you. This information is useful and we will try to find an appropriate source; any suggestion of such a source would be appreciated.

Furthermore, it may be beneficial and further inform the reader to state the level of international opposition (both governmental and by NGOs) to Iran’s treatment of homosexuals. The excerpt below is an account by the Human Rights Watch (November 2005) of its concern regarding these issues:

“Human Rights Watch called upon the Iranian government to decriminalize homosexuality and reminded Iran of its obligations under Toonen v. Australia (1994), the Human Rights Committee’s authoritative interpretation of the International Covenant on Civil and Political Rights, to which Iran is party. Toonen v. Australia extends recognition of the right to privacy and the right to freedom from discrimination on the grounds of sexual orientation throughout human rights law.”⁸²

There is some degree of confirmation that Iran upholds its right to execute those convicted of homosexual behaviour, and has in fact done so after the date of 2005 given in the COI:

***“Iranian Official Confirms Gay Executions
November 13, 2007***

In a meeting between Iranian and British parliamentarians a high ranking Iranian politician has for the first time acknowledged that the Islamic state upholds the death penalty for homosexuality according to minutes of the meeting obtained by The Times newspaper. The disclosure came during a peace conference - the Inter-Parliamentary Union - in May. The Times obtained the minutes of the meeting under Britain’s freedom of information law. LGBT rights groups have reported for more than a year that gays were being executed but the government in Tehran has repeatedly denied the public hangings were for homosexuality. In 2005 two young men [were] hanged in a public square in northern Iran after [they] were alleged to have been found guilty of homosexuality. The government claimed they had been convicted of kidnapping and raping a male teen.”⁸³

⁸² Human Rights Watch Report dated November 22, 2005:

<http://hrw.org/english/docs/2005/11/21/iran12072.htm>

⁸³ <http://www.365gay.com/Newscon07/11/111307iran.htm>

“Iran: Two Young Men to Be Thrown off Cliff

Two young men to be thrown off cliff (punishment reserved to homosexuals) Iran-Resist The last flight of Tayab and Yazdan “According to the daily Quds, two youths will be thrown into a precipice in the vicinity of the city of Shiraz. The sentencing of the two youths was confirmed on January 2 by the Supreme Court and the Regional Justice is preparing the execution. Tayab and Yazdan will be enclosed in a bag before being thrown into the ravine at the top of a cliff. This unimaginable penalty is reserved for homosexuals according to the laws “full of love and light” of the Shariah. According to the Shariah, if both men survive this fall, they will be hanged...”⁸⁴

COIS: Thank you. The suggestions will be considered for inclusion in the next report together with any more recently published information.

Finally the recent case of HJ (Iran) illustrates the issue well, in that it accepts the principle of ‘reasonably tolerable’ existence is not one that applies. Such a test is contrary to the UN Refugee Convention:

<http://www.bbc.co.uk/news/10180564>

To quote Lord Hope, in his judgement of the above case:

"To compel a homosexual person to pretend that his sexuality does not exist or suppress the behaviour by which to manifest itself is to deny his fundamental right to be who he is.

"Homosexuals are as much entitled to freedom of association with others who are of the same sexual orientation as people who are straight."

COIS: The case of HJ (Iran) is included in the Iran Operational Guidance Note, produced by the Country Specific Litigation Team, which is available to decision makers and is publicly disclosable. This information would not usually be repeated in the COI Report.

Treatment by, and attitude of, State Authorities**i) Charges, Sentences and Punishments**

There is evidence to show that homosexuality is also a charge levied against those who are political opponents of the Tehran regime, for example in the cases of; famous dissident writer

⁸⁴ [http://www.globalgayz.com/country/Iran/view/IRN/gay-iran-news-and-reports-2009-2]

Ali Akbar Saidi-Sirjani⁸⁵. Similar to drug-dealing, it is a useful catch-all offence with very low thresholds of proof.

ii) Arrests and ill-treatment

The information provided in this section is accurate and provides a reflective account. Nevertheless, I would seek to include relevant objective evidence of the long running and repetitive nature that the repercussions of homosexuality can have in Iran, affecting one's family life, education, freedom, and safety:

<http://www.iranrights.org/english/document-324766.php?searchtext=aG9tb3NleHVhbGl0eQ%3D%3D>

This article, although not particularly long, gives a good overview of life as a homosexual within Iran.

COIS: Thank you; however, we were unable to access this source using the above link address.

The following article also elucidates the situation concerning trans-sexuals and the non-state pressure upon them:

http://news.bbc.co.uk/1/hi/world/middle_east/7259057.stm

COIS: Thank you. This source will be considered for inclusion in the next report together with any more recent information available.

iii) Views of State officials

The quotation attributed to Mohsen Yahyavi does not give the full picture of the views this man holds and is in fact quite misleading. The inclusion of more text from the article in *The Times*, would reveal his unequivocal position:

“Homosexuals deserve to be executed or tortured and possibly both, an Iranian leader told British MPs during a private meeting at a peace conference, The Times has learnt.

Mohsen Yahyavi is the highest-ranked politician to admit that Iran believes in the death penalty for homosexuality after a spate of reports that gay youths were being hanged.”⁸⁶

COIS: Noted, thank you. We will revise in the next report.

⁸⁵ <http://www.refugee.org.nz/Fulltext/74665-03.html>

⁸⁶ http://www.timesonline.co.uk/tol/news/world/middle_east/article2859606.ece

Societal treatment and attitudes

This section appears to be complete and up-to date.

Transgender Persons

Although the COI report is correct in stating that Iran is officially very accepting of those people who are classed as ‘transgender’, and indeed assists them with financial grants and loans to facilitate their sex-change operations, the report could be accused of being too one-sided.

It should not be forgotten that in-spite of official recognition, there is still significant social stigma attached to those who are transsexual, and indeed those who have undergone ‘the procedure’ are advised not to speak of their past.

Nor should it be ignored that it is not a choice for transsexuals to undergo the operation in Iran, it is a *de facto* requirement:

“People who do not comply with these gender stereotypes or are not able to fit within the prescribed gender roles, will experience great difficulties in society. For example, men whose gait or voice is considered effeminate are described with derogatory terms in Iran and it is suggested they are gay. Transgender people are likely to be considered gay or to be ostracised otherwise for not conforming to gender roles.”

Moreover, not all transgender people wish to change their biological sex through surgery. There are problems with the current procedures in Iran for sex-changes as often the normally recommended year of transition before a sex-change operation is skipped, because until the surgery is complete people can be considered to be homosexual. and thereby might be breaking the law. In addition, there is a risk that people involved in homosexual relationships who may not be transgender, are pressured into undergoing a sex-change operation in order to avoid being illegal.”⁸⁷

This article also supplies useful links to further useful illustrations of the point:

- Reuters (31 December 1998) *Iran court hears transsexual inheritance case;*
- AFP (21 December 1998) *More on the transsexual case;*
- Arabia.com / Reuters (19 June 2000) *Iran transsexual unhappy with experience as woman;*
- The Gully (13 November 2000) *A mother takes on the Ayatollah*

⁸⁷ http://www.safraproject.org/Reports/SP_Country_Information_Report_Iran.pdf

In my view, in order to present a fully objective analysis of the facts as they stand currently, both sides of the argument must be considered and included in the report.

COIS: Noted, thank you. Further efforts will be made to reflect both sides of this issue.

Judiciary

a) Organisation

The report addresses the key areas, however, several issues require further clarification in this section.

The first arises in Jane's *Sentinel Country Risk Assessment* for Iran. The Supreme Leader appoints the head of the judiciary, who in turn appoints the public prosecutor and the head of the Supreme Court.⁸⁸ Further, a draft of a new Penal Code for Iran was submitted to the Guardian Council for approval last year, although it remains currently unapproved.⁸⁹ The final amendment to 11.01 is a correction regarding the number of branches of the Supreme Court. At the present time the State Supreme Court has 34 branches. Two of the branches are in Mashhad, one of them is in Qom and the remaining branches are located in Tehran.

Another issue that arises regarding the USSD's *Country Report on Human Rights Practices 2009 Iran* and The Advisory Panel on Country Information (APCI) review of the COI Report of August 2008, is that of judicial independence. Globalrights summarises "[t]he judiciary is subject to government and religious influence" – it is important to emphasise that the judiciary is independent *in theory*⁹⁰. In practice, there is no clear separation of powers. In an Islamic state, where only clerics can be promoted to senior judicial roles, religious values hold significant importance in the drafting and application of any legislation. The judiciary, providing a legal administrative mechanism for punishing those who speak out against the Regime, often reinforces the government's stance and policies. Additionally, there are numerous reports calling into question the independence of the Iranian judiciary from agencies of government, such as the intelligence services.⁹¹

COIS: Noted, thank you. Further efforts will be made to clarify the situation, particularly regarding the question of independence.

i) Court Structure

There are several additional points to be considered in this section, the first being the appellate powers of the Supreme Court.

⁸⁸ See Article 162 on <http://www.iranonline.com/iran/iran-info/Government/constitution-11.html>

⁸⁹ <http://www.unhcr.org/refworld/country,,IWPR,,IRN,,4c9c63e3c,0.html>

⁹⁰ <http://www.globalsecurity.org/intell/world/iran/intro.htm>

⁹¹ <http://www.iranhumanrights.org/2010/01/irgc-commander-as-larijanis-adviser-a-threat-to-judiciarys-independence/> see also: <http://www.azadtribune.org/en/content/eroding-professional-independence-concerns-justice-system-iransee> also: http://www.amnesty.org.uk/news_details.asp?NewsID=19092

To clarify, the Supreme Court will hear appeals from lower courts (e.g. Revolutionary Court) where a serious sentence (e.g. minimum 10 years' incarceration/death penalty/retaliation/fines over a certain amount/amputation) has been issued and, of course, has the power to quash a prior judgement from a lower court. However, local courts, determined to punish the accused, may not always heed the comments of the Supreme Court, despite its constitutional supremacy.⁹² The Supreme Court can only hear appeals based on an error of law or procedural irregularity. If the Court quashes a first instance judgement comment may be passed on the deficiencies of the case (if relevant), prior to it being returned to the court of first instance (or another appropriate branch) for re-hearing (and any necessary further work, for example re-investigation).

The powers of the Appeal Court (Dadgahe Tajdide Nazar) vary from those of the Supreme Court. The Appeal Court hears appeals from first instance courts, where lesser penalties/sentences have been issued (e.g. the sentence is less than 10 years and/or not the death penalty/retaliation/fines over a certain amount/amputation), and has the ability to issue definitive verdicts (e.g. guilty/not guilty). The Appeal Court will hear appeals based on the facts of the case, and have wider powers of examining the case, for example evaluating of evidence and the credibility of the defendant.

