

**EVALUATION OF THE AUGUST 2008
COUNTRY OF ORIGIN INFORMATION REPORT ON
IRAN**

Prepared for the Advisory Panel on Country Information (APCI)

By

Reza Molavi, BBA (U. S. A.), PhD (Dunelm)

And

Mohammad M. Hedayati-Kakhki LLB (Tehran), PhD (Durham)

**Centre for Iranian Studies (CIS)
Institute for Middle Eastern and Islamic Studies (IMEIS)
Durham University**

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A. Aims and Objectives

The preface of the 2008 Country of Origin (“COI”) Reports for Iran states succinctly that this study was conducted with the end in view of providing guidance to the corresponding agencies in the United Kingdom (“UK”) involved in asylum and/or human rights determination procedures. Using the cut-off date of 17 September 2008, this report used several source documents cited throughout the text which could easily be accessed by internet users except for some sites (Europa) which require registration.

Whilst the entire 268-page document seems to be very comprehensive in the manner by which it tackled the entire gamut of the current situation in Iran, there are certain details which were left out in the process owing perhaps to the complexity of the issues involved or because of sheer volume of information to be investigated and verified, particularly in view of having only three weeks to read through, check sources and finally, comment on the document.

Through the conduct of this evaluation report, it is hoped that certain details can be provided to augment and illuminate upon the information which in our view was lacking in the subject 2008 COI Report for Iran. This paper’s aim would be effected by counter-checking the attributed sources in the 2008 COI Report and searching for other credible information in the form of primary, secondary and the internet sourced data to provide credibility to the research. It is our hope and anticipation that at the end, a more accurate, effective, and balanced decision can be had, vis-à-vis asylum seekers.

To summarise, with this analysis the authors’ endeavour to examine the analytical information contained within the COI Report to determine whether it accurately and objectively reflect the legal and human rights situation in Iran, based both on the authors’ professional expertise and reputable objective evidence. In particular, the evaluation will seek to accomplish the following:

- (i) Evaluate the sum of the information provided by the Report against the most up-to-date evidence available, with updates of existing sources where appropriate.
- (ii) Locate reliable sources of additional information that serve to provide a more accurate overview of the situation within the relevant area of the Report.
- (iii) Suggest more general improvements to the coverage and structure of the Report so as to enhance its utility for the end-users.

(iv) Highlight any errors or omissions, based on authors' expertise and objective information.

B. Summary of Findings and Sources

Summary of Findings

The COI Report is a thorough analysis with a wide scope, encompassing most areas which have bearing on the needs of the end-users. Containing almost 300 pages, it provides generally reliable sources and an objective evaluation of the legal and human rights situation in Iran, as it existed at the time of the sources' writing. However, in order to fully and accurately reflect the situation as of early 2008, it is the finding of the authors' that greater emphasis must be placed on transformation of the legal and human rights situation since the latest changes in government, occurring in 2006, as such, these current sources are under-represented within the Report. This analysis will seek to provide updated information on the areas that have undergone particular change since 2006, whether legally or in practice, and recommend that the Report includes warnings in relation to those sources which originate prior to that year. Whilst the legal framework itself has not changed considerably within this period, as the severity of statutes' applications is of some relevance, information will be provided on any trends in this respect. Furthermore, imminent legal reforms will be highlighted, with the proviso that they are not yet on the books but may form part of the context in which the current situation may be considered.

Summary of Sources

As mentioned above, the general trend within the Report is to rely on objective evidence that has been used, in identical form and content, since 2005. Much of the information originates in annual reports which, although reliable in their provenance, nonetheless are suspect in application due to their reliance either on information from the previous year, when the reports were prepared, or on much earlier sources which have not been seemingly verified as currently applicable. Whilst determinations as to the applicability of some of these sources is borderline in a number of cases, a variety of information is unequivocally outdated and in need of update, perhaps through the more recent objective evidence provided within this analysis at section C. Furthermore, a frequent practice within the Report is the provision of information on the issue in question from a single source, without at least stating that alternative interpretations, of various repute, are available. This is particularly the case where reliance on the legal provisions is concerned; as such allusions often focus entirely on the black-letter law rather than the changes in its application over the recent years. In addition, Where appropriate, this analysis will state these alternative interpretations and provide a note as to the agenda and credibility of the source/group in question.

Evaluation of General Framework and Organisation

Whilst the report provides a comprehensive evaluation of the human rights and legal situation in Iran as far as the scope is concerned, the authors' believe that certain additions in coverage may serve to better assist the end-user of the Report. Commentary was provided where appropriate to assist in the identification of sections in need of change. The order of the Report was adopted also as the order for this analysis, with numbered sections.

Finally, it is strongly recommended that a period of six to eight weeks be allocated for the reviewer's of future research reports on Iran, as the volume of the COI report and the sources to be checked are too numerous for the time that was allocated for this volume of work.

C. Commentary on Specific Additions, Alterations and Updates.

1. Geography

1.01 A look at the map itself would show that Iran is not only bordered (on the north) by Azerbaijan Caspian Sea and Turkmenistan, but also by Armenia.

1.02 The principal language is Farsi and Farsi dialects are spoken by about fifty-eight percent of the population.

2. Sanctions

2.18 should be inserted with an explanation the third set of sanctions against the Islamic Republic of Iran was passed by United Nations Security Council Resolution 1803, on the 3rd of March 2008. With this set of restrictions, movement of certain people on the list of the UN resolution 1803 will be restricted, and furthermore, some of the Iranian institutions were added to the list, making it difficult for them to conduct business internationally.

Presidential Elections – June 2005

3.52 It is important to mention that on 26th of August 2008, Ayatollah Ali Khamnei, went as far as saying that president Ahmadinejad should prepare himself for a second term in the office. This may not be considered as an endorsement by the leader, however it is certainly a strong indication of what might and could happen.

Recent Developments

4.01 President Ahmadinejad references to Iran's 'inalienable right' to produce nuclear fuel stems from the rights granted under the terms of Non Proliferation Treaty (NPT) agreement. This should be added as the penultimate paragraph in this section.

Political Parties

6.05 It should be noted that IRP was disbanded primarily because the governing clergy no longer needed it as an instrument of political control. Suggest this should be added to this paragraph.

7. Human Rights

While the introductory section on Human Rights provides a number of reputable accounts, these originate in the early years of the current decade and thus do not entirely reflect the recent radical shifts in government policies. A selection of the reports provided below could assist the end-user of the Report in having a more updated picture.

Amnesty international in its 2008 report stated that:

The authorities continued to suppress dissent. Journalists, writers, scholars, and women's rights and community activists were subject to arbitrary arrest, travel bans, closure of their NGOs and harassment. Armed opposition, mainly by Kurdish and Baluchi groups, continued, as did state repression of Iran's minority communities. Discrimination against women remained entrenched in law and practice. Torture and other ill-treatment were widespread in prisons and detention centres. A security clampdown announced in April was marked by a sharp rise in executions; at least 335 people were executed, among them seven child offenders. Sentences of stoning to death, amputation and flogging continued to be passed and carried out.¹

According to Human Rights Watch report 2008:

In 2007 the authorities intensified their harassment of independent human rights defenders and lawyers in an attempt to prevent them from publicizing and pursuing human rights violations. In July Branch Six of Iran's Revolutionary Court sentenced human rights activist Emad Baghi, as well as his wife and daughter, to suspended sentences of three years for their work in documenting and publicizing human rights violations. In October court authorities arrested Baghi after he responded to a summons to appear before an interrogator, and at this writing he remains in detention.

The government closed nongovernmental organizations that encourage civil society participation and raise awareness of human rights violations. In March authorities raided and closed the offices of the Civil Society Organizations Training and Research Center, and closed the offices of Rahi Institution, a

¹ <http://thereport.amnesty.org/eng/regions/middle-east-and-north-africa/iran>

nongovernmental organization providing legal and social aid to women victims of violence.²

Human Rights Situation in Iran Continues to Deteriorate, Groups Report, May 22, 2008

Iran continues to rank second in the world for executions, according to Amnesty International, with 317 people put to death last year. That figure nearly doubled the number of prisoners executed in Iran the previous year. Only China performed more executions in 2007.

The Defenders of Human Rights Centre, a group led by Iranian Nobel Peace Prize laureate Shirin Ebadi, said it “deplores and denounces the systematic violation of human rights in Iran.” The group also reports a decline in freedom of opinion and expression since the election of President Mahmoud Ahmadinejad in 2005.

“Censorship and indirect pressure has reached the highest level,” it said, noting the forced closure of 17 publications and eight news websites, as well as the jailing of 32 media workers.

As part of its campaign of oppression, the government of Iran arrested over 100 students and scores of labor leaders. The report states: “It seems that the government and the system do not recognise any rights to protest, strikes and pursuing union rights for labourers—oppressing any move in the name of acting against national security.”

In related news, Iran’s Ministry of Intelligence arrested six leaders of the Baha’i faith for “anti-Iranian” activities on May 14, sending them to Tehran’s Evin prison. The group makes up the remaining leadership of the “Friends of Iran,” which coordinates activities for Iran’s Baha’i community. The seventh member of the group, Mahvash Sabet, has been imprisoned since March.

In a statement, the International Campaign for Human Rights in Iran said, “We are deeply concerned that the detention without charge of the entire Baha’i leadership is consistent with a pattern of violent and illegal persecution of Baha’is in Iran. The persecution of religious minorities will bring neither internal stability nor international security to Iran.”

NIAC board member Dokhi Fassihian called the worsening situation in Iran “very serious,” and said the US and the world “must pay greater attention to Iran’s deplorable human rights record. We cannot just focus on spinning centrifuges.”

8. Security situation:

² <http://hrw.org/englishwr2k8/docs/2008/01/31/iran17597.htm>

The description provided of the main enforcement arms of the government is satisfactory, but could benefit from a more holistic approach so as to understand how the various forces are interconnected as well as their relationship to the ruling regime.

Iran maintains an extensive network of internal security and intelligence services. The main parts of the domestic security apparatus are made up of the Ministry of Intelligence and Security, the Basij Resistance Force, the intelligence unit of the IRGC, and the law enforcement forces within the Ministry of Interior that largely are responsible for providing police and border control. The leadership of each of these organizations appears to be fragmented and dispersed among several, often competing, political factions. Public information on all Iranian security and intelligence forces is extremely limited and subject to political manipulation.

Key to most paramilitary and intelligence forces in Iran is the IRGC, as it holds control over several other organizations or parts thereof. All security organizations without exception report to the Supreme National Security Council (SNSC), as the highest body in the political chain of command. The phenomenon of the fragmented leadership of the security organizations is reflected in their relationship to the SNSC as different security organizations maintain special ties to certain elements of the SNSC. The Supreme Leader, Ali Khamenei, installed an advisory panel called Strategic Council on Foreign Policy in May 2006. This body is supposed to advise the Supreme Leader in a broad range of foreign policy matters. It can only be speculated what the implications of this body are, but its creation send a caveat to observers that there may be some significant tension among the security components in Iran. In addition, it has to be assumed that other state organizations, most notably the police services, exert varying control over internal security. As with virtually all other organizations, the IRGC is believed to have considerable leverage over these services.

The effectiveness of the internal security organizations is unclear and the political will to use them is hard to predict. After local unrest in the Iranian province of Baluchistan in May 2006, police were unable to seize control of the situation against regional tribal forces.

9. Security Forces:

In light of the significant importance that forces such as Etela'at and IRGC play in law-enforcement activities that are of interest to the end-user of the Report, it would perhaps be useful to provide more thorough information on their function, allegiances and past performance.

The IRGC has a large intelligence operation and unconventional warfare component. Roughly 5,000 of the men in the IRGC are assigned to the unconventional warfare mission. The IRGC has the equivalent of one Special

Forces division, plus additional smaller formations, and these forces are given special priority in terms of training and equipment. In addition, the IRGC has a special Quds force that plays a major role in giving Iran the ability to conduct unconventional warfare overseas using various foreign movements as proxies. In January, Iran's Supreme National Security Council (SNSC) decided to place all Iranian operations in Iraq under the command of the Quds forces. At the same time, the SNSC decided to increase the personnel strength of the Quds to 15,000.

Current force strength data for the Quds are not available. The al Quds forces are under the command of Brigadier General Qassem Soleimani and have supported nonstate actors in many foreign countries. These include Hezbollah in Lebanon,

Hamas and the Palestinian Islamic Jihad in the Gaza Strip and the West Bank, the Shi'ite militias in Iraq, and Shi'ites in Afghanistan. Links to Sunni extremist groups like Al Qa'ida have been reported, but never convincingly confirmed. Many U.S. experts believe that the Quds forces have provided significant transfers of weapons to

Shi'ite (and perhaps some Sunni) elements in Iraq. These may include the shaped charge components used in some IEDs in Iraq and the more advanced components used in explosively formed projectiles, including the weapon assembly, copper slugs, radio links used to activate such devices, and the infrared triggering mechanisms. These devices are very similar to those used in Lebanon, and some seem to operate on the same radio frequencies. Shaped charge weapons first began to appear in Iraq in August 2003, but became a serious threat in 2005.

On January 11, 2007, the director of the Defense Intelligence Agency stated in a testimony before the U.S. Senate Select Committee on Intelligence that the Quds force of Iran's Islamic Revolutionary Guard Corps has the lead for its transnational terrorist activities, in conjunction with Lebanese Hezbollah and Iran's MOIS.

Other sources believe that the primary mission of the Quds has been to support Shi'ite movements and militias, and such aid and weapons transfers seem to have increased significantly in the spring of 2007. The Quds are also believed to play a continuing role in training, arming, and funding Hezbollah in Lebanon and to have begun to support Shi'ite militia and Taliban activities in Afghanistan. Experts disagree on the scale of such activity, how much it has provided support to Sunni Islamist extremist groups rather than Shi'ite groups, and over the level of cooperation in rebuilding Hezbollah forces in Lebanon since the cease-fire in the Israel-Hezbollah War of 2006.

The debates focus on the scale of such activity and the extent to which it has been formally controlled and authorized by the Supreme Leader and the President, however, and not over whether some level of activity has been authorized.

The exact relationship between the Quds, Hamas, and the Palestinian Islamic Jihad is even more speculative. Some Iranian arms shipments have clearly been directed at aiding anti-peace and anti-Israeli elements in the Gaza Strip. There is some evidence of aid in training, weapons, and funding to hostile Palestinian elements in both the Gaza Strip and the West Bank. Open sources do not, however, provide a clear picture of the scale of such activity. Some reports indicate that the budget for the Quds is a classified budget directly controlled by the Supreme Leader Khamenei and is not reflected in the Iranian general budget. The active elements of the Quds service operate primarily outside Iran's borders, although it has bases inside and outside of Iran. The Quds troops are divided into specific groups or "corps" for each country or area in which they operate. There are Directorates for Iraq; Lebanon, Palestine, and Jordan; Afghanistan, Pakistan, and India; Turkey and the Arabian Peninsula; Asian countries of the former Soviet Union, Western nations (Europe and North America), and North Africa (Egypt, Tunisia, Algeria, Sudan, and Morocco). The Quds has offices or "sections" in many Iranian embassies, which are closed to most embassy staff. It is not clear whether these are integrated with Iranian intelligence operations or if the ambassador in each embassy has control of, or detailed knowledge of, operations by the Quds staff. However, there are indications that most operations are coordinated between the IRGC and offices within the Iranian Foreign Ministry and MOIS. There are separate operational organizations in Lebanon, Turkey, Pakistan, and several North African countries. There are also indications that such elements may have participated in the bombings of the Israeli Embassy in Argentina in 1992 and the Jewish Community Center in Buenos Aires in 1994--although Iran has strongly denied any involvement.

The Quds seems to control many of Iran's training camps for unconventional warfare, extremists, and terrorists in Iran and countries like the Sudan and Lebanon. In Sudan, the Quds are believed to run a training camp of unspecified nature in Sudan. It has at least four major training facilities in Iran. The Al Quds have a main training center at Imam Ali University that is based in the Sa'dabad Palace in Northern Tehran. Troops are trained to carry out military and terrorist operations and are indoctrinated in ideology. There are other training camps in the Qom, Tabriz, and Mashhad governorates and in Lebanon and the Sudan. These include the Al Nasr camp for training Iraqi Shi'ites and Iraqi and Turkish Kurds in northwest Iran and a camp near Mashhad for training Afghan and Tajik revolutionaries.

The Quds seems to help operate the Manzariyah training center near Qom, which recruits from foreign students in the religious seminary and which seems to have trained some Bahraini extremists. Some foreigners are reported to have received training in demolition and sabotage at an IRGC facility near Isfahan, in airport infiltration at a facility near Mashad and Shiraz, and in underwater warfare at an IRGC facility at Bandar Abbas.

On January 11, 2007, the U.S. military in Iraq detained five men accused of providing funds and equipment to Iraqi insurgents. According to U.S. military sources, these men had connections to the Quds.

On January 20, 2007, gunmen dressed as U.S. soldiers entered the Provincial Joint Coordination Center in Karbala and killed and wounded several U.S. servicemen. According to some sources, including U.S. military intelligence, the gunmen were members of the Quds. The sophisticated planning and execution of this attack made it unlikely that any Iraqi group was involved in it.

The Basij are described very briefly in the Report, but perhaps some elaboration on the subject could prove helpful.

The IRGC oversaw the creation of a people's militia, a volunteer group it named the Basij Resistance Force (which means Mobilization of the Oppressed), in 1980. The Basij derives its legitimization from Article 151 of the Iranian Constitution, which calls upon the government to fulfill its duty according to the Quran to provide all citizens with the means to defend themselves. Numbering over 1,000,000 members, the Basij is a paramilitary force, mostly manned by elderly men, youth, and volunteers who have completed their military service.

This force is organized in a regional and decentralized command structure. It has up to 740 regional "battalions," each organized into three to four subunits. Each battalion has 300–350 men. According to one source, about 20,000 Basij forces were organized in four brigades during an exercise in November 2006.

It maintains a relatively small active-duty staff of 90,000 and relies on mobilization in the case of any contingency. According to an IRGC general, a military exercise (Great Prophet II) conducted in the first two weeks of November 2006 employed 172 battalions of the Basij Resistance Force. According to the same source, the main mission of these troops was to guard "public alleyways and other urban areas."

The Basij has a history of martyr-style suicide attacks dating back to the Iran-Iraq War, 1980–1988. Today, its main tasks are thought to assist locally against conventional military defense as well as quell civil uprisings. In addition, one of the Force's key roles has been to maintain internal security, including monitoring internal threats from Iranian citizens and acting as "a static militia force." The state of training and equipment readiness for the Basij is believed to be low. No major weapon systems have been reported for the inventory of the Basij. The IRGC maintains tight control over the leadership of the Basij and imposes strict Islamic rules on its members. Recent comments by Iranian leaders indicate that the mission of the Basij is shifting away from traditional territorial defense to "defending against Iranian security threats." Furthermore, there are reports of an

increased interest in improving the Basij under the leadership of President Mahmoud Ahmadi-Nejad

At the same time, the IRGC leadership questions the effectiveness of the Basij and might loosen its ties to the organization.