The special military and clerical courts, mentioned at 11.09, have attracted criticism for accommodating inequality of treatment depending on category of offence and offender, with some opposition activists and commentators calling for their abolition. Further to the comments included in the COI, the USSD's 2009 report describes some of the issues regarding clerical courts:

Opposition groups continued to question the legitimacy of the special clerical court system. The clerical courts, which investigate alleged offenses and crimes by clerics and which the supreme leader directly oversees, are not provided for in the constitution, and they operated outside the domain of the judiciary. According to a 2007 AI report, defendants could be represented only by court-nominated clerics who are not required to be qualified lawyers. According to the AI report, in some cases a defendant was unable to find a cleric willing to act as defense counsel and was tried without legal representation. Critics alleged that clerical courts were used to prosecute clerics for expressing controversial ideas and for participating in activities outside the sphere of religion, such as journalism or reformist political activities. For instance, in October, according to Tehran chief prosecutor Abbas Jafari-Dolatabadi, the special clerical court was preparing a case against leading opposition figure Mehdi Karoubi for alleging that security officers raped detainees in the aftermath of the June 12 election. At year's end there was no update on the investigation, and no charges had been filed against Karoubi.⁹³

⁹² <http://londonprogressivejournal.com/article/746/iranian-judges-defy-their-supreme-court-to-hang-teen>

⁹³ <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136068.htm>

A final comment regarding the structure of the court system in Iran concerns the plans for a new branch of the Revolutionary court, specially constituted for the purpose of ‘reviewing’ Iranians involved in political activism abroad:

Special Court for Iranians Abroad: Established to Help or to Intimidate?
6/4/2010

Iran’s Minister of Justice announced last Wednesday that plans are under way to form a special court for Iranians abroad whose work will begin soon. During an appearance on Sunday at the High Council of Coordination with Iranians Abroad, Morteza Bakhtiari said that the Council has appropriate authorities based on Articles 127 and 128 of Iranian Constitution.

According to Article 127 of the Iranian Constitution, the President can, based on necessity and with the approval of the Cabinet, appoint a special representative or representatives with specific authorities. In such cases, decisions made by such representatives is the same as those made by the President or Cabinet...

...Referring to the Director of Tehran’s Judiciary and the Head of the Revolutionary Courts preparedness in this area, he said judicial and security organizations have representatives on the Council and these representatives will decide on returning political refugees to Iran. Quoting Bakhtiari, Mehr News Agency said that “90% of contacts made by Iranians to outside Iran are of a legal and judicial nature.”...

...Iran’s Minister of Justice also defined the goal of the High Council of Iranians Abroad as strengthening the national identity of Iranians outside Iran and to defend their rights, helping the propagation of Persian calligraphy and language, and easing the participation in national security. The Minister of Justice did not elaborate on how Iranians outside Iran could participate in Iran’s national security...

.... In fact it is not yet clear whether the Minister of Justice’s statements are aimed at solving the real legal problems of Iranians outside Iran, or if they are heralding a new wave of pressure on critics of Islamic Republic of Iran who are now active outside Iranian borders.

Some political and human rights activists told the International Campaign for Human Rights in Iran that earlier, Iranian judicial authorities had approached Interpol to pursue political and human rights activists, threatening to return them to Iran to face trials through the Interpol. A human rights activist who left Iran during recent months and who is currently residing in Turkey told the International Campaign for Human Rights in Iran: “About a month after my exit from Iran, six security agents stormed my father’s home, searched the premises and confiscated my personal items, and threatened my family that they would soon be extraditing me through the Interpol. This claim has been conveyed to several other human rights activists through verbal and telephone threats.” This is why some refugees who have recently left the country

*believe that the said new court has been established to control and exert pressure on Iranians who are politically active...*⁹⁴

At present, there is no evidence to suggest that the new court branch has been implemented. However, there is notable concern amongst the diaspora that the purpose of the court will be to prosecute Iranians for participating in political activism (protests/commentary/debate) whilst abroad, for offences defined in Iranian law (such as insulting the Supreme Leader, insulting Islam etc.).⁹⁵ Article 5 of the Penal Code States:

“Those Iranian citizens, who commit one of the following crimes outside of Iran but are arrested in Iran or are deported to Iran, will be punished according to the Islamic Republic of Iran’s Penal Code:

Any act against the Islamic Republic of Iran, its internal or external security and the independence of the country...”

According to Article 4 of the same code, if a part of a crime occurs in Iran but it is completed outside of the country or a part of the crime is committed abroad and the consequences are observed in Iran, it is considered as a crime committed inside Iran.

Article 7 stipulates:

“In addition to the instances given in Articles 5 and 6, every Iranian who commits a crime outside of Iran and is found in Iran, will be punished under the Islamic Republic of Iran’s Penal Laws.”

As can be seen from the above articles, the law is legislated in a general manner and there is no difference between people who are arrested outside of Iran and punished according to the foreign country’s domestic law or those arrested in Iran for the first time.

COIS: The information in this section of the report will be reviewed in the next report. Further information on the courts has been made available to decision makers via our information request service.

ii) Mechanisms for Redress Outside of the Judiciary

Although the information in this section is correct, it is lacking in detail. The USSD’s 2009 report adds a few more details to the information provided in the COI:

By law the judiciary is independent from the executive and legislative branches; in practice it remained under the influence of executive and religious government authorities. According to the constitution, the Court of Administrative Justice, under the supervision of the head of the judiciary, investigates the grievances of citizens with

⁹⁴ <http://www.iranhumanrights.org/2010/04/special-court-for-iranians-abroad-established-to-help-or-to-intimidate/>

⁹⁵ <http://www.theaustralian.com.au/news/nation/court-targets-iranian-expats/story-e6frg6nf-1225851589224>

regard to government officials, organs, and statutes. In practice citizens had limited ability to sue the government. Citizens were not able to bring lawsuits against the government for civil or human rights violations. Dispute resolution councils are available to settle minor civil and criminal cases through mediation before referral to courts.⁹⁶

COIS: This information from the US Department of State is included in the sub section 'Independence' at paragraph 11.12.

It may be appropriate to mention, further to the discussion of Human Rights mechanisms in Iran, that the UN has been unable to send any rapporteurs to the country since 2005 despite a standing invitation.⁹⁷ Amnesty International has not been permitted to visit the country since the 1979 revolution to report on the Human Rights situation.⁹⁸

COIS: This information is included in the introduction to the Human Rights Section, paragraphs 7.08 to 7.10, of the August COI Report.

The Islamic Human Rights Commission is located within a government building, and the judiciary wield an influence over its activities. The structure of this organisation is identified in a UN Core Document:

The Islamic Human Rights Commission was established in 1994 with the aim of promoting human rights, supervising the protection of human rights and reviewing the position of the Islamic Republic of Iran vis-à-vis international instruments. This Commission is a national body and its establishment was welcomed by the United Nations Commission on Human Rights in resolution 1996/64 of 23 April 1996...

... At present, the Commission is composed of the following organs:

(a) The High Council, comprising nine persons representing different social groups, including judges, lawyers, representatives of parliament, members of the Bar Association and individuals active in the field of human rights;

(b) Four committees dealing with technical matters, women's affairs, internal follow-up and external monitoring. Each committee consists of independent members qualified for its respective mandate...

...The secretariat of the Commission is the permanent organ of this body and comprises different units in accordance with the requirements of the Commission. The Commission also enjoys the cooperation of experts and the public.⁹⁹

⁹⁶ <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136068.htm>

⁹⁷

http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/36364856C8D89EA8C125773D004FDF1A?OpenDocument

⁹⁸ http://thereport.amnesty.org/sites/default/files/AIR2010_AZ_EN.pdf#page=119

⁹⁹ <http://www.unhchr.ch/tbs/doc.nsf/0/bb5e6edae249b576802567d10033a0bb?Opendocument>

The work of the Islamic Human Rights Commission appears to be rather internationally and academically focused, and has attracted criticism from leading Iranian Human Rights lawyers (including Shirin Ebadi) due to a lack of independence.¹⁰⁰

A final comment is that the Islamic Republic's Human Rights headquarters is an institution of the Regime, as implied by the Secretary General's report. Other (independent) Human Rights organisations within Iran have been banned, or their members intimidated; harassed; arrested; and incarcerated.¹⁰¹¹⁰²

COIS: Consideration will be given to including more information on the Islamic Human Rights Commission. Some information on the Commission is included in paragraph 11.10 of the report. Further information on Human Rights Organisations is included in Section 17.

b) Independence

Further to the above comments regarding judicial independence several points remain to be considered.

Firstly, at 11.13, it may be prudent to note the Guardian Council's six 'elected' candidates are nominated by the judiciary and voted in/approved by Parliament (Majles).¹⁰³

Additionally, it is useful to stress that although the office of public prosecutor has been restored the system remains largely inquisitorial. The use of trial by jury is often limited to cases involving the media or political trials (Constitution, Article 168), and the presiding judge in most civil/criminal cases will have an investigatory function.¹⁰⁴¹⁰⁵ Where evidence against a suspect is lacking, a judge can form a judgement based on his own 'knowledge', which is a vague concept and can lead to a *prima facie* miscarriage of justice.

Further, at 11.14, the proposed modifications to the by-laws for membership of the Iranian Bar Association are discussed. According to news sources, so far, the implementation of these changes has been suspended since July 2009.¹⁰⁶¹⁰⁷ However, there could be an attempt to implement them at any time creating far-reaching implications for the independence of lawyers, from both the judiciary and Regime, and the defence of Human Rights within Iran.