In 1993, the Ashura Brigades were created from IRGC and Basij militia units as a response to anti-government riots. This unit is composed of roughly 17,000 men and women, and its primary purpose is to keep down civil unrest, although there has been some discontent expressed by senior leaders about using IRGC units for domestic contingencies.³

A point that is not sufficiently clarified within the existing information in the Report is the extent of such organisations' activities abroad, particularly with regard to intelligence-gathering, including where expatriate Iranians are concerned.

To that end, I would like to provide some general information on the policy of monitoring Iranians outside the country:

**The Sunday Herald
24th December 2006**

A number of documents from the German and Dutch security agencies, which have been seen by the Sunday Herald, reveal the extent of Iranian espionage in Western Europe. One 2005 report by Germany's Office for the Protection of the Constitution roughly equivalent to Britain's MI5 stated:

"Iran's Ministry of Intelligence and Security (MOIS) has several groups under surveillance in Europe ... for collecting information and spying activities, Iran's intelligence service uses a network of agents who have defected from dissident organisations. The agents are invited to travel to Iran for briefings. In the process of the talks these people are put under pressure.

"For agent recruitment, the MOIS ... brings psychological pressure to bear on the targeted person, eg by threatening them with reprisals on their relatives living in Iran. Those who do not travel to Iran are contacted and directed from Iran by phone."

Holland's Interior Security Service says that Iranian intelligence "distributes negative information" on dissidents and "strives to portray a Satanic view" of anti-Tehran refugees in order to weaken the opposition in exile. Ex-members of dissident groups who have been turned by Iranian intelligence are encouraged to write diatribes against exile groups. As well as using threats and intimidation to turn espionage targets, bribes are also employed.

³ http://www.csis.org/media/isis/pubs/070816_cordesman_report.pdf

Another German security report said that Iranian intelligence used the embassy in Berlin as the centre for its spying activities. Intelligence chiefs in Iran direct the European operations. The report states that when it comes to recruiting spies from exiles, "Tehran will make the final decision".

The German intelligence report also notes that an Iranian living in Germany was arrested for "working as an agent of the Iranian secret service". He had been spying on "Iranian dissidents living in Frankfurt under instructions of MOIS".

One MOIS spy revealed details of his espionage operations against dissidents and exiles in an affidavit he submitted to the US courts. Jamshid Tafrishi said: "I pretended that I was an opponent of the Iranian regime, while I was in fact advancing the assignments given by the Iranian Intelligence Ministry." He says he "actively participated in the Iranian regime conspiracy" to blacken the names of exiles. This included relaying false information to foreign governments, including claims that dissidents had the support of Saddam Hussein⁴."

The following is another account of the same events, given by "Rastakhiz Iran" an opposition group based outside Iran;

The organization "Rastakhiz Iran" has presented a formal complaint to the Swedish Justice Department against the Swedish Secret Service (SÄPO) for gross misconduct.

On 22nd December 2006, the organisation, "Rastakhiz Iran", delivered their case against SÄPO to the Swedish Justice Department.

A few days ago there was a reportage in a Swedish newspaper on how SÄPO more than a year ago, identified a spy of the Islamic Republic occupying Iran operating in Sweden, and how to this day this man continues to live freely on Swedish soil without any kind of prosecution against him. Iranian media have identified this spy as a man by the name of Madjid Sadeghi.⁵

The following news item also contains some useful information related to this subject matter.

CIA Looks to Los Angeles for Would-Be Iranian Spies January 15, 2002, the Los Angeles Times

....

Iran Tries to Recruit Spies in U.S. Too,

The Iranian intelligence service is also active in the United States, former CIA officials said, paying close attention to--and trying to recruit spies within--an

⁴Iran Focus [<http://www.iranfocus.com/modules/news/article.php?storyid=9623>]

⁵ <http://aryamehr11.blogspot.com/2006/12/rastakhiz-iran-presents-formal.html>

expatriate community that includes many people eager to see the republic toppled.

The republic "regards it as a hostile emigre community," said a former CIA officer with experience in Iran. "They will attempt to recruit in that community for defensive purposes or because they want them to spy for Iran." Expatriates who travel back to Iran are often interrogated upon arrival, said an Iranian scholar in the United States who asked not to be identified. "They're astonished at the amount of information that is already on hand about them."

Travelers are often confronted with details from their homes to give the impression that Iranian intelligence is omniscient, he said. "It's the usual interrogators' tricks," he said. "They'll say, 'You have pictures of the shah on your mantle, don't you?' " ⁶

As the informational reach of authorities with regard to the conduct of Iranians abroad is often a concern for end-users of the Report, it would be of some assistance if the information above were to be included so as to illustrate the possibility of such intelligence-gathering.

11. Judiciary:

The Report in sections commencing with 11.01 provides an accurate assessment of the Judiciary, namely on the issue of its unduly close relationship with the government and its resulting dependence on the executive branch. While this theme is competently highlighted, the assessment of the individual judicial institutions and related official organisations is quite superficial and does not, at this time, provide a comprehensive view of the interaction between these authorities, including with regard to criminal appeals. This deficiency can be easily remedied by enclosing some or all of the information provided below.

According to the Article 156 of Iran's Constitution, the Judiciary is supposed to be an independent power, the protector of the rights of the individual and society, responsible for the implementation of justice, and entrusted with the following duties:

- Investigating and passing judgment on grievances, violations of rights, and complaints; the resolving of litigation; the settling of disputes; and the taking of all necessary decisions and measures in probate matters as the law may determine;
- Restoring public rights and promoting justice and legitimate freedoms;
- Supervising the proper enforcement of laws;
- Uncovering crimes; prosecuting, punishing, and chastising criminals; and enacting the penalties and provisions of the Islamic penal code;

⁶Iran va Jahan, 15th January 2002 [http://www.iranvajahan.net/cgi-bin/news_en.pl?l=en&y=2002&m=1&d=16&a=4]

- Taking suitable measures to prevent the occurrence of crime and to reform criminals.

A number of judicial and related authorities are listed in 11.02, but not all are covered in the Report or covered in inadequate length, as follows. As a number of these institutions are regularly mentioned within matters where users of the Report are involved, it may be worthwhile to expand on the existing judicial structure.

Office of the Public Prosecutor:

The Report does not address the functions and remit of the Public Prosecutor; this is a key omission as this office is a key component of the investigative system. This may be the case as these were only introduced in 2003, through amendments to the Law on Public and Revolutionary Courts (2003). These offices are now responsible for all pre-trial investigations and referrals of those cases where there are strong evidence of a crime to the courts.⁷

Dispute Resolution Councils

The Report does not address the major alternative to formal litigation, namely the Dispute Resolution Councils, introduced through Article 198 of the Third Iranian Five Year Development Plan. This article provides that for the purpose of avoiding recourse to formal courts and to develop cooperation in solving local disputes and settling claims and affairs which have no judicial nature or have judicial nature with less complexity the settlement of dispute council is established. According to this article there are also three duties for this council.

Duties:

- 1- Solving local disputes
- 2- Settlement of matters with non judicial nature
- 3- Settlement of claims which have judicial nature with less complexity.

This article and its by-law were criticized and challenged by lawyers and academics. The main challenges are as follows:

- 1- Contradiction with Islamic laws (Shari'a), because according to the Act the unqualified persons can rule as a judge.
- 2- Contradiction with the constitution.
- 3- Contradiction with the settled legal principles.

These councils are responsible for settlement of minor civil through mediation before their referral to the courts. It cannot audit to criminal cases.

⁷United Nations Office on Drugs and crime [http://www.unodc.org/iran/en/judicial_reform.html]

Adding information on these newly-created institutions may be prudent due to the fact that they may appear in issued documentation and other accounts processed by the Report's users.

Enforcement of Judgments

The Report does not address the existence and functions of the Enforcement authorities, although such authorities frequently appear in documentation processed by the Report's users. Information on this institution is also a useful addition as its existence is not necessarily apparent to those accustomed to the English legal system where no separate authority exists for enforcement of judicial determinations.

For the purpose of enforcement of the judgments delivered by the common courts; civil and penal, there has been established an entity called Unit of Enforcement of Judgments. In accordance with law, chief of the judicial district concerned shall also act as chief of the unit. Each unit shall have adequate number of assistants, employees and other personnel. The judgments delivered by the common courts and the Revolutionary courts shall, based upon the instruction of the issuing authority, be enforced by the Justice Agents. The issuing authority of the judgment and order may attend or supervise the proceedings of enforcement.

In order to provide legal advices and guidance to the individuals who are in need of such services, an entity entitled Guidance and Assistance Unit has been established in each judicial district under the supervision.⁸

Court of Appeal and Supreme Court

The Report at 11.09 provides a basic outline of the appeals available to the Supreme Court and the Court of Appeal. However, a number of errors regarding the appeal eligibility and the jurisdictions of the courts are apparent, which are noted and corrected below. In addition, a brief overview of each institution is provided so as to supplement the rather spare information available at present.

The Court of Appeal is the second instance court charged with reviewing cases decided by public and revolutionary courts. This court cannot review those cases decided by Special Clerical Court. The Head of the Judiciary has the power to order a reversal of a sentence issued at this level. The default position is that all criminal cases can be appealed to this court, unless otherwise specified in the Article included later within this sub-section.

The State Supreme Court is the highest judicial authority in the Country; to supervise the proper enforcement of laws by the courts of justice, to make judicial precedents, to revise judgments delivered by the Military Court and the

⁸ Iranian Judicial system, 3rd June 2008 [<http://lib.bioinfo.pl/threads/view/556>]

significant judgments of the Common and Revolutionary Courts, including the Court of Appeal where relevant. The main seat of the Supreme Court shall be in the city of Tehran. It is composed of various branches. The Head of the Judiciary Power may establish branches of the court in other cities as and when appropriate.

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 in Tehran. Each branch shall be presided over by two judges, (one as chief and the other one as advisor) and may have one deputy to discharge the duties of either of the two judges as and when necessary. The chief and the advisor shall have the right to issue judgments.

In addition to the State Supreme Court, there is the prosecutor's office of the State Supreme Court, (the State Prosecutor's office), composing of a chief (the State prosecutor General) and the First and Second Deputies and a number of assistants to the State Prosecutor General who discharge their functions together with the State Supreme Court.

The parties to a case and their attorneys shall not be summoned for the investigations except when their presences for giving explanations are needed. In such cases for those whose presence are needed subpoena will be served. Upon deliberation of the explanations and getting the opinion of the State Prosecutor General or his representative the respective branch of the court shall deliver the judgment. Failing to appear in the court by such persons unjustifiably shall not cause a delay in the issuance of the judgment.

The State Prosecutor General Office will deliver its primary opinion on every contradictory judgment.

The General Assembly of the penal branches of the Supreme Court consisting of the chief of the Supreme Court and chiefs of the penal branches of the said court will investigate the judgments of penal subjects issued by the lower courts, where these have been appealed. The judgments issued by this Assembly for such purposes shall be binding on all judicial authorities of the country.

Procedure and Limitations on Appeals

Errors of law are the common causes for the quashing of verdicts, and the losing party of each case shall have the right to request from the State Prosecutor General; within one month from the date the decision's service, that the case be reinvestigated. Should the State prosecutor General find the judgment evidently contradictory to the Islamic rules or the laws will request the State Supreme Court to quash the judgment. In case the Supreme Court quashed the judgment it shall assign another court of the same category to reinvestigate the case. This

is done to prevent investigatory errors from having an effect on the judicial outcome. The review court cannot increase the original sentence.

Substantial procedural errors are to be found within the account provided by the Danish Report at 11.09 with regard to appeals. It is stated that all convictions are appealable to the Court of Appeal. However, this is not the case as, for particularly serious crimes, the Supreme Court is the default court of first (and final) appeal within ordinary circumstances. The Report also incorrectly identifies corporal punishment as being within this particular category of offences which warrant enhanced appeal rights—in fact, the list encompasses retaliation, death penalty, fines over a certain amount, amputation and (not mentioned within the Report)—prison sentences longer than 10 years. Where none of these categories apply, the individual can appeal through the Court of Appeal and, if the case has merit, it will be considered by the Supreme court. The correct authority for the appeal is specified within the first-instance verdict.

Notably, the Report, while specifying at 11.35 that in absentia verdicts have a separate time frame for appeal, does not state that this period is 10 days within the issuing court per Article 217. In absentia cases, the time limitations relevant in all cases, namely 20 days of appeal within the appropriate appellate authority per Article 236 of the Penal Procedure code, do not begin to run until the initial 10 days are exhausted. For individuals residing overseas (where this is officially registered with the authorities), the time frame is 2 months.

With regard to the general applicability of in absentia verdicts, the information provided on the issue is accurate in that criminal cases are not limited by severity and can be prosecuted where the presence of the individual is not required, if he has not submitted a defence.

Right to an Attorney

In addition to the laws which have been in force since before the Revolution by which everybody has the right to have an attorney in every law court and further to Article 35 of the Constitution which has recognized the right for everybody to have an attorney in every lawsuit, in 1991, the Expediency Council of the System, while ensuring everybody to have an attorney in the court, obliged the courts to receive the attorneys. Failure to observe this rule by a judge shall cause him to stand for trial in the Judges Disciplinary Court and separation from the judicial position. The judgment of a court for which either party to the lawsuit had been prevented to benefit from services of an attorney shall be legally invalid.⁹

However, in accordance with Article 128 of the Penal Procedure Code, the defendant can have an attorney present whilst being investigated. The said attorney cannot 'disrupt' investigations and interrogations and must be silent, with the right to comment at the end of the procedure. Note to this Article states that

⁹ Ibid

where subject matter of the case is 'confidential' or at the discretion of the judge, the attorney can be prohibited from being present. Where crimes against 'national security' are concerned, the right for presence of an attorney is not available and can only be granted by the court upon request. Due to the vagueness of the terminology used within this proviso, as well as the wide nature and use of 'national security' offences, this provision forms a significant gap in procedural protections, allowing for the use of harsh interrogation methods without any oversight.

A further concern pertains to the independence of some attorneys in Iran. The International Bar Association's Human Rights Institute (IBAHRI) has expressed concern about the independence of the legal profession and access to justice in its report, *Balancing Independence and Access to Justice: a report on the justice system in Iran*, which was released following a high-level delegation visit to the country.

The IBAHRI is particularly concerned that Iran is breaching its obligations under the UN Basic Principles on the Role of Lawyers by having established a separate stream of lawyers that lacks independence and adequate training and is managed by the judiciary. The IBAHRI strongly urges the Iranian Government to phase out this judicially-managed stream of legal advisors, and give statutory recognition to the various Iranian bar associations as the only organisations capable of training, disciplining and admitting lawyers.¹⁰

Amnesty International details this issue as follows:

...Article 187 stipulates that the judiciary "shall be authorized to confirm the competence of the graduates of law who shall be granted licenses for the establishment of legal advisory institutes." The advisors are authorized to present cases in court as a lawyer in court.

It is common international practice for the Bar Association to grant licenses to newly qualified lawyers, following a recognized method of qualification. Article 6 of the 1956 (Legal) Bill on the Independence of the Bar Association authorized the Bar Associations to issue licenses to qualified lawyers, in keeping with the spirit of, for example, Principle 9 of the Basic Principles on the Role of Lawyers: that lawyers be made aware of the ideals, ethical duties of the profession and of human rights and fundamental freedoms.

The present law removes this function, giving it to the judiciary. This makes all law students subject to the sweeping exclusions described above and significantly reduces the independence and security of lawyers, and, as a consequence, Bar Associations. It is a violation of Principle 16 of the Basic Principles on the Role of Lawyers, which states that "Governments shall ensure

¹⁰ Iran Bar Association Union[http://hoqouq.com/law/kanoon_vokala.html]

that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference...¹¹

While the Report contains information on the lack of independence within the Judiciary generally, it may be helpful to include some evidence of procedural issues with regard to those who should be representing their clients' best interests but, in reality, may not be.

With regard to court documentation, I would like to add the following. In order to invite an individual to a judicial body, a summons must be issued. This would be in the form of 'Ekhtariyeh' (sometimes translated as 'legal notice') and 'Ehzariyeh', Farsi terms which may both be accurately translated into the legal term 'summons'.

These serve the same purpose and have the same nature, as both give the opportunity to the defendant to attend the court and defend themselves against certain allegations. Both of these documents are issued by the proceeding court after a lawsuit is filed, stating the name of the defendant, the file number of the case, the court and its branch, the name and address of the defendant, and instructions as to the need to attend the court at a certain time or within a given time period. A copy of the document must be served on the defendant or a family member and signed by both the serving Bailiff and the recipient to show the date of service. After service to the defendant, the original document, along with the "return of service" proving the summons and complaint were served, is filed with the court to show that the defendant has been informed and been given the opportunity to respond.

Therefore, there is no difference between 'Ekhtariyeh' and 'Ehzariyeh' in terms of their legal nature and function, as both provide the defendant with the opportunity to voluntarily appear at court and respond to a complaint. However, 'Ekhtariyeh' is usually used when someone is called to the court for an investigation that is ongoing against the defendant, whilst 'Ehzariyeh' is used when the court intends to hold a trial against the defendant and wants to give a last opportunity for their voluntarily coming forward. The consequence of non-attendance after issuing an 'Ehzariyeh' would usually be the issuing of an arrest warrant and an absentia verdict if the person is not found.

With regard to 11.34, the reliance on the Danish Report to explain the requirements in arrest warrants contains an error, namely specifying the 'ID card number' as being a necessary element of such documents, although they are not. Indeed, there is no box/slot provided on the forms for such documentation.

Moreover, in reference to par. 11.35, we would like to add that an arrest warrant would not be 'served' on the defendant in the sense of physically sending or

¹¹ Amnesty International, 10/10/2003
[<http://www.amnesty.no/web.nsf/pages/7C318C03824C091CC1256DBB003C117A>]

handing it over to him or her, but rather presenting it as an authorisation for arrest or search. Therefore, there is no legal manner by which the original of an arrest warrant can be physically handed over before the time of arrest, as would a summons as such documents can be served upon a family member. Also, a distinction must be drawn between an arrest warrant and a search warrant, as the latter can be handed over at the time of search, to those who are located at the premises. Therefore, the sentence at this paragraph starting with “A warrant for arrest should be served on the accused at his last known address. If the address is unknown or the accused cannot be found at his last known address...” is correct, but only if the words ‘warrant of arrest’ is replaced with ‘summons’.

With regard to the requirements for Birth Certificates’ issuance, we would like to highlight that according to Article 36 of the Law regarding the Civil Status Registry, all individuals at the age of fifteen should apply to have their photographs displayed on their birth certificates. It is the State Registry Office’s responsibility to attach the holder’s photograph to their Birth Certificate through the local department, using a photograph supplied by either the subject or another related person, acting on his behalf.

It may also be of some assistance to include within the Report some information on judicial authorities that are less frequently relevant to criminal cases but which may nonetheless be of some assistance depending on the context:

Court of Administrative Justice was created in order to hear the complaints, grievances and objections of the people against government offices, officials, organs, regulations and to ensure the rights of people a court, under the supervision of the Head of the Judicial power. (Article 173 of the Constitution).