The concerns raised by Freedom House at 11.15 are valid. Furthermore, access to lawyers (and family members) is often impossible for an incarcerated suspect, preventing the preparation of

¹⁰⁰ The following report of the IHRC focuses largely on academic and international activities:

http://www.iccnw.org/documents/IHRC_Brief_Review_of_the_Activities.pdf

¹⁰¹ *ibid.*

¹⁰² <http://www.iranhumanrights.org/2010/10/lddhi-campaign-seifzadeh/>

¹⁰³ <http://www.globalsecurity.org/military/world/iran/guardian.htm>

¹⁰⁴ The use of mass show trials is covered in the following Human Rights Watch

article: <http://www.hrw.org/en/news/2010/10/28/iran-human-rights-crisis-requires-international-scrutiny>

¹⁰⁵ The interview with a suspect's wife in the following article highlights the use of 'forced confession' and lack of impartiality of the investigating judge in her husband's case: <http://planet-iran.com/index.php/news/26061>

¹⁰⁶ http://www.amnesty.org.uk/news_details.asp?NewsID=19092

¹⁰⁷ <http://www.hrw.org/en/news/2009/07/16/iran-halt-moves-curtail-lawyers>

an adequate defence.¹⁰⁸ Lawyers are harassed and intimidated, even arrested and imprisoned, ostensibly for taking on a controversial case, or attempting to defend the rights of their clients.¹⁰⁹¹¹⁰ The USSD's 2009 report contains an account of a lawyer incarcerated on vague charges:

On June 25, plainclothes police officers arrested Mohammad Mostafaei, the lawyer for approximately 25 juvenile offenders on death row. On July 1, authorities released Mostafaei from Section 209 of Evin Prison on bail of one billion rials (\$100,000). Mostafaei was accused of "conspiring against state security" and "propaganda against the system."¹¹¹

In order for an arrest warrant to be issued a judge must both review and sign it, which further implies a pervasive lack of judicial independence. Those lawyers arrested/detained are usually accused of speaking out (especially to foreign media) 'against the Regime' (usually in defence of their client's basic Human Rights), thus their 'offence' is (usually) a political one – and it would appear few judges are refusing to co-operate or sign arrest warrants for lawyers diligently performing their responsibilities to their clients.

COIS: Further information on the issue of an arrest warrant, such as the judge needing to sign it, is included under the sub section Arrest Warrants, paragraph 11.49.

It is also worthy of mention at this juncture that the Iranian judiciary is becoming increasingly politicised, thereby losing its independence somewhat: *'The last vestiges of the rule of law and an independent judiciary seriously diminished in 2010.'*¹¹² The lack of separation between law enforcement and the Iranian political agenda has resulted in the Intelligence Ministry and Revolutionary Guards having an increasingly hands on role to play in investigations, arrests, detentions, interrogations, trials, sentences, and bail decisions. This manifests by detainees having routinely been denied access to lawyers, family, their files and even charges against them. Show trials, in which multiple defendants have confessed publicly to alleged crimes, after torture and coercion, have become common.

Such an intertwining of state bodies undermines the integrity upon which the judiciary relies in passing sentence. It is clear that Iran is not subscribing to the separation of powers as a model for the governance of a state, preferring not to induce distinction between executive and legislative powers. The true veracity of this is discussed in the following report

<http://iranhrdc.org/httpdocs/English/pdfs/reports/Violent%20Aftermath.pdf>

COIS: Thank you. The information will be included in the next report.

¹⁰⁸ "The prosecution accused the defendants of fomenting a "velvet revolution," acting against national security, and having ties to British spies. Authorities did not permit any of the defendants access to legal counsel prior to the trial." <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136068.htm>

¹⁰⁹ <http://www.amnesty.org/en/library/asset/MDE13/093/2010/en/d4a07c06-70a0-4409-8c57-ec7142771309/mde130932010en.html>

¹¹⁰ http://www.amnesty.org.uk/news_details.asp?NewsID=19092

¹¹¹ <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136068.htm>

¹¹² <http://iranprimer.usip.org/blog/2010/dec/16/patterns-iran-human-rights-abuses-2010>

I have chosen to include some particularly pertinent passages here and also my commentary in this regard.

“In late July, the former head of the Judiciary, Ayatollah Seyyed Mahmoud Hashemi Shahroudi, ordered a committee to meet with the reportedly 300 detainees and determine how they were being treated.”¹¹³ He declared that the detainees should be processed by August 3 and ordered then-Prosecutor General, Mortazavi, to set bail for those detainees who were not facing serious charges.

The next day, the government announced that it had released close to half the detainees. While making this announcement, Saeed Jalili, the secretary of the Supreme National Security Council of Iran, claimed that those who remained in jail were accused of possessing “firebombs and weapons, including firearms, and who had caused serious damage to public property.”¹¹⁴ Four days later, on August 1, the first mass show trial took place. Three more show trials followed in August under the supervision of Mortazavi. Following the appointment of Abbas Jafari-Dolatabadi as Prosecutor General in August, a fifth session was held on September 14.

Although the sessions were called “trials,” they did not remotely resemble criminal trials as generally understood in domestic or international law. They consisted of the prosecutor reading a document called a general indictment, followed by confessions by selected defendants, often without the assistance of their chosen lawyers. An unknown number of defendants were later accorded individual trials, but many, if not all, were sentenced on the basis of their forced confession.”¹¹⁵

As stated in the passage above, Iran has bore witness to five highly publicized show trials, the first being broadcast on 1 August by Iranian State television. A wealth of charges colored the indictments, purporting to set out evidence that the “*incidents and turmoil that took place following the elections were preplanned and took place according to the velvet revolution’s timeline of goals and events*”.¹¹⁶

Specifically the indictment in the first trial pointed to three similarities with the “velvet revolutions” in other parts of the world: false claims of election fraud, “excessive use of illegal gatherings,” and “culture of networks and institutions.” As evidence that the fraud charges were a pre-planned part of the “velvet revolution,” the indictment relied on confessions by Mostafa Tajzadeh, a former official in the Khatami government, Behzad Nabavi, a member of

¹¹³ *Judiciary Chief Calls for Rulings on Detainees by August 3*, Mehr News Agency, July 27, 2009, available at <http://www.mehrnews.com/en/NewsDetail.aspx?NewsID=919450>.

¹¹⁴ Prosecutor Mortazavi was removed from his position by the newly appointed Head of the Judiciary Ayatollah Sadeq Larijani. He was later appointed as Deputy Prosecutor General of Iran.

¹¹⁵ Prosecutor Mortazavi was removed from his position by the newly appointed Head of the Judiciary Ayatollah Sadeq Larijani. He was later appointed as Deputy Prosecutor General of Iran.

¹¹⁶ First Indictment, *supra* note 491.

the Mojahedin and former advisor to Khatami, and Mohsen Safa'i Farahani, head of the Participation Front.

Following the reading of the indictment, well-known figures including Abtahi and Mohammad Atrianfar confessed that no fraud had taken place during the election and that foreign governments were fomenting a “velvet coup” in Iran.¹¹⁷

Clearly the rationale underpinning these trials is to highlight the clout of the Iranian authorities, have it affect as many of the disaffected Diaspora and send a message to the world of the power behind Ahmedinejad.

The second mass show trial comprised thirty defendants and took place on 8 August, the prosecution alleging membership of terrorist organizations. Interestingly, the first section of the indictment alleged that foreign governments, particularly the United States and Britain, are attempting to overthrow the Islamic Republic using “soft overthrow, which was groomed and presented to the public as ‘public diplomacy’”. The second indictment names media and information technology as tools used by foreign powers to promote a “soft overthrow” in Iran. For example, Facebook is number fourteen on the list of the alleged interventionist actions of the U.S. The alleged role of the BBC is singled out. It is accused of preparing for 24-hour coverage on election day and interviewing “*problematic individuals/dissidents within the country to transmit minute-by-minute reporting of the news and events.*”

The third trial, held on August 16, involved several defendants mostly accused of demonstration-related crimes including resisting security forces, spreading images of events and acts of vandalism; none of these defendants were prominent reformist leaders or well-known activists. Still, the third general indictment presented once again a larger conspiracy that was allegedly planned years before the election.

The fourth mass show trial was held on August 25. Again, a general indictment was read that accused several individuals and organizations of planning a “velvet coup.”¹¹⁸ Beyond laying out a case against American-Iranian academic Kian Tajbakhsh, it singled out the Participation Front and the Mojahedin of the Islamic Revolution Organization, two reformist parties, as detrimental and illegal.

The indictment quoted alleged confessions by members of the central committees of these parties, including denials of the veracity of statements issued by the parties that were then used by the prosecution to show why they should no longer be allowed to be active. The following is of note:

“A party which, after spending considerable amount of time and consulting with its central council members, has a written strategy that is completely perverse, to the

¹¹⁷

¹¹⁸ *Matn-i Kayfarkhast-i Dadgah-i Chaharum [Text of the Indictment of the Fourth Trial]*, Asr Iran, Aug. 25, 2009, available at <http://www.asriran.com/fa/pages/?cid=82146>.

*point that even its most loyal central council members have such [negative] judgment about it and deny these diversions with such honesty, is clearly no longer qualified to be active. Especially since the party has caused considerable damage to the country by putting to action this strategy”.*¹¹⁹

Rather surprisingly, at the fifth mass show trial on September 15, only six defendants were tried and most of them—having been released on bail—wore personal clothes and were represented by counsel of their choice.

The very instance of mass show trials serves as a prime example of the lack of independence afforded to the Iranian judiciary by the elected authorities. Such were carried out not in the interests of swift justice for the subjects, but rather to satisfy the political agenda of the elected. The electorate even instructs how the judiciary is to deal with those considered as leading the opposition movement:

*“Serious confrontation has to be against the leaders and key elements, against those who organized and provoked [protests] and carried out the enemies’ plans ... They have to be dealt with seriously ... Don’t give immunity and protection to the main elements, and punish the deceived and second-hand element”*¹²⁰

As to be expected, the judiciary act upon their instruction, delivering harsh sentences on those perceived as having orchestrated dissent:

*Kambiz Norouzi, a member of the Journalist Union and media activist who was arrested in front of the Qoba Mosque on June 28, was convicted of propaganda against the regime because of his attendance at a June 15 demonstration, and sentenced to two years and 76 lashes.*¹²¹

Ahmad Zeidabadi, the secretary general of Tahkim-e Vahdat, was taken to court on November 23 and sentenced to six years in prison plus five years of exile in Gonabad,

¹¹⁹ *Chaharumin Jalasihyih Dadgah-i Risidigi bih Ittihat-i Muttahaman-i Parvandihiyih Kuditayih Makhmali – Matn-i Kamil-i Kayfarkhast-i Umumiyih Guruhi az Mutahaman-i Parvandihiyih Kuditayih Makhmali [Fourth Court Session to Investigate the Charges of the Accused of the Velvet Revolution – Complete Text of the Indictment for a Group of Accused in the Velvet Coup Case File]*, Fars News Agency, Aug. 25, 2009, available at <http://www.farsnews.net/newstext.php?nn=8806030283>

¹²⁰ *Ahmadinejad Calls for Prosecution of Opposition Leaders*, Guardian, Aug. 28, 2009, available at <http://www.guardian.co.uk/world/2009/aug/28/mahmoud-ahmadinejad-urges-opposition-prosecutions>.