Each branch of the court of Administrative Justice has two judges as members of the branch, consisting of one chief and one counsel, except with respect to the instances brought up in section.

The Special Civil Court (Family), acting in cases of family disputes and having the power to send cases to arbitration.

13. Prison Condition:

The Report’s description of prison conditions appears to provide ample information on sanitary, overcrowding and other issues, but its analysis of active physical mistreatment is limited to accounts relating to political prisoners. The overall impression is that only political prisoners are at risk of torture as part of investigations and/or detention. In addition, a number of more recent accounts can supplement those already included from earlier years.

Human Rights Watch, 15th January 2008

Two Alleged Prison Suicides Raise Suspicion

Ebrahim Lotfallahi, 27, died in the detention centre in Sanandaj sometime between January 9 and January 15. Zahra Bani-Ameri, a 27-year-old female physician, died in October while in custody in the town of Hamedan. In both cases, officials claimed the cause of death was suicide.

“The sudden death in detention of two apparently healthy young people is extremely alarming,” said Joe Stork, Middle East deputy director at Human Rights Watch. “The government only heightens our concern by quickly dismissing them as suicides.”

Security forces arrested Lotfallahi on January 6, 2008 as he was leaving the Sanandaj campus of Payam Noor University. Lotfallahi’s family does not know what charges, if any, the authorities had brought against him. Three days after his arrest, Lotfallahi’s family visited him in the Sanandaj detention centre. His brother told Human Rights Watch that Lotfallahi was in good spirits and seemed fine at the time of the visit.

On January 15, officials from the detention centre contacted Lotfallahi’s parents and informed them that they had buried their son in a local cemetery. The officials claimed that Lotfallahi had committed suicide in his cell...

The death in custody of Bani-Ameri also occurred under suspicious circumstances. On October 12, 2007, police and security forces arrested Bani-Ameri and her fiancé in a public park in the city of Hamedan on charges of having an “illegal relationship.” According to Iran’s Islamic Penal Code, “immoral” relationships between men and women who are not married may be subject to criminal punishment.

On the following day, prison officials informed Bani-Ameri’s family that she had committed suicide in her cell. In statements at the time to the Iranian press, Bani-Ameri’s brother claimed that she had seemed fine during telephone conversations he had with her, including a call 30 minutes before the time of her reported death. Iranian Nobel laureate Shirin Ebadi is representing the Bani-Ameri family in their lawsuit against the officials responsible for her arrest and detention.

“These two young lives were extinguished in circumstances that make the official explanation implausible and cry out for accountability,” said Stork. “The Iranian authorities must take credible steps to determine what actually happened and hold accountable any officials responsible for these two deaths....”¹²

¹² Human Rights Watch January 15th 2008 [<http://hrw.org/english/docs/2008/01/18/iran17819.htm>]

The accounts, including at 13.07, also do not account for the recent harshening in treatment of prisoners within both political and non-political classes. As shown by the evidence in other sections, the general deterioration and radicalisation of the political and legal environment is continuing. This results in the diminution of the internal opposition against the use of physical methods. The use of torture is becoming less discriminate, whether on basis of seriousness of the suspected offence or any distinction between political and criminal offences that may have existed at the time of the relevant determinations.

As has been documented, torture is becoming a routine investigation method that is applied regardless of the offence in question; as evidenced by the courts' corresponding willingness to accept confessions and statements procured under duress in a wide variety of prosecutions.

The accounts included below can provide a more accurate reflection of the relative seriousness and nature of the offences in which torture may be involved.

The 2007 account below indicates the openness of the Iranian government's endorsement of torture in relation to homosexuals, whose crimes are apolitical:

Gays Deserve Torture, Death Penalty, Iranian Minister Says

Further evidence of decreasing standards in the recent treatment of "ordinary criminals" such as homosexuals, including interrogation methods, can be found within the following account. It is evident that the above statements are taken to heart by the Judiciary and the law enforcement officials when dealing with homosexual cases:

Horrific New Photos of Iran's Torture of Gays and 87 Arrested in Raid on "Gay" Party May 23, 2007

Terrifying new photos showing the effects of police lashings last month on an Iranian gay couple have been released by the Iranian Queer Organization. Also, Iranian authorities staged a brutal and violent May 10 raid on a birthday party in Esfahan which they suspected was a gay party, beating the guests and arresting 87 people, including four women, one of whom had a child with her. Some 80 of those arrested made bail or were released immediately but face possible prosecution in the future; while 17 of those arrested were imprisoned awaiting trial, and a judge told their families that they would be charged with "homosexual conduct" (hamjensgarai in Persian) and the consumption of alcohol...

... Police and members of the Basiji, the thuggish parapolice attached to the Revolutionary Guards, who are used to enforce morality, severely beat the Esfahan party guests, both inside the house where the party was held and in the street outside it, resulting in broken bones for some of the partyers, according to these accounts by eyewitnesses and guests at the party...¹³

Please note that despite the partisan tone of the above article, confirmation of the events described exists in more objective sources also.

The account below provides further corroboration of the authorities' use of mistreatment in police custody regarding cases that are apolitical.

Ms. Maryam Gholamali has been detained in Evin prison since 2000 for the murder of her husband. She was subjected to physical and psychological torture whilst in police custody to force her to confess to the crime and she has certified medical evidence of such treatment. She was granted bail set at 400,000,000 Rials (equivalent to US\$ 50,000), but her family does not have sufficient money to pay it.¹⁴

Ms Gholamali eventually was found not guilty for the crime of murder, and released.

Perhaps the most persuasive evidence of the authorities' endorsement and desire to use torture on occasions unconnected to political opposition stems from a quintessentially official source—a Bill before the Parliament that is at an advanced stage of the approval process.

While the draft Code contains a number of penalties that may be perceived as cruel and unusual, including the death penalty for apostasy, the Article of most relevance is Article 225-10, pertaining to the non-political offence of apostasy, which states "Punishment for women, whether Innate or Parental, is life imprisonment and during the sentence, under the guidance of the court, she will be subjected to physical hardship, and she will be guided to the right path and encouraged to recant, and if she recants she will be freed immediately." The Note to the Article states that the conditions of hardship will be determined according to the religious laws.

Including at least a brief reference to the legitimisation of torture within the law by means of including it in a late-stage Draft, as well as including one or more accounts of torture in non-political cases as described above could introduce greater objectivity to the Report's section on prison conditions.

¹³ http://direland.typepad.com/direland/2007/05/horrific_new_ph.html

¹⁴ United Nation, Economic and Social Council 21th March 2006
[<http://material.ahrchk.net/notorture/G0611942.pdf>]

It is noteworthy that flogging is an additional form of punishment and investigatory technique that applies regardless of the nature of the crime in question. The legality and ethics of the punishment were found by the UN to be in violation of International Human Rights standards:

Conservatives and Reformists Debate Public Flogging

The United Nations General Assembly recently adopted a resolution by the Human Rights Committee named “The situation of human rights in Iran.” Condemning Iran for floggings and stoning people, especially under the age of eighteen, the United Nations General Assembly called upon Iran to enact laws to ensure that people are not punished for exercising their political freedoms.

This resolution came two months after a scathing public debate took place among senior Iranian clerics, politicians, and academics following the implementation of Judiciary sentences of whippings in public of some 200 young Iranian boys and girls convicted of drinking alcohol, “harassing women” attending parties, and listening to Western music, which was also broadcast on prime time television programs.¹⁵

Rastakhiz Party and Monarchists:

The support of a return to the Monarchy is divided amongst a variety of groups and organisations. The ECOI¹⁶ class the following parties as being supporters of this movement.

- Babak Khorramdin Organization (BKO)
- Constitutionalist Movement of Iran - Frontline (Sazeman-e Mashroteh Khahan-e Iran)
- Guardians of Eternal Iran (Negahbanane Iran e Djawid)
- Iranian Monarchist Council of Canada (Shora-e Saltanat Talaban-e Iran dar -Kanada, IMCC)
- Iran Paad (Saltanat Taliban, Saltanat Talab)
- National Movement of Iranian Resistance (NAMIR)
- Organization of Kaviyani Banner (Kaviyani Flag, Derafsh-e Kaviani)
- The Imperial Iranian Guards (Rastakhiz of Iran Organization, Sazemane -Rastakhize Iran)
- Shahin

One of these, Iran Paad, claims to have been founded in London about 19 years ago, with the aim of providing an umbrella organisation that would invite all other Monarchist groups to be part of their network. Iran Paad claims to have thousands of members both inside and outside of Iran.¹⁷ They also

¹⁵ <http://memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA8001>

¹⁶ European Country of Origin Information Network, [<http://www.ecoi.net/doc/en/IR/content/2/2031-2049>]

¹⁷ Mr. Lohrasbi, an official in the Iran Paad organisation in London, interviewed on 25th June 2002

organise demonstrations which take place outside Iranian Embassies in other countries of the world, to keep their campaign in the public's eye. The pictures made during these demonstrations, as well as other information, such as slogans, news and description of activities, can be found on their website¹⁸. Naturally, the availability of such information on the Internet signifies that the Iranian authorities are able to monitor and be aware of the organisation's activities. This intelligence can be considered by the Iranian security agencies in conjunction with any information procured by the embassy officials, such as footage of the demonstration or possible identification of the participants.