¹²¹ *Kambiz Norouzi bih Habs va Shallaq-i Ta’ziri Mahkum Shud [Kambiz Norouzi Was Sentenced to Imprisonment and Discretionary Lashes]*, Parleman News, Nov. 18, 2009, available at <http://www.parlemannews.ir/index.aspx?n=5523>; another example of a defendant being sentenced to lashes is Soheil Navid Yekta, a young demonstrator who was sentenced to seven years and 74 lashes. *Mahkumiyat-i Navid Yekta bih 7 Sal Zindan va 74 Zarbih Shallaq [Navid Yekta Sentenced to 7 Years’*

*a city in a northwest province of Iran. He was also banned from participating in civil and social activities for the rest of his life.*¹²²

*Hamed Rouhinejad, Reza Khademi, and Ayoub Porkar, accused of membership in the MEK and Royalist Society, were sentenced to death by the 26 Branch of the Revolutionary Court. This brought the total number of death sentences to six.*¹²³

Addressing the instance of mass trials is fundamental to understanding the current clampdown on dissident opinion in Iran and I feel should be included within the COI.

COIS: Thank you for these suggestions. Information on mass trials is included at paragraphs 11.15 and 11.20 of the COI Report. This information will be reviewed and updated in the next report.

c) **Fair Trial**

There are a number of points to address in this section.

Firstly, examining the UN Secretary-General's report, as mentioned above – a draft version of a new Penal Code is under currently under review by the Guardian Council, with little indication of if and when it may be approved.¹²⁴ Whether any large-scale reforms may be implemented via the new Code remains to be seen.

COIS: Information on the new draft Penal Code is included in paragraph 11.32.

The report cites the protection of Article 190 of the existing code – allowing defence lawyers access to prosecution documentation for the purposes of review. However, as noted above (in (b)), many suspects (especially political prisoners) are not being permitted access to a lawyer – meaning that nobody actively reviews prosecution documents under Article 190, and a substantially reduced chance of success for a defendant. The report notes that Counsel is often excluded at the judge's discretion in Revolutionary Court hearings, however news items suggest some arrestees are not permitted access to a lawyer at any stage in the process.¹²⁵

COIS: Updated information on this issue will be included in the next report.

The USSD's 2009 Report noted the following:

The constitution and penal code require a warrant or subpoena for an arrest and state that an arrested person must be informed of charges within 24 hours. Authorities rarely

¹²² *Mahkumiyat-i Zeidabadi bih Shish Sal Habs va Tab'id dar Gonabad [Zeidabadi Sentenced to Six Years' Imprisonment and Exile in Gonabad]*, Radio Farda, Nov. 23, 2009, available at http://www.radiofarda.com/content/F11_Iran_Postelection_Zeydabadi/1885960.html.

¹²³ *Political Activist Sentenced to Death*, Human Rights Activists in Iran, Dec. 2, 2009, available at http://hri-iran.net/index.php?option=com_content&view=article&id=2233:political-activist-sentenced-to-death&catid=66:304&Itemid=293; Rouhinejad was sentenced October 15, Khademi, November 16 and Porkar, November 28.

¹²⁴ <http://www.unhcr.org/refworld/country,,IWPR,,IRN,,4c9c63e3c,0.html>

¹²⁵ http://www.amnesty.org.uk/actions_details.asp?ActionID=733

*followed these procedures in practice. Authorities held detainees, at times incommunicado, often for weeks or months without charge or trial, frequently denying them prompt contact with family or timely access to legal representation.*¹²⁶

COIS: This quotation is included in the section on Arrest and Detention: Legal Rights, paragraph 12.01. We will cross reference these sections.

The duration of trials has also been called into question. In a trial lasting several minutes, it cannot be possible to comprehensively review the cases of both prosecution and defence.¹²⁷

It may be prudent to note that, for the sake of convenience, a branch of the Revolutionary court has been opened in Evin prison. Ostensibly it was established due to the high number of prisoners (and subsequent security risk transporting to and from an external court). However, the hearings often take place deep within the prison, and consequently lawyers can be denied access to these parts of the institution. The following article, taken from the International Campaign for Human Rights in Iran's website, details the lack of opportunity of a fair trial within this system:

Influence of Intelligence Agencies Restricts Basic Due Process Rights of Defendants, Lawyers Claim the Court is Unconstitutional and Illegal

The Iranian Judiciary should immediately halt the operation of a recently-established "special court" at Evin prison, which confines judges and magistrates to the prison complex and denies lawyers and families any access to judicial proceedings, the International Campaign for Human Rights in Iran said today.

"The newly-formed Evin Court has increased the influence of Iran's Ministry of Intelligence over judicial matters by blocking lawyers' access to clients and case files," said Hadi Ghaemi, a Campaign spokesperson.

"This allows the interrogators and Intelligence Ministry to manipulate this institution which is itself in violation of the law," he added.

Lawyers have informed the Campaign that they have been permitted virtually no contact with clients arrested in the aftermath of the Iranian elections who are facing trial in Evin Court, and that access to files was likewise blocked. Some said they feared the restricted access reflected recommendations from the Ministry of Intelligence aimed at weakening their cases and an increased influence by the Ministry over the Iranian Judiciary.

Nasrin Sotoudeh, a lawyer in Tehran, told the Campaign that after the formation of Evin Court and the transfer of her clients' cases there, it had become impossible for her and her clients' families to contact the judges. "The judges are now housed in an environment that is entirely under the oversight of the Ministry of Intelligence," stated Sotoudeh. "During preliminary investigations, which are the most difficult time

¹²⁶ <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136068.htm>

¹²⁷ <http://www.iranhumanrights.org/2010/04/post-elections-prisoner-tells-the-campaign-my-entire-trial-took-only-three-minutes/>

during a suspect's prison term, case judges only receive information from intelligence officers, and neither the suspect's lawyer nor his or her family can provide any information to the judges."

Another lawyer, Mina Jafari, referred to her clients whose files she had been deprived of reading because the court is inside the prison, including those of activists Maryam Ghanbari, Kouhyar Goudarzi, Dorsa Sobhani, and Saeed Jalalifar. She said that it had been impossible to fulfill her professional obligations as their lawyer, disappointing the legitimate expectations of their families, "which lawyers cannot oblige."

Farideh Gheirat, a lawyer who represents some of the journalists and politicians detained after the elections, echoed similar concerns and told the Campaign:

"We lawyers have no access to Evin Court at all, as lawyers and others are not allowed inside. As a result, we cannot even have access to what little and incomplete information we were normally allowed to incorporate into [our] cases, as this is no longer possible."

In the past, families would meet judges and other judicial staff at the Revolutionary Courts in order to provide the judge with details about the suspect's social, psychological, mental, and familial conditions. The judge may have taken these details under advisement or not. But this important procedure, which is a normal element of a court proceeding, is impossible with respect to the judges presiding at the Evin Court.

"This has in fact made providing defense for the suspect impossible," Sotoudeh said. The formation of a court for political prisoners within the confines of Evin prison, where the suspect is held, informed of his charges, tried, and sentenced, is reminiscent of 1980s courts where thousands of political prisoners were tried without fair investigation, and families and lawyers of prisoners were not allowed to influence the cases in any way. Hundreds of people were executed on the basis of sentences issued by such courts.

Lawyers are responsible for attending the investigation stage of trials and for presenting any facts, which could assist judges to understand the guilt or innocence of suspects and the proper implementation of the law. When the defendant before the judge is not a legal professional, he must be accompanied by one in order to protect his rights. Iranian law reflects an understanding that if such procedures are not followed, a legal process faces serious shortcomings. Investigations without a lawyer's presence are against Article 35 of the Iranian Constitution, and violate Article 128 of the Code of Criminal Procedures and the Law to Protect Citizen's Rights.

On 7 March 2010, Abbas Jafari Dolatabadi, Tehran's General Prosecutor, reported the formation of a special court inside Evin prison. Dolatabadi said the court's formation is "based on needs," and "a way to solve problems, expedite investigations,

and reduce costs.” This court houses the case files of many political activists and unknown prisoners whose cases are in an indeterminate state.

Responding to criticism about the establishment of the court and its being called a “security court,” he said that this assertion is “wrong,” and that those who raise it either have “ill intentions” or are “ignorant.” He asserted that the Evin court is fully legal, and formed to swiftly deal with anti-revolutionary crimes. “This court will gradually reach order following the trends of current affairs,” said Dolatabadi. He also emphasized that nowhere in the law is it stipulated where courts should be located.

“Evin Court Unconstitutional and Illegal”

Over the past month, lawyers of prisoners who have not been able to find any way to review their clients’ case files have criticized the formation of the court.

Mina Jafari, lawyer to several detainees arrested in the context of post-election unrest, told the Campaign that the new court is illegal. “The formation of this court is a clear violation of the Iranian Constitution and suspects’ rights,” stated Jafari. “It is quite clear that according to legal requirements and especially citizens’ basic rights and according to Article 34, forming the Evin Court is against the law.”

Article 34 of the Iranian Constitution, establishes that it is the indisputable right of every citizen to seek justice by recourse to competent courts. All citizens have the right of access to such courts, and no one can be barred from courts to which they have a legal right of recourse.

“The Iranian Constitution, which is the parent law of the country, expresses that a court must be accessible and when it is inaccessible, according to Article 575 of the Islamic Penal Code, violators of this basic right can be prosecuted,” Mina Jafari told Campaign. “According to Article 575 of the Islamic Penal Code, whenever judiciary officials or other government officials unlawfully arrest, order an unlawful arrest, or unlawfully prosecute or charge a person, they shall be permanently barred from holding any position within the Judiciary and subjected to a five-year ban from governmental positions.”

Articles 570 through 583 of the Islamic Penal Code of the Islamic Republic of Iran list violations by authorities and government officers and ways in which violations will be addressed. Article 570 of the Code emphasizes that “any state official or authority who illegally denies or deprives people of the rights enshrined in the Constitution shall be subject to confinement terms ranging from 6 months up to 3 years in addition to discharge from government service from 3 to 5 years.”