The Monarchist organisations outside of Iran are of interest to the Iranian Government, and have been a target for the regime. Dr. Reza Mazluman (killed in 28/05/1996) and Dr. Shahpour Bakhtiar (killed in 1991), the leader of the Monarchist National Resistance Movement of Iran, were both assassinated in Paris. It is also evident that several of the previous regime's officers have been assassinated in the neighbouring countries including Turkey.¹⁹

Iran 'blames monarchists for mosque blast' 8th May 2008

TEHRAN (AFP) - Iran on Thursday blamed a mosque explosion that killed 13 people in the southern city of Shiraz last month on Western-backed monarchists who oppose the Islamic republic, the Fars news agency reported.

"The Shiraz blast was an act of sabotage and a plot by the enemies of the Iranian people in the name of monarchism," Interior Minister Mostafa Pour Mohammadi was quoted as saying.

"Their headquarters are in countries which claim (to support) human rights, defend their nations and be anti-terrorist," the minister said.

"They are supported in these countries where they have been given radio and television stations."

....

On Wednesday Fars quoted Intelligence Minister Gholam Hossein Mohseni Ejeie as saying the explosion was caused by a bomb and that suspects believed to have links with the country's Western foes had been arrested.

Pour Mohammadi said on Thursday that the culprits had been identified and arrested "in another bombing attempt which was foiled" in an unspecified Iranian province.

¹⁸ [http://ufin.org/pic/pic_18_2006.htm], [<http://ufin.org/pic/18khordad2001.htm>]

¹⁹ <http://www.iranfocus.com/modules/news/article.php?storyid=3460>

.....

Mohseni Ejeie said on Wednesday that the group responsible for the blast had links with Britain and the United States.

He charged that these countries "did not take any measure to prevent terrorist actions and rather supported them."

Iran has blamed US and British agents based in neighbouring Iraq and Afghanistan for launching deadly attacks in border provinces with significant ethnic minority populations in recent years...²⁰

Kurdish Democratic Party of Iran (KDPI)

The sub-section on the KDPI does not provide sufficient information on this organisation in light of the frequency of its involvement in matters dealt with by users of the Report. While a few references to 2008 events are made, no specific accounts are provided. In order to remedy these issues, recent evidence of government efforts at suppressing the organisation is provided below. In particular, 16.25 emphasises that leaders and 'militant supporters' are being prosecuted by the government—however, the accounts below show that this distinction is not, at least at this stage in the internal situation's deterioration, a crucial one.

Iran: Incommunicado detention/fear of torture and ill-treatment PUBLIC AI Index: MDE 13/037/2006 07 April 2006

Iran Azad Rasouli (m)
Abu Bakr Bapiri (m)
... Up to 80 others

The 14 men named above, and up to 80 other members of Iran's ethnic Kurdish minority, were reportedly arrested on 19 and 20 March at their homes in the city of Bukan, west Azerbaijan Province. They are believed to be held incommunicado, and are at risk of torture or ill-treatment.

The security forces reportedly searched their houses and confiscated documents and personal computers. Their families have not been yet told where they are or

²⁰ Middle East Times, 9th May 2009[http://www.metimes.com/Politics/2008/05/08/iran_blames_monarchists_for_mosque_blast/afp/]

what they have been charged with, and they have tried to find them without success.²¹

This incident clearly shows that the government policy is to arrest all those suspected of acting in favour of Kurdish opposition groups, regardless of their level of involvement, as it is highly unlikely that 80 leaders or other official members, involved at a very high level, would be arrested in a single small city.

The recent account below shows that an individual who is not a leader can become the target of prosecution—particularly if suspicions of violent actions are involved:

Amnesty International, MDE 13/075/2008 - UA 147/08

29th May 2008

Teacher Farzad Kamangar, a member of the Kurdish ethnic group, has been sentenced to death on charges of moharebe, or 'enmity against God', a charge levelled against those accused of taking up arms against the state. Ali Heydariyan and Farhad Vakili may also be facing execution.

Farzad Kamangar's death sentence was passed by Branch 30 of the Tehran Revolutionary Court on 25 February, following a flawed trial in which his contact with his lawyer was limited. He was accused of being a member of the armed group, the Kurdistan Workers' Party (PKK), and of possession of explosives. The Court viewed these accusations as an attempt to overthrow the state, which, under Iranian law, equates to "enmity against God".

The death sentence was confirmed by a spokesperson for Iran's judiciary on 27 May. Farzad Kamangar has lodged an appeal with the Supreme Court. If the sentence is upheld and confirmed by the Head of Judiciary, he may face the death penalty within weeks.

Farzad Kamangar was arrested by Ministry of Intelligence officials along with two other ethnic Kurds, Ali Heydariyan and Farhad Vakili, in Tehran around July 2006. The two other men are believed to have been sentenced to 10 years' imprisonment, but human rights groups fear they may have also been sentenced to death.

Farzad Kamangar has been held incommunicado at a series of locations, including in the cities of Kermanshah, Sanandaj and Tehran, and has been tortured regularly, including by being beaten, flogged and electrocuted. As a result of this torture, his arms and legs have started to tremble involuntarily.²²

²¹ Amnesty International report.

[<http://web.amnesty.org/library/Index/ENGMDE130372006?open&of=ENG-310>]

²² Amnesty International, 29th May 2008 [<http://www.isavelives.be/en/node/1577>]

The Reporters Without Borders account below pertaining to a journalist suspected of KDPI collaboration further supports the observation from objective evidence that arrests are not limited to militants and leaders of the KDPI:

Adnan Hassanpour, 25, was sentenced to death by a revolutionary court in Marivan, Iranian Kurdistan, on 16 July 2007 after he was found guilty of “subversive activities against national security, “espionage” and “separatist propaganda”. His death sentence was confirmed by the Tehran Supreme Court on 22 November.

Adnan Hassanpour, who is a fervent activist for Kurdish cultural rights, was arrested outside his home on 25 January 2007, and imprisoned in Mahabad jail, where he has been denied the right to receive visits from his family or his lawyer.²³

The information below, from 2008, suggests that mass-arrests without distinctions based on relative leadership position are continuing:

86 civilians have allegedly been detained in Bokan after a general strike.

Iranian securities forces have detained a large number of Kurds following a general strike on the 19th anniversary of the assassination of the Kurdish leader Dr. Abdulrhaman Ghassemlou. Since July 14 [2008], at least 86 Kurds have been detained in the city of Bokan. These individuals were later sent to prison in the cities of Uromieh and Miandoab. The Islamic Republic of Iran has also started a massive confiscation campaign of satellite TV dishes in the cities of Iranian Kurdistan. In the last two days, thousands of dishes have been confiscated by the Iranian security forces.²⁴

The account below is helpful in addressing an area not specifically covered by the Report’s section, namely the treatment of Kurdish activists in detention:

Iranian Kurdish activist dies in custody following "torture"

Kaveh (Kawa) Azizpour, a Kurdish political prisoner, died in detention on Friday as a result of torture, his family allege.

Azizpour, who was 25 years old, was arrested about two years ago and was charged with “supporting [the] Kurdistan Democratic Party of Iran.” The party is one of the oldest Kurdish parties in the county and has been banned by Iran.

Judiciary officials said that Azizpour was transferred from Mahabad prison in the western Iranian province of Kurdistan (Eastern Kurdistan) after suffering a cerebral

²³ Reporters Without Borders [http://www.rsf.org/article.php3?id_article=15054]

²⁴ Alliance for Kurdish Rights quoting KDPI, 2008 [<http://www.kurdishrights.org/2008/07/21/serious-concern-for-the-well-being-of-protestors-in-iran/>]

stroke. According to the Judiciary, Azizpour passed away in hospital in the Kurdish city of Urmieh after being in a coma for 20 days.

But Amir Kabir website, his family wrote in Azizpour's funeral notice that he suffered the stroke as a result of torture, Amir Kabir University student newsletter reports...²⁵

17. Freedom of Speech and Media:

Regarding influence of Internet and Satellite, I would like to add the following information not already present in the section.

Reuters

TEHRAN - A rare pro-democracy protest in Tehran gained momentum late on Sunday with hundreds of cars pouring onto the streets, blaring horns and provoking an appearance from hardline vigilantes, witnesses said.

Local residents said Persian-language television channels from the United States had been broadcasting callers throughout the day who had exhorted Iranians to turn out for demonstrations.

Two hundred riot police were drafted into central Tehran earlier in the day when more than 2,000 people started milling round the streets after a minor protest inspired by the U.S.-based channels, witnesses said.

"There have been callers from all over the place, even from places like Montreal, telling people to go out onto the streets," said one with access to satellite television.

Spontaneous protests demanding greater social freedoms are rare in the Islamic Republic.

A Reuters witness saw dozens of cars near Valiasr Avenue, the tree-lined street that cuts the city north to south, repeatedly honking their horns. Another witness on a footbridge further down Valiasr saw more than 300 cars.

A group of volunteer militiamen arrived on motorbikes but there was no sign of any fighting. Hardline vigilantes crushed demonstrations by student activists last summer.

Eyewitnesses saw a further 300 cars driving up and down Jordan Boulevard, a

²⁵ Ekurd, May 22nd 2008 [<http://www.ekurd.net/mismas/articles/misc2008/5/irankurdistan377.htm>]

boutique-lined street popular with the young and wealthy. The occupants made victory signs through the windows and blared their horns.

Earlier in the day, motorists tooted horns in support of what they perceived as a demonstration. A witness said scores of people had been chanting "freedom," clapping and handing out pastries.

He said police had used their batons to push people from the scene but added there had been no fighting.

The ILNA labor news agency labeled the protesters monarchists, loyal to the shah toppled in the 1979 Islamic revolution.