The International Campaign for Human Rights in Iran remains deeply concerned by the erosion of standards for legal proceedings in the country, which, in making fair

*trials impossible, drags the Islamic Republic further way from the human rights and rule of law standards it is obligated to uphold under international law.*¹²⁸

COIS: Information on the special court in Evin prison is included under the sub heading Political Prisoners, paragraphs 15.20 to 15.23.

i) **Trial in absentia**

The comments of the IRBC are accurate; however some further detail as to the application of Article 217 of the Criminal Procedure Code may be useful:

*In accordance with Article 217 of the Criminal Procedure Code, in cases involving crimes of public order (as opposed to religious crimes), if the accused and/or his representative is absent from the entire proceedings, then the court can issue its sentence in absentia, which of course will be subject to appeal once it is properly served on the accused. There is no restriction as to the type of sentence that may be issued and therefore it includes death sentences issued in absentia. There is no express provision in this respect, but Note 2 of ... Article 217 would only allow the court to proceed in the absence of the accused if the court is of the opinion that there is no basis for the conviction of the accused and arriving at that decision does not require interrogation of the accused. Otherwise, the presence of the accused is necessary for completion of the proceedings and issuance of the final verdict.*¹²⁹

The legal framework is therefore in place for *in absentia* judgments to be issued within a certain and defined set of circumstances. However, in practice convictions are issued *in absentia*, regardless of the provisions of Note 2 of Article 217 (the court can only proceed in absence of accused if there is “no basis for the conviction of the accused”) and the rules regarding timeframes detailed in the COI. This is evidenced by the account of Mazair Bahari:

Justice Iranian Style
10/05/2010

*I didn't attend my sentencing. In June last year, I was thrown into prison in Iran for 118 days, then finally released and allowed to leave the country in October. But on March 9, 2010, without bothering to inform me or my lawyers, Branch 26 of the Revolutionary Court sentenced me to 13 years and six months imprisonment plus 74 lashes. A member of my family went to the court just this morning and was told of the judgment, such as it was: a reminder that this is a regime that deals in brutal symbols that make sense only to its own...*¹³⁰

¹²⁸ <http://www.iranhumanrights.org/2010/04/close-evin-court/>

¹²⁹ <http://www.unhcr.org/refworld/docid/45f147543e.html>

¹³⁰ <http://www.newsweek.com/2010/05/10/justice-iranian-style.html>

There are numerous examples of individuals, like Mr Bahari, able to leave the country legally, to face trial and sentencing in their absence and subsequent incarceration should they return.¹³¹

COIS: The quotation from source ref ¹²⁹ referring to Article 217 was in the January 2010 COI Report but was taken out in the August update as it was considered to need further clarification. Thank you for the suggested sources giving examples of people who have been sentenced in absentia. These will be considered for inclusion in the next update.

Additionally, anyone who has left the country illegally (for example entering into another country without passing through a border checkpoint), and subsequently been sentenced *in absentia*, will face additional penalties. According to a new amendment of Article 34 of Passport Law (21/2/2010), any Iranian who leaves the country illegally, without a valid passport or similar travel documents, will be sentenced to between one and three years imprisonment, or will receive a fine between 500,000 and 3 million Tomans. The assigned punishment in this article is called a “Taaziri” punishment (a deterrent), the severity of which is at the discretion of the presiding Judge. The Iranian Judiciary believe that the “Taaziri” punishment serves firstly to prevent the guilty party from re-offending, and secondly to benefit society by deterring potential criminals from committing that particular crime.

A special court complex is located at Airport in Tehran for dealing with the cases relating to illegal departure. If an Iranian arrives in the country, without a passport or any valid travel documents, an official will arrest them and take them to this court. The court assesses the background of the individual, the date of their departure from the country, the reason for their illegal departure, their connection with any dissident organisations or groups, whether they applied for asylum in other countries and if so their reasons, and any other particular circumstances. Dependent on the outcome of the court’s investigation, the judge will decide the severity of the punishment within the parameters of Article 34. In the case of an individual who has been accused or charged prior to leaving the country, and convicted *in absentia*, the punishment for illegal exit would be added to the existing tariff set. Further, if unable to pay any fine, the offender would be subject to an additional term in prison in which he works within the prison (for a token wage) in order to fulfil the debt.

COIS: Thank you. A source for this information would be greatly appreciated.

ii) Bail

The information contained within this section is accurate, however, it excludes discussion of some key areas and principles relating to the bail system in Iran, which will be examined below.

As noted by the AI information (provided by the Immigration and Refugee Board of Canada) at 11.24, *kefalat* is the most common form of bail, however, for completeness, I refer to the

¹³¹ See further the following, non-exhaustive, examples: <http://www.payvand.com/news/10/oct/1055.html> ; http://www.rferl.org/content/Womens_Activists_Sentenced_As_Crackdown_Continues_In_Iran/2045258.html ; <http://www.theepochtimes.com/n2/content/view/19602/> ; <http://timesofindia.indiatimes.com/world/middle-east/Iran-jails-publisher-of-reformist-newspaper-Report/articleshow/6228069.cms> ; <http://www.amnesty.ie/our-work/urgent-action-iran-0>

following information describing all forms of bail as prescribed within Article 132 of the Iranian Penal Procedure Code:

1. Injunction binding the accused to appear, on the honour of the accused.
2. Injunction binding the accused to appear, provided that the accused undertakes to pay an amount of money, if he or she fails to appear in court when ordered to do so or upon breach of a material condition of release: A written undertaking, executed by the defendant, that the defendant designated in such instrument will, while at liberty as a result of an order fixing bail and of the execution of a bail bond in satisfaction thereof, appear in a designated criminal action or proceeding when his attendance is required and otherwise render himself amenable to the orders and processes of the court, and that in the event he fails to do so, the signer of the bond will pay the court the amount of money specified in the order fixing bail.
3. The surety or sureties who procure the release of a person under arrest, by becoming responsible for his appearance at the time and place designated. Those persons who become sureties for the appearance of the defendant in court will pay the court the amount of money specified in the order fixing bail, if the defendant fails to appear in court when ordered to do so or upon breach of a material condition of release.
4. Secured bail bond: A bail bond for which the defendant or the surety is fully liable upon failure of the defendant to appear in court when ordered to do so or upon breach of a material condition of release, but which is secured by any deposit of or lien upon property or money.¹³²

The information provided by AI states “[w]e have no information on how bail is collected, or, confiscated, that is, how people are evicted from their places of residence and the property seized; nor in what manner bail is disposed.”

If a guarantor is involved then, according to Article 140 of the Penal Procedure Code, if the subject fails to return when required by the court, a warning would be issued to the guarantor of the subject, giving them 20 days to hand over the subject to the court. Failure to comply with this instruction would result in the ownership of the property used for bail, being transferred to the judiciary. If the bail is in the form of a sum of money, it would be credited to the Judiciary’s account. Transfer of ownership of the property or the possession of the money does not mean that the subject is free, and the judiciary will issue an arrest warrant directly to the police to make every effort in order to find him, and bring him back to the court.

Additionally, it is prudent to note that if a property deed is used to secure bail and the defendant absconds there are several possible outcomes following the 20-day period. If the

¹³² <http://www.unhcr.org/refworld/topic,4565c225b,4565c25f10d,3f7d4db01c,0.html>

guarantor fails to surrender the defendant within the 20 days, the court will issue a notice of confiscation, which will be entered on the title register. This prevents any transfer or sale of the property-taking place. Thus begins a very time consuming procedure in which there are three ways the matter can be handled.

Firstly, the property is valued. If the value of the property is equal to, or less than, the bail amount the judiciary will go into immediate possession of the property – the title deeds will be transferred to the judiciary, and the process of vacating the premises commences. This can take years – before the property deed can be transferred the judiciary must consult with, and await responses from, numerous government departments to ensure there are no burdens adversely affecting the property that would prevent or affect transfer. For example, tax offices and local councils will be consulted to ensure no outstanding tax is due; the land registry will also need to be consulted to make sure no third party interests affecting the estate are present. This process takes a significant amount of time to complete, and the process of eviction adds to this timescale further due to the related administrative burden.

If the value of the property is greater than the bail amount, with the agreement of the guarantor, the property will be put up for sale by the judiciary –and upon sale the residue following deduction of the bail amount is returned to the guarantor. The ‘confiscation’ will stand in this scenario, the notice on the register will still apply, however the guarantor continues in actual possession (i.e. living in the property) whilst the process is in motion. Both these procedures are very time consuming; the latter example may take several years.

The other option for a guarantor is to settle the bail amount in cash at the end of the 20-day period. However, due to the necessity for the guarantor’s permission for sale, during the protracted procedure of confiscation of a property worth more than the bail amount for ultimate sale a guarantor may be able to raise the cash funds necessary to satisfy the bail amount required – so shortly prior to sale he may retract his permission and settle in cash, in which case the notice would be removed.

One further issue that must be highlighted regarding bail and forfeiture proceedings concerns the impact on the defendant. The guarantor’s responsibility to the judiciary is purely financial, if the defendant absconds the guarantor must pay into court the stipulated amount – no arrest warrant will be issued for his failure to surrender the accused. The defendant, however, remains wanted, and a warrant will be issued for his arrest. The payment of bail amounts/confiscation of property (no matter how high the value) does not equate to the defendant being ‘free’ – he must still appear in court to answer charges.

Release on bail does not, however, mean that the defendant will be ‘blacklisted’ by immigration and borders agencies. Under Article 133 of the Penal Procedure Code a judge may issue a ‘banning order’ on travel – where the offender’s name is added to a list of those not permitted to apply for, or use, a passport. An offender who is thought to be at risk of absconding will, most often, not be granted bail. Bail, a surety, is the guarantee that the defendant will not abscond (due to forfeiture of the security if he does so) An effort is made to minimise the number of exit bans issued by the Judiciary, in order to prevent the bloating of

the various immigration databases and to decrease the amount of bureaucratic procedures, as well as avoid the requirement for constant updating.

COIS: Thank you. It would be helpful if you could provide a source for this information to be included in future reports.

To illustrate this policy, I would like to cite from an interview by Maziar Bahari, who fled Iran, on bail, following a 118-day post-election detention:

A Year Later, Journalist Reflects On Iranian Unrest
15/06/2010

*They released me on bail. Before I was released, they asked me to sign a paper saying when I leave Iran, I'm going to cooperate with the government and I'm going to spy for the government. The first thing I did when I arrived in London was to send them an e-mail, through the e-mail address they provided for me, that I have never spied for anyone and I'm not going to start spying for you... So they kept on threatening me through my family members and sometimes they even called me in London, and I just had it. In March, I just made those threats public, and I told all the different networks that the Iranian government is threatening me. And there was an international condemnation of those threats, and within a few days, they passed this sentence. The sentence was supposed to scare me because the Iranian government was planning to start this international court for Iranians in the diaspora...*¹³³¹³⁴

If Mr Bahari returns to Iran, he will face over 13 years incarceration and 74 lashes. Despite the 'seriousness' of his offences (reflected in the subsequent sentencing), no travel ban order was issued and Mr Bahari was able to leave the country, legally, whilst on bail – choosing not to return for trial (which took place *in absentia*).

There are plentiful accounts of several prominent defendants being released on bail, and fleeing Iran due to a lack of imposed travel restrictions.¹³⁵ This evidences the fact that less well-known offenders, or those charges with less 'serious' offences, are unlikely to have any restrictions on travel imposed as a matter of course – rather if there is a particular risk associated with the nature of their offence, or previous (or presumed future) conduct.