Some of the crowd said they had turned out because of a call by the mystic Ahura Pirouz Khalegi Yazdi, who has predicted the fall of Iran's government on Oct. 1. He broadcasts on a California-based channel and promised to charter aircraft to bring home the Iranian diaspora from the United States.²⁶

18. Corruption:

As the judicial and official systems diverge in practice from their theoretical framework and charters due to the influence on the relevant processes by the individuals involved in these systems, in order to assist the users of the Report in evaluating the likelihood of such 'human factors' impacting cases, the information below is provided on the issue of illegal influence and corruption. The Report currently provides some of this information, but in slightly outdated form (e.g. Transparency International 2006 not 2007) and it could also benefit from specific examples of bribery being used to evade arrest or detention, rather than more generalised economic corruption described in the Report.

Instances of bribery and corruption are widespread and well documented in Iran. According to a report, provided by the International Organisation on Transparency in 2006²⁷, Iran's official corruption was already in a very developed stage at the time. Iran occupied the 105th place in the list, composed of 163 countries of the world where government corruption is present; Iran's rating had a better position in 2004, when it stood at only 88th place. Significantly, the most recent study, published in 2007 by the Transparency International, placed Iran on the 131st spot; a significant deterioration in just one year. The report was prepared through 16 research studies and 10 international institutions. The rating for each country is

²⁶ <http://www.iranfocus.com/modules/news/article.php?storyid=370>

²⁷ Transparency International Corruption Index 2007

[http://www.transparency.org/policy_research/surveys_indices/cpi/2007]

between 1 and 10, with 10 indicating the least corruption: last year, Iran's rating was 2.7 out of 10. Several years ago, whilst official corruption kept spreading, Ayatollah Khomeini (Supreme Leader) issued a famous Eight Point Decree to the heads of the three branches of government, and asked them to engage in fighting official corruption and economic instability. However, the continued and rapid decline in transparency and increase in corruption within official services, clear from the above statistics, was not effectively stopped by these pronouncements. Indeed, a 2007 report by the US State Department noted that "...Many police officers were also corrupt. Civilian authorities did not fully maintain effective control..."²⁸

The extent of corruption within the judicial and police authorities specifically, was illustrated by the notorious events described below:

The Washington Times, March 27, 2007

Mr. Jazayeri-Arab, 35, was arrested in 2001 on charges related to corruption, illegal exports, bribery, forgery and a massive embezzlement of state funds and assets. At his trial, it emerged that he had made large cash payments to members of parliament to influence their decisions.

Sentenced to 27 years in prison, Mr. Jazayeri-Arab reportedly was provided with a laptop computer and two cell phones and granted several home leaves, providing evidence to a disgruntled public of preferential treatment for the regime's fallen sons.

That impression was reinforced by courtroom photos, which showed the defendant smiling smugly and making humorous faces behind his guards' backs. In jail, he was reportedly allowed to continue managing his considerable foreign investments.

Mr. Jazayeri-Arab escaped on Feb. 22, and the talk in Tehran's bazaar is that he bribed his guards, who are under investigation. The prison warden and two judges who had been investigating economic corruption in the defendant's case have since been dismissed by Judiciary Chief Ayatollah Hashemi Shahrudi.²⁹

²⁸ US State Department Report, published in 2007 [<http://www.state.gov/g/drl/rls/hrrpt/2006/78852.htm>]

²⁹ "Arrest, Antics of and Escape of Financial Criminal Captivates Tehran, Iran" The Washington Times, March 27, 2007

The account above has the benefit of adding to the comprehensive evidence regarding corruption in the Report by noting specifically the possibility of bribing low-level officials for practical rather than economic/business reasons.

The account below, originating with the Majiles Investigative Committee in 2008, highlights the prevalence of corruption, including amongst high-ranking religious officials within the Judiciary:

Majlis researcher accuses over 50 top officials of “economic corruption”

The sensational revelations about widespread corruption at the highest echelons of the system, made by an insider, has given jitters to over 50 clergymen and politicians, including the former President Akbar Hashemi-Rafsanjani and his family.

A former researcher at the Research Center of the Majlis [parliament], Abbas Palizdar, chose the podiums in Hamedan and Shiraz universities to air the unprecedented revelations that incriminate more than 50 of the most high-ranking ruling political and religious officials with charges of financial fraud and corruptions...

Palizdar has also accused Ayatollah Hashemi Shahroodi, chief of the Judiciary, of protecting highly placed financial corrupts.

Palizdar said that he gathered his information on the financial corruption of the clergy and high-ranking authorities of the government during the period he had been assigned by the Research Center of the Majlis, to look into financial corruption as well as dossiers on judicial irregularities. He added that there are currently 123 important dossiers on the financial frauds of high-ranking officials being investigated by the Research and Investigation Committee of the Majlis...

Palizdar said he has a great deal of information on the cases involving the sale of university matriculation exam questions, sale of government companies to the private sector, the Iran Automotive Company, maintenance and janitorial service firms, Isfahan iron smelting plant, land grabbing cases, multi-story parking construction at Mehrabad International Airport, Dena Tire Manufacturing Plant, Tabas Coal Mines, cases involving goods from Payam Airport, and the Hormoz Island red soil case. These cases show that high-ranking political and religious officials had a hand in them.

Palizdar said: “We cannot confront these financial corruptions because the highest ranking authorities of the government are involved and they are protected by Judiciary Chief Ayatollah Shahroodi, according to Rooz Online website and the Islamic Students Association weblog...”³⁰

³⁰ Iran VNC, 9th June 2008 [www.iranvnc.com/en/floater_article/1/3049]

As is evident from the above account, corruption is common amongst the officialdom and clergy, including in judicial proceedings.

In light of the above, it appears prudent to emphasise within the Report that according to international organisations, the corruption situation is getting worse by the year and that it manifests itself both at high government level and with regard to low-level security, judicial and other officials.

19. Freedom of Religion:

Christians:

The subject of the prosecution and persecution of Christian converts is one that would particularly benefit from an updated sum of objective evidence, as the situation has, by all accounts, changed radically since the new regime rose to power in 2005. Our assessment of the section on Christian converts suggests that extensive reliance is placed on sources in 2000—2005, especially to assess the risk posed to ‘ordinary converts’ within the parameters of *FS*. In order to highlight that the situation is not comparable to that in the period on which the majority of information in this section appears to be based, we would like to note a few pertinent facts both from current sources and older information that may still cast light on the issue.

In the recent years, the Iranian government and clerical leadership have viewed apostasy as an increasing threat to the structure of Iranian society as the result of a perception that the rate of conversion is accelerating rapidly. The May 2008 account below illustrates one of the sources for such belief, namely the public statements of Christian organisations abroad:

A long time missionary to Iran says that “the rate of growth of Christianity in Iran is unprecedented for a Muslim country, especially for Iran. We’ll hear that in a certain city there are 200 house churches, whereas there were none before.”

An Iranian exile who now produces programs for satellite television says: “For the past three years, [we have seen] the answer to all our prayers for the past 14 years with what’s happening now through the satellite dishes, the house-church movements, the masses coming to Christ. You still see stats that Christians are less than 1 percent of Iran population, but I don’t believe that statistic anymore. I think it’s much more than that.”³¹

The effect on the authorities’ perception of Christianity’s apparent spread is evident from statements by Hasan Mohammadi, a senior cleric with connections to the Ministry of Education, who claimed in an April 2004 speech that

³¹ 23rd May 2008 [<http://www.freerepublic.com/focus/f-news/2020194/posts>]

“Unfortunately, on average, everyday 50 Iranian girls and boys convert secretly to Christian denominations in our country”.³²

It may also benefit the end-users of the Report to be aware of ancillary legal provisions which are usable in cases of apostasy, often as a means of avoiding public exposure associated with a prosecution for apostasy per say. The Article below relates to blasphemy and related religious offences, which have wide definitions and are capable of being used in apostasy cases.

According to Article 513 of the Iranian Penal Code, anyone who insults the Holy Islam or the Prophet or any Imam, as well as the Prophet Mohammed’s daughter, will be punished by death if the insult is so radical so as to amount to rejection of the Prophet, *Saabolnabi* (equivalent to apostasy). Otherwise, the offender would be sentenced to between one and five years imprisonment.

The government practice of using ancillary offences to prosecute apostasy so as to avoid undesirable international publicity may account for the lack of information on recent apostasy prosecutions per say, as suggested in 19.32.

A further point of clarification and addition within the Report which may be of use is on the issue of the differentiation between ‘ordinary’ converts and those who proselytise or lead religious activities. While the Report does cite a recent report in July 2008, the Religious Freedom Profile, which suggests that ordinary converts are not at risk, we would like to provide a number of accounts which suggest that the issue is not as clear-cut as suggested by the above Profile. Although some of these accounts originate in institutions/websites that are not objective in their tone and rhetoric, the occurrence of the basic facts described has been verified independently.

With reliance on the same CSW source from the same month as that currently quoted within this section, we provide the below account to show that the government is taking active steps in attempting to curtail conversions on church-level:

“The Armenian and Assyrian churches have been allowed to stay open because their services are conducted in the Armenian/Assyrian languages and because they have agreed to the government’s demands forbidding Muslims and Muslim converts from attending the church services and refraining from evangelism. Circulation of Christian literature, including scripture in the Persian language, is banned. The office of the Bible Society together with all Christian bookshops were closed in 1990. Several Christian leaders, mostly converts from Islamic backgrounds, have been executed or assassinated.”³³

³² Mercator Net. January 15th 2007.

[http://www.mercatornet.com/articles/why_do_western_women_embrace_islam/]

³³ CWS United States, accessed 12th July 2008 [www.cswusa.com/Countries/Iran.htm]

The Australian Department of Foreign Affairs and Trade 2007 report below also highlights the worsening of the situation for converts since the election of the current President, as well as the pressure placed on churches to cease conversion activities:

Overall, the situation for Christians associated with established churches has not improved, and may have deteriorated for Christians associated with evangelical churches.