COIS: Thank you. This issue is mentioned in the Exit and Return section, paragraph 31.07 but consideration will be given to including more in the next update.

¹³³ <http://www.npr.org/templates/story/story.php?storyId=127833007>

¹³⁴ A more in depth account, written by Mr Bahari for newsweek, detailing the *in absentia* sentence he received is detailed at <http://www.newsweek.com/2010/05/10/justice-iranian-style.html>

¹³⁵ See further the following, including accounts of other prominent individuals who have been able to leave the country on bail: <http://www.panorama.am/en/law/2010/11/05/iran/> ; <http://www.state.gov/s/gwi/iwoc/2010/bio/137495.htm> ; http://www.msnbc.msn.com/id/39166050/ns/world_news-mideast/n_africa/ ; <http://www.nytimes.com/2010/08/09/world/middleeast/09iran.html> ; <http://www.hrw.org/en/news/2009/02/10/iran-four-journalists-sentenced-prison-floggings>

iii) Enforcement of Judgements

The information contained at Para 11.25 is accurate, however, for the purposes of clarity, the procedure and powers relating to enforcement will be briefly outlined below.

Following the delivery of a sentence, the defendant will have to submit to the penalty imposed. The timing for enforcement of a judgement against an individual is entirely at the discretion of the Enforcement Office's judges; sometimes it will be immediate - before the paperwork of the case has been completed. On other occasions it might be delayed, for example whilst the defendant appeals to a higher court. It is the responsibility of the Enforcement Office to ensure punishments are enforced, however, the Office enjoys wide-ranging powers – the affairs and/or fate of a defendant rests entirely within the hands of its officers/agents. The Enforcement Office has the power to release individuals on probation; as well as facilitating short-term leave where it is possible and necessary. Further, and probably most significantly, the Enforcement Office is responsible for drafting the 'amnesty list' which is periodically submitted for approval by the Supreme Leader – if he approves, he issues a pardon and the individual is released.

COIS: Thank you. It would be helpful if you could recommend a source for his information to be included in future reports.

It also seems prudent within this section of the report to mention the incarceration of defence lawyers, as such is illustrative of the blatant disregard for black letter law, even in the face of those whom practice.

COIS: Thank you. Your suggestion will be considered although we feel that this issue may be more appropriate under the section covering Fair Trial.

One of the fundamental principles of fairness within any legal system is for the accused to have access to a defence lawyer. The situation for those lawyers defending political activists and human rights within Iran has deteriorated over the past six months. Lawyers are facing jail for taking on certain client's cases, and speaking out regarding their clients' treatment.

AI provides a relatively comprehensive summary of recent actions taken against Iranian lawyers:

***Iran must end the 'Serial arrests' of lawyers, says Amnesty
17/11/10***

Amnesty International today called for the immediate release of three Iranian women lawyers, and another two colleagues, detained on Saturday 13 November. Maryam Kiyan Ersi, Maryam Karbasi and Sara Sabaghian were detained on Saturday upon returning from Turkey, and now face security charges and charges of 'violating moral standards outside Iran.'

Sara Sabaghian is believed to have been the last remaining free lawyer of Sakineh

Mohammadi Ashtiani, a woman whose stoning sentence for adultery is currently under review by Iran's Supreme Court.

Tehran prosecutor Ja'fari Dowlatabadi reportedly confirmed that they, along with two other lawyers, not named but believed to be Rosa Gharachaloo and Mohammad Hossein Naiyri, were arrested on Saturday 13 November. In a 15 November letter to Iran's Head of Judiciary, Ayatollah Sadegh Larijani, Amnesty International called for the three women and their two colleagues to be immediately and unconditionally released if they are being held solely for their work as lawyers or for the exercise of their right to freedom of expression and assembly.

In its letter, Amnesty International expressed concern that the five detainees are prisoners of conscience.

As well as Sakineh Mohammadi Ashtiani, Sara Sabaghian has represented the blogger Hossein Ronaghi-Maleki who is serving a 15 year sentence. Sabaghian was previously arrested along with a number of other lawyers on 8 July 2009, and is a member of the Iranian Bar Association's Committee for the Defence of Women and Children's Rights.

Maryam Kiyani Ersi is one of the lawyers representing Kobra Najjar, a woman who was sentenced to death by stoning. Her sentence was changed to 100 lashes in January 2009.

The three lawyers had also lobbied in April against a draft law that would further facilitate polygamy for men.

Amnesty International fears that more than a year after the unrest that followed the 12 June 2009 presidential election and its disputed outcome, Iran's crackdown on dissent in general, and lawyers in particular, is only getting wider and deeper. The waves of arbitrary arrests of lawyers suggest that the judiciary has given carte blanche to the security forces to stop any lawyer whose work or statements get in their way.

The arrest of these five lawyers is part of the entrenched pattern of repression of lawyers and deepening marginalisation of the Iranian Bar Association, which has emerged under the presidency of Mahmoud Ahmadinejad. It is another in a series of measures intended to prevent Iranians – particularly those critical of the authorities - from being able to access appropriate, competent legal representation, a basic right and important fair trial guarantee.

On 15 November, speaking to the Bar Associations, the head of Iran's Judiciary, Ayatollah Sadegh Larijani said that some lawyers' declarations and interviews to foreign media regarding judicial actions are an insult to the community of lawyers.

The judiciary wants lawyers to refrain from commenting on cases and frequently brings charges against lawyers when they do so.

The authorities are also resorting to other methods to prevent lawyers from practising their profession freely. Such measures include unwarranted tax investigations under which the authorities freeze the lawyers' bank accounts and other financial assets, which could lead to the disbarring of a lawyer. The UN Special Rapporteur on the Independence of Lawyers and Judges has not been permitted to visit the country despite the Standing Invitation issued by Iran to all UN human rights mechanisms in 2002. Since August 2005, no UN human rights expert has been allowed to undertake a visit to Iran. Currently eight procedures have pending requests to visit, which have not yet been acceded to by the Iranian authorities.

Background

In 2008, prominent lawyers and joint co-founders of the now banned Centre for Human Rights Defenders (CHRD), Mohammad Dadkhah, Dr Hadi Esmailzadeh, Fatemeh Gheytrat and Abdolfattah Soltani were disqualified from standing for the Central Board of the Bar Association because of their activities as human rights defenders.

In June 2009, less than a week after the disputed presidential election, new by-laws to the 1955 law establishing the independence of the Iranian Bar Association were adopted which would give the Judiciary the power to approve membership of the Bar and lawyers' licensing applications, thereby undermining the independence of the Bar. Following opposition by the Bar and individual lawyers, in July 2009, it was reported that implementation of the by-laws had been suspended for six months. They are believed to remain suspended, but could be implemented at any time.

Also in June 2009, just prior to the election itself, Nobel Peace Laureate Shirin Ebadi, head of the CHRD, left Iran, fearing for her safety. On 16 June 2009, Abdolfattah Soltani was detained and held until August 2009. In July 2009, Mohammad Ali Dadkhah was briefly arrested, along with Sara Sabaghian. In May 2010, Mohammad Olyaeifard, a lawyer and board member of the Committee for the Defence of Political Prisoners in Iran, a human rights organisation, started serving a one-year prison sentence imposed for speaking out against the execution of one of his clients, a juvenile offender, during interviews with international media. His client, Behnoud Shojaee, had been hanged for a murder he committed when he was 17 years old. Mohammad Olyaeifard has defended many prisoners of conscience, including independent trade unionists, as well as juvenile offenders. His lawyer is Nasrin Sotoudeh. In July 2010, Mohammad Mostafaei, a lawyer who has taken up both child offender and women's cases, faced an arrest warrant, after which his wife was detained. He subsequently left the country.

On 4 September 2010, lawyer Nasrin Sotoudeh was arrested after she presented herself in compliance with a court summons. Sotoudeh has defended many high profile human rights campaigners and political activists, including journalist Isa Saharkhiz and Heshmatollah Tabarzadi, leader of the banned Democratic Front of Iran. The former was sentenced and the latter tried after Nasrin Sotoudeh's arrest.

Nasrin Sotoudeh has also represented juvenile offenders facing the death penalty and is acting as the lawyer for Shirin Ebadi in several cases. She has been denied regular contact with both her family and her lawyer. She has gone on hunger strike to attract attention to her plight, ending it at the first session of her trial, on 15 November. She faced vaguely worded charges of 'acting against national security'; 'gathering and colluding to disturb national security'; and 'co-operation with [a human rights body,] the Centre for Human Rights.

There are fears that she may have been tortured in detention. Nasim Ghanavi, the first lawyer for Nasrin Sotoudeh was warned against speaking up publicly about her ordeal.

Mohammad Seyfzadeh was sentenced at the end of October to nine years' imprisonment and to a 10 year ban on practising law, despite the fact that only the Disciplinary Court for Lawyers may impose such professional bans, for "forming an association... whose aim is to harm national security" and "being a member of an association whose aim is to harm national security" in relation to the CHR. He was banned from leaving the country in 2009, as was Dr Hadi Esmailzadeh, another member of the CHR.

Lawyer Javid Houtan Kiyan, who represents Sakineh Mohammadi Ashtiani was arrested on 10 October. On 15 November he was forced to appear, partially pixellated, in a television programme aimed at undermining his legal position.¹³⁶

In addition to the summary provided by AI, it seems appropriate to highlight the particular details of a handful of these lawyers' stories. The basis for arrest is commonly given as a 'threat to internal or external security':

**Report – 5 human rights lawyers detained in Iran on security charges
14/11/10**

A local iranian news agency reported on Sunday, that five lawyers were arrested in Iran for crimes related to safety, these are the latest in a series of arrests of human rights activists, since the disputed presidential elections last year.

General Prosecutor of Tehran, Abbas Jafari Dolatabadi, said three lawyers were arrested while returning from a trip to Turkey, reported the semi-official Fars news

¹³⁶ http://www.amnesty.org.uk/news_details.asp?NewsID=19092

agency. “Two other attorneys associated with the three were also arrested in Iran,” the prosecutor told Fars.

The daily Sharq reported, that Sara Sabaghian, Maryam Kia-Ersi and Maryam Karbasi were arrested at Tehran’s Imam Khomeini International Airport on Saturday.

“The three were arrested by security forces ... Sabaghian formed the Committee to defend the rights of women and children. She was once arrested on 8 July”, opposition website Kalem indicated, without giving a source.

Sabaghian also represented Hossein Ronaghi-Maleki, a blogger, who is serving a 15-year jail term and was detained after the presidential election, which the opposition says was rigged to secure President Mahmoud Ahmadinejad’s re-election.

The Kalem website said Maryam Kian-Ersi defended “a woman who had been sentenced to stoning to death for adultery several years ago”.

Opposition leader Mirhossein Mousavi’s website said the “whereabouts of the three women lawyers are unknown.”¹³⁷¹³⁸

The Latest from Iran (16 November): Can the Arrests Be Stopped? 16/11/10

...The names of the 4th and 5th lawyers arrested this weekend have emerged: Roza Gharachorlou and Mohamad Housein Nayeri were detained, following the seizure of Sara Sabaghian, Maryam Kianarsi, and Maryam Karbasi at Imam Khomeini Airport on Saturday morning...¹³⁹

Detained lawyers may, themselves, find that they are not permitted access to a lawyer. Nasrin Sotoudeh, as noted by AI, has been protesting her arrest and treatment by means of a hunger strike:

Jailed Iranian lawyer Nasrin Sotoudeh on hunger strike 05/11/10

Ms Sotoudeh has represented opposition figures and Iranian Nobel laureate Shirin Ebadi

A prominent Iranian human rights lawyer is in a serious condition after going on hunger strike in prison, a New York-based Iranian rights group says.

The International Campaign for Human Rights in Iran (ICHRI) called on the United Nations to intervene in the case of Nasrin Sotoudeh.

¹³⁷¹³⁷ <http://www.eip-news.com/2010/11/report-5-human-rights-lawyers-detained-in-iran-on-security-charges/>

¹³⁸ An online appeal from the International Observatory for Lawyers is available here: <http://www.observatoire-avocats.org/en/2010/12/01/lawyers-arbitrarily-arrested-and-detained-iran/>

¹³⁹ <http://www.enduringamerica.com/home/2010/11/16/the-latest-from-iran-16-november-can-the-arrests-be-stopped.html>

Ms Sotoudeh was arrested in September and is accused of acting against national security.

She has been refusing food since Sunday in protest against her treatment. ICHRI spokesperson Hadi Ghaemi quoted Ms Sotoudeh's husband, Reza Khandan, as saying she has lost a lot of weight since being detained in Tehran's Evin prison, and that her skin has darkened.

Mr Ghaemi said she had only been able to see her two young children on Thursday for the first time since her arrest.

He urged UN High Commissioner for Human Rights Navanethem Pillay to take up the matter with the Iranian authorities immediately.

Mr Ghaemi also said the Iranian authorities had denied her contact with her lawyer and had held Ms Sotoudeh in solitary confinement. Her trial is due to start on 15 November.

Ms Sotoudeh has represented Iranian opposition activists and politicians, as well as Iranian Nobel peace prize laureate Shirin Ebadi.¹⁴⁰

As mentioned in the AI article, a number of prominent lawyers were involved in the establishment of an independent *pro bono* legal centre in Iran, the Defenders of Human Rights Centre. One of the founding members has been sentenced to a lengthy prison term following a trial that was questionable with regards to its basis; fairness; and legality:

Seifzadeh in Court: 'My Charge Was Establishing the Defenders of Human Rights Center'
13/10/10

On 9 October 2010, Mohammad Seifzadeh, a lawyer and one of the founders of the Defenders of Human Rights Center (DHRC), was tried at Branch 15 of the Revolutionary Court on the charge of founding the organization. In an interview with the International Campaign for Human Rights in Iran, Seifzadeh referred to the proceedings as "illegal," and called the unrelated questioning an "inquisition." He also complained about lack of a jury panel at his trial and that his case was originally prepared by two judges who have since been suspended from service, Saeed Mortazavi and Haddad, and the fact that the court's proceedings under these circumstances were entirely illegal.

"It was very strange, instead of the presiding judge, the representative from the Prosecutor's Office kept asking me questions. Both my lawyer and I objected to this issue. The representative from the Prosecutor's Office was conducting an inquisition, which by itself is a crime, and basically, the questions had nothing to do with the indictment," Seifzadeh told the Campaign about his trial session.

¹⁴⁰ <http://www.bbc.co.uk/news/world-middle-east-11699603>

“For example, he asked me whether I believe in velayat-e faqih (rule of the Supreme Leader) or not. I asked him whether I was being tried for my belief in the Supreme Leader. Unfortunately, the interaction was completely political and pre-determined, and the only thing that was not important in the court was law and justice. No matter how many times I asked the representative of the Prosecutor and the presiding judge to present examples of my crime, which is ‘propagating against the regime and national security,’ they did not offer anything. The only thing the Center has done in these years is to provide pro bono services to some 6,000 political prisoners and journalists. Do these activities count as propagating against the regime and national security? We also taught the Constitution, protecting citizenship rights, human rights, the Penal Code, and criminal law at the Center, but what do these activities have to do with propagating against the regime and national security?” Seifzadeh said about the questions he was asked.

Referring to the laws governing Iran’s political parties, Seifzadeh told he the Campaign, “According to the law, if they want to try someone, their trial must be an open court and before a jury panel. My court was held without a jury and behind closed doors. Also, under Article 193 of Criminal Procedure, if a defendant presents any defense to the court at the last minute, the court is obligated to accept it. I provided the court with names of ten witnesses—individuals who had issued the DHRC its license at the time, people such as the Khatami cabinet Interior Minister and his deputies, and members of the Tenth Committee—but the court refused my request and did not summon any of them.” ...

... “I am accused of founding the DHRC, a center that is the only non-governmental organization in Iran that is a member of the International Federation of Human Rights. Do you know that the only way an organization can become a member of this Federation is when it has already been legally registered in one’s own country? So, it’s clear that in establishing this Center, all legal procedures have been followed. The qualifications of the entire founding committee of our organization were approved when Mousavi Lari was in office as the Interior Minister in Mohammad Khatami’s cabinet. Even though, according to Article 26 of the Constitution, no political organization requires a license, we even set out to pursue one. Several times we revised our articles of association and manifesto, until finally the Judiciary representative gave us the license, and official news agencies like ISNA, ILNA, and Mehr News Agency posted news about it, and the documents are all available. This all means that the Center was not formed illegally, and that it has even held a license,” Seifzadeh said.

“If this court is based on the word of law, all members of the Center should be acquitted and all those who have launched this persecution must be brought to justice, and be dismissed from their government jobs. Civil lawsuits can be brought against them. The Center must resume its activity again. But when the process is not legal and judicial, one should not wait for a legal ruling. In this sense, I am ready to hear any sentence within the next few days,” said Seifzadeh, who was informed of his charges in August 2009.

The DHRC was launched in 2002, and its founding members included Shirin Ebadi, Mohammad Ali Dadkhah, Mohammad Seifzadeh, Mohammad Sharif, and Abdolfattah Soltani. The Center's activities were ceased during Mahmoud Ahmadinejad's presidency on the charge of activities against the regime and national security.¹⁴¹

Iranian lawyer Seifzadeh sentenced to nine years

On 30 October 2010, the court in Tehran convicted the Iranian lawyer Mohammad Seifzadah to nine years imprisonment. He was also prohibited to practice law for the duration of ten years. As a lawyer Seifzadah stood by many victims of human rights violations. The indictment, however, concerns the establishment of the Defenders of Human Rights Center (DHRC) in 2002, which allegedly threatened the national security. The DHRC, which frequently reports on human rights violations in Iran, is the most prominent human rights organization in Iran.

Currently, the organization is led by former judge and Nobel laureate Shirin Ebadi, who is also frequently the victim of repressive measures by the government. Besides Ebadi other prominent Iranian lawyers are members of the DHRC, including Mohammad Ali Dadkhah and Abdolfattah Soltani. They have been indicted for the same offense.

In an interview with the International Campaign for Human Rights in Iran Seifzadah called his trial "illegal" and an "inquisition". He particularly criticized the political nature of the process and the fact that he was constantly asked questions that were unrelated to the charges faced. According to Karim Lahidji of the International Federation for Human Rights it is the first time that an Iranian lawyer, besides being sent to prison, is also prohibited from a working as a professional. She points out that this contradicts the independence of professional associations of lawyers. Moreover, an Iranian court is not qualified to impose such a prohibition action, because this right is exclusively reserved to the Court of Discipline for Lawyers.

The conviction of Seifzadah fits the wave of repression that affects the country since the presidential elections of June 12, 2009, whose victims include lawyers such as Nasrin Sotoudeh, Mohammad Mostafaei and Shadi Sadr.¹⁴²

The widespread international publicity attached to the case of Sakineh Ashtiani has been embarrassing for the Iranian government to say the least. Her defence lawyer, Mohammad Mostafaei, fled Iran – only to find his family harassed and detained in an attempt to pressurise him. The following account includes an interview with Mr Mostafaei detailing his (and his client's) situation:

Lawyer Who Fled Iran Insists: 'I Had The Right To Defend Sakineh Mohammadi' ***05/08/10***

¹⁴¹ <http://www.iranhumanrights.org/2010/10/seifzadeh-charge-dhrc/>

¹⁴² <http://www.advocatenvooradvocaten.nl/cms/content/view/415/225/>

"I was the lawyer of Sakineh Mohammadi Ashtiani and I had the right to defend her," Iranian lawyer Mohammad Mostafaei says of the case that has drawn international attention. Mostafaei was defending Ashtiani, the Iranian woman sentenced to death by stoning for adultery when Iranian officials jailed his wife, her brother, and his father-in-law in an apparent attempt to pressure him to back down. In his first interview after fleeing Iran and surfacing in Turkey, Mostafaei talked to RFE/RL's Golnaz Esfandiari, condemning the Iranian judiciary for taking his wife "hostage" and vowing that he will never surrender to Iranian authorities. He also talked about the circumstances under which he was forced to escape Iran and leave his family, including his 7-year-old daughter, behind. (Mostafaei was reportedly taken into custody by Turkish authorities and the UN's refugee agency has said he should be allowed to apply for asylum.)

RFE/RL: What were the conditions that forced you to leave Iran and how did you end up in Turkey?

Mohammad Mostafaei: On July 24, I was summoned to the prosecutor's bureau of Shahid Moghdas, which is at Evin prison. I went there at 9 a.m. and I was questioned for some three hours about my work. He finally told me, "You're free to go." I left Evin and called my wife from somebody else's phone -- since I didn't have a phone with me -- and told her that my problem was solved and I was out. I had several meetings later, so at 5 p.m. I went to my office. I was told that several people had [already] come to arrest me. I talked to my wife, who said someone had called from the prosecutor's office and said that I had to go [to that office] or I would be arrested. It was [very serious] for me to hear that they wanted to arrest me. I waited in my office but no one came. Later, my father-in-law told me that police had arrested my wife, Fereshteh, and her brother, Farhad Halimi. When I heard that, I became determined not to give myself in and told myself that I will bear whatever will come.

After several days [officials] made it clear that they were holding my wife and [her brother] as hostages and that, until I gave myself in, they wouldn't let them go. I decided to leave Iran, and since I knew that I would be prevented from doing so, I crossed the border into Turkey and made it to the city of Van. There, I got in touch with human rights groups, who informed the Turkish Interior Ministry. I then went to Istanbul where the police [got in touch with] me and I went to the police station. Since then I've been in Istanbul and I'm waiting for the Turkish government to allow me to leave Turkey for another country.

RFE/RL: Have you applied for asylum?

Mostafaei: Not until [August 3] because I have my passport, which is valid, and also a visa for Schengen countries. In fact, [officials] from the Embassy of Norway came here and said they're ready to accept me as a citizen of Norway and they even started working on needed documents. But today I was forced to apply for asylum at the UN. I filled in some forms UN officials had brought and so now this process is due to be completed.

RFE/RL: It must have been a very difficult decision for you to leave Iran while your wife is still in jail and your daughter remains in Tehran with your family?

Mostafaei: I truly didn't believe that there would be people in Iran's judiciary who know nothing about humanity. I never thought that there would be so much lawlessness in our judiciary. I never thought that they would keep my wife in jail close to two weeks over a sin she hasn't committed. She didn't have anything to do with my work. They've jailed her because of me. I'm never going to give myself in until our judiciary changes from the way it is now. I'm not afraid of any trial because I haven't done anything wrong. I've been only helping others.

RFE/RL: Did the officials tell your family or yourself why they want to arrest you? Did they bring any charges against you when you were interrogated?

Mostafaei: My interrogation was focused on my work: why do I help [juvenile offenders]? Why do I work as a lawyer for free? And why did I set up [a] bank account to save their lives and pay the blood money of the victims? They didn't charge [me] with [anything] and I really don't know why an arrest warrant has been issued for me.

RFE/RL: Some of your colleagues we talked to told us they believe that the judiciary put pressure on you because of your defense of Sakineh Mohammadi Ashtiani, who had been sentenced to death by stoning, and the attention her case received internationally. Do you think that's the reason for what happened to your family?

Mostafaei: I was Sakineh Mohammadi's lawyer and I had the right to defend her. A lawyer should do all he [or she] can to save of his [or her] client from unjust punishments. It was my duty to save the life of Sakineh Mohammadi and because the judiciary didn't help save her from being stoned, I made sure her cry of help was heard by the world so that the judiciary would come under pressure and she would escape stoning.

RFE/RL: You've also been representing a number of child offenders who are on death row in the Islamic Republic of Iran over crimes they committed when they were younger than 18. What is going to happen to your clients now that you've been forced to flee the country?

Mostafaei: I've represented the cases of 40 juvenile offenders in the past several years. I was able to save 18 of them [from execution]. Unfortunately, four of them were executed. The cases of the others are currently being reviewed. Some of them are facing the threat of execution and I really don't know what to do now that I'm not there to defend them. I'm confident that if I receive independent international support, I will be able -- even from outside the country -- to defend their rights and prevent them from getting hurt.

RFE/RL: How is your situation going to affect the work of other lawyers inside Iran who are working on cases that are considered sensitive?

Mostafaei: Unfortunately, one of the goals of the judiciary, by pressuring lawyers and families, is to threaten others and prevent them from doing their job properly.

RFE/RL: Your father-in-law and brother-in-law were released after their detention, which you believe was aimed at putting pressure on you. Your wife remains in jail. What is the latest news you have about her? Is it likely that she will also be released soon?

Mostafaei: I don't think it is likely that the judiciary will keep her [for very long]. If they do, that would be a scandal and disgrace for the judicial system [as well as] a political scandal. Why is someone being taken as a hostage? I don't think that's worthy of the judiciary and it's definitely not Islamic. A Muslim would not do such thing. I would like to use this occasion to call on the judiciary officials to end the illegal continued detention of my wife and release her as soon as possible. I will never give myself in unless the Turkish government decides to deport me.

RFE/RL: Is that possible? Has someone mentioned it to you?

Mostafaei: I don't know, but because of international diplomatic issues and political games, we see this kind of thing all over the world. So it is possible that it might happen. But so far, I haven't been told anything and they've promised me that it will not happen.¹⁴³

Mr Mostafaei fled to Norway, meanwhile his wife was released on bail, although she faces charges for 'concealing a suspect', and it is further unclear as to whether his father-in-law and brother-in-law will also face prosecution:

Iran: Update – Human rights defender Mohammad Mostafaei arrives in Norway and his relatives are released on bail
09/08/10

Front Line is pleased to report that on 7 August 2010, human rights defender Mr Mohammad Mostafaei arrived safely in Norway where he has claimed political asylum. Ms Fereshteh Halimi, Mohammad Mostafaei's wife, was also released on bail on the afternoon of 7 August.

Ms Fereshteh Halimi had been held in solitary confinement in Evin prison in Tehran since her husband disappeared whilst sought for questioning by the Iranian authorities.

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http://www.rferl.org/content/Iranian_Lawyer_Who_Fled_I_Had_The_Right_To_Defend_Sakineh_Mohammadi/2118914.html

However, she has been charged with “concealing a suspect” and may still face prosecution. Mohammad Mostafaei’s brother and father-in-law were also detained before their release on bail, and both may also face pending charges.

Mohammad Mostafaei last week emerged in Istanbul after fleeing to Turkey while subject to an arrest warrant in Iran. He had been missing since failing to attend a summons for questioning on 24 July. He filed an application for asylum in Turkey before flying to Oslo, and announced during a press conference on 8 August that he has applied for political asylum in Norway after being granted assistance by the Norwegian consular authorities. However, he said he hopes international pressure will force Tehran to let him return to his practice. “My greatest hope is that I can go back and continue my work in Iran. If the Iranian authorities will ensure my rights and safety, I’ll go back. Right now, I’ve lost the ability to work on the behalf of my clients. That means I’ve lost everything. Without that, it doesn’t matter whether I’m in heaven or hell.” ...

... It is widely believed that the arrest of his relatives was carried out in an attempt to pressure him to turn himself in to the authorities.

Front Line welcomes the release of Mohammad Mostafaei’s relatives as well as his safe arrival in Norway, and urges the Iranian authorities to allow Fereshteh Halimi and their daughter Parmida to be reunited with the human rights defender as soon as possible. However, Front Line expresses its concern that charges remain pending against Fereshteh Halimi, her brother Farhad Halimi, and their father, and that they could be prosecuted in relation to the case.¹⁴⁴

Another prominent example of family arrest by the Iranian authorities is that of Nooshin Ebadi, sister of the Nobel prize winner Shirin Ebadi:

Shirin Ebadi’s Sister Released After 17 Days 14/01/10

Shirin Ebadi’s sister has been released after 17 days in detention. Dr. Nooshin Ebadi, sister of Nobel Peace Laureate Shirin Ebadi, who was arrested by security authorities on 28 December without being charged, was released on Wednesday night.

In an interview with Deutsche Welle, Shirin Ebadi said that, “my sister was not a detainee, but a hostage”. Prior to Nooshin Ebadi’s arrest, the Ministry of Information officers had summoned her several times and had asked her to sever her relations with her sister and to move from her home, which is in the same residential complex as Shirin Ebadi’s.

Authorities had also threatened her that if she continues her relations with her sister, they would arrange for her dismissal from her university job. In addition to her sister, Shirin Ebadi’s husband and brother have also been targets of harassment and abuse by security forces. In one episode, security officers summoned her husband and asked him to give them telephone numbers of their children who live in Europe. This request was

¹⁴⁴ <http://www.frontlinedefenders.org/node/12930>

faced with outrage and refusal by the Ebadi family. Nooshin Ebadi has been released while the fates of 150 others detained during the post-Ashura events remain unknown.¹⁴⁵

As can be seen from the detailed accounts presented, the intimidation of lawyers appears to be an acceptable form of behaviour in the eyes of the Iranian judiciary. This is despite the fact that the persecution of lawyers (along with the harassment and intimidation of family members) is completely at odds with basic rights and the fulfilment of principles of justice. Lawyers are deliberately being discouraged from defending controversial suspects, creating a significant flaw in the internal legal system – a situation in which it becomes increasingly difficult for individuals accused of a crime to formulate an adequate defence, due to the difficulties in securing and maintaining a defence lawyer.

When the legal system and fundamental principles of fairness and justice are vehemently attacked, by both the judiciary and enforcement agencies, it is difficult to fathom the agenda for such a course of action. However, it would appear that intimidation of political activists since the elections having had a limited effect on quelling dissenting opinion, the ‘new tactic’ is one of intimidating lawyers into ceasing any defence work that may draw attention to flagrant abuses of the legal system, prisoners and their human rights within Iran.

COIS: Thank you for the suggested sources which will be considered when the situation for lawyers is updated in the next report.

Conclusion

As mentioned within the introductory section of this report, the revisions and editions contained herein are given with a view to creating a substantial and well structured document that should prove a valuable and relevant resource for asylum officials.

Whilst it is obvious that serious attention has been afforded to the criticisms of the earlier version and action has been taken to implement recommendations, where feasible, the aforementioned additions, both in terms of substantive Iranian law and relevant objective evidence of the practical imposition of such laws would improve the relevance and coherence of almost all sections of the report.

The 2010 report boasts welcome additions to the structure and the report covers a wide range of topics, yet I feel that some contemporary themes are either not adequately covered or relevant information is omitted. Although there has been some improvement in utilising a wide range of sources, many sections still require a broadening of the use of media, advocacy and other sources from diverse perspectives to achieve balance. This is particularly relevant to the human rights situation in Iran and there is an affirmed need to monitor local and global independent and opposition media sources to overcome gaps in coverage or to address the depiction of the human rights context in Iran, and as felt around the world.

¹⁴⁵ <http://www.iranhumanrights.org/2010/01/shirin-ebadis-sister-is-released-after-17-days/>

I hope that this report is of assistance.

COIS: Thank you for your helpful comments and suggestions. The review was quite lengthy and this was due in part to the full transcripts of articles that were inserted into the review. Nevertheless we have attempted to respond to many of the points made therein. In some circumstances where we may not have commented directly we will nonetheless give consideration as to whether we include the recommendations within the next Report. There were some recommendations that were however unsourced, if sources for these are known it would be great if they could be provided. Where they are not known we may need to discuss alternative means to ensuring this information is provided where appropriate to do so.