We believe the number of Christians in Iran is growing. The situation for evangelical churches in Iran may have deteriorated since the election of President Mahmoud Ahmadinejad in June 2005...

... The authorities continue to pressure evangelical churches not to recruit or admit Muslims. Proselytising remains unacceptable in Iran and those who participate in it can expect to be the subject of attention from the authorities.³⁴

The existing information contained in the Report regarding government interest in Church activities can be usefully supplemented by the accounts below, which suggest that, in recent years, the authorities are taking active measures to determine the identities of converts, in turn indicating an interest in those of a lower level:

On 3 January 2007 (13/10/85) an Iranian human rights website, "Human Rights Activists in Iran" reported an intensification of Ministry of Information pressure on Evangelical churches, including both the "official" Assembly of God and "unofficial house churches" all over Iran and that the Ministry of Intelligence had subjected Christian meetings in Rasht, Tehran and Karaj to the following conditions:

1. Submission of a weekly list of all those who attend services together with an explanation of any decrease or increase of those present.
2. Members of the church to have no contact with other social groups and strata (aghshar-e ejtemai)
3. To refuse admission to non-Christian visitors.

Further evidence from May 2008 suggests that forces affiliated with the government make consistent efforts to infiltrate Christian proceedings so as to report on converts and other members' activities. The account below illustrates this practice, even in the context of online meetings:

³⁴ 24 January 2007 [<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=48203ecb2>]

... Spies also have infiltrated online church meetings and gathered information on the people involved. Now underground church members use elaborate techniques to verify the identities of participants. They also disallow the sharing of information such as names and locations during online meetings.³⁵

The account below shows the practical effects of the worsening atmosphere on the prosecution of individual converts, including a 8-year old girl:

IRAN: JAILED CONVERT TO CHRISTIANITY RELEASED

5 September 2006

Judge accuses his 8-year-old daughter of trying to convert other children.

One month after ordering his arrest, Iranian court authorities in the northern city of Rasht have released Christian convert Issa Motamedi Mojdehi, declaring the former Muslim "free for the moment."

Motamedi Mojdehi was granted bail August 24 on the basis of a written guarantee from a fellow Christian, who signed over his personal work charter to a revolutionary court in order to obtain the prisoner's release.

Although the initial drug charges that were the pretext for Motamedi Mojdehi's arrest remain in his legal file, the judge introduced new accusations against him at his August 24 hearing.

According to unnamed "confidential witnesses," the judge said, the convert's 8-year-old daughter Martha allegedly had been trying to lead other children to the Christian faith...

At the time of his arrest on July 24, the convert was told he must renounce Christianity or face years in jail and possible execution for his apostasy.....

In mid-August, the jailed Christian had been summoned from his group cell in Lakan Prison by local officials, who reportedly tried for days to force him to confess to being involved in illegal drug trafficking.

Under strong psychological pressures, including threats to kill his family and other Christian believers, Motamedi Mojdehi was interrogated by secret service agents and a professor of Islamic theology, who urged him to recant his Christian faith and return to Islam.

When Motamedi Mojdehi refused to do so, officials returned him to prison, where a lawyer who had requested to represent him was allowed to meet with him for two hours on August 23. The following day authorities summoned Motamedi Mojdehi to court and released him.

....

³⁵ Free Republic, 23rd May 2008 [<http://www.freerepublic.com/focus/f-news/2020194/posts>]

Depriving converts to Christianity of their means of employment is the government's way of "trying to asphyxiate the church," one Iranian source told Compass. "A lot of brethren lost their jobs after the intervention of the security [police]." The officials' objective, he said, is to force Christians to leave Iran permanently.

"We are taking your job," a security official in Rasht told a Christian convert earlier this year. "You'd better leave the country"³⁶

While the above account does contain some fairly biased phraseology, the facts underlying the events described within are verifiable independently. It also suggests that persecution occurs not only through direct government judicial action but also through indirect, economic means, without regard to any differentiation based on the seniority of the convert.

The extent of the government's interest in converts is also shown by the fact that the following report suggests that individuals who converted to Christianity over 30 years ago can still be prosecuted under the current Iranian law:

SECRET POLICE ARREST LONG-TIME CONVERT
Christian held under interrogation in northern Iran for past three weeks.

An Iranian Christian who converted from Islam 33 years ago is under arrest and interrogation in northern Iran, where secret police have held him incommunicado for the past three weeks.

Ali Kaboli, 51, was taken into custody on May 2 from his workshop in Gorgan, capital of Iran's northern province of Golestan. With the exception of one brief telephone call, he has been refused contact with any visitors.

To date no charges have been filed against Kaboli, who has been threatened in the past with legal prosecution for holding "illegal" religious meetings in his home. He could also be charged for converting to Christianity, which under Iran's apostasy laws calls for the death penalty.

Since Kaboli's arrest three weeks ago, a number of the Christians attending Kaboli's house-church have been called in by the police and questioned, one by one...³⁷

The Report at 19.34 contains an account regarding the recent arrest of Christian converts which accurately reflects the current level of prosecution found in Iran. As the individuals in question were not involved in Christian leadership but appear

³⁶ Payvand's Iran News, 9/06/2006 [<http://www.payvand.com/news/06/sep/1067.html>]

³⁷ Compass Direct, 22nd May 2006, *Secret Police Arrest Long-Time Convert* [<http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=4375&backpage=archives>]

to have participated in worship sessions, the arrests indicate that the government is targeting converts at all levels, especially since 2005/2006. Indeed, it is evident from the account that the arrested couple were not 'openly' or 'publicly' preaching Christianity, but rather doing so through private gatherings and worship sessions. Furthermore, the excerpt from the same account, below, shows the extra-judicial persecution incurred after the discovery of their faith and the unwillingness by the police to protect them, which means that official authorities are not the sole source of danger for converts in Iran:

...On Monday (June 23) Arya received letters at both the clothing shop and his home stating that he must place evidence on his new window pane indicating his Islamic faith by displaying a statement and photos, or else he would have to buy a new window every day.

The source said Arya displayed a photo of Islamic leaders on the window, "but they want to go somewhere else."

Arya went to area police asking for protection, the source said, "but they told him not to lie and to 'go do something about it if you are a real believer of Islam.'³⁸

The recent 2008 account below further illustrates the real risks that have developed recently, even for those who are not attempting to proselytise, but rather only attending a religious conversion/baptism ceremony:

Iran: Sixteen Christian converts arrested

Tehran, 29 July (AKI) - Sixteen Iranians who converted from Islam to Christianity were arrested on Tuesday in Malakshahr, on the outskirts of the central Iranian city of Isfahan.

The six women, eight men and two adolescents who were arrested were assisting in a conversion ceremony and baptism of three new members of the church at a private house that had been transformed into an evangelical church.

The owners of the home, an elderly couple, were allegedly beaten up before they were locked up in an unmarked lorry.

In April, 10 Christian converts were arrested in Shiraz.

The official evangelical churches in Isfahan received orders not to allow any Muslims to attend their ceremonies and not to facilitate in any way the conversions.³⁹

³⁸ Compass Direct, June 25th 2008

[<http://www.compassdirect.org/en/display.php?page=news&length=long&lang=en&idelement=5448>]

³⁹ Adn Kronos International, 29th July 2008

[<http://www.adnkronos.com/AKI/English/Religion/?id=1.0.2376172927>]

As indicated by the above account, the situation is increasingly becoming more volatile, with the time gaps between arrests narrowing quickly and their intensity also increasing. Furthermore, the large numbers of those arrested clearly suggests that they could not all have been very active evangelicals, but rather mere 'ordinary converts' participating in Christian ceremonies.

In addition, it may be of further assistance to highlight the breaches of procedural protections, common in cases of Christian converts' arrests. Throughout the Report, emphasis is placed on the fact that no recent prosecutions for apostasy per say have occurred; however, breaches of procedural protections may serve to explain this absence of evidence. For instance, the account below, with reference to an interview by the Nobel-winner Ms. Ebadi, highlights the practice of covertly prosecuting converts under the guise of 'national security':

Shiraz Arrests

...Iranian police also arrested 10 Muslim converts to Christianity from the southern city of Shiraz last month.

Two former Muslims arrested in a Shiraz park on May 13 remain jailed, their location and condition unknown. Mahmood Matin and a second man identified only by his first name, Arash, are members of a house church group in the city.

Eight other converts arrested in Shiraz on May 11 and released separately over the course of several weeks have had court cases opened against them. Two were charged with activities against Islam while the other six are accused of working against the country.

Under Iran's strict Islamic laws, it is illegal to proselytize Muslims, and any Muslim who converts from Islam to another religion can be executed. A draft law before the re-elected Iranian parliament would make the death penalty mandatory for "apostates" who leave Islam.

Under the past three decades of Iran's Islamist regime, hundreds of citizens who have left Islam and become Christians have been arrested for weeks or months, held in unknown locations and subjected to psychological and physical torture.

When released on bail, they remain under threat of criminal prosecution if they dare to worship in house churches or become involved in any Christian activities...

Speaking from London on Friday (June 6), Iranian human rights activist Shirin Ebadi said that the government often arrests minority members on charges of

working against national security, an accusation commonly leveled against Muslim converts to Christianity...⁴⁰

As can be seen from the above, the situation has deteriorated significantly since the *FS* Determination as well as the majority of the sources cited within the Report on the issue of ordinary converts. Having studied the accumulated evidence from 2005 onwards, it is our understanding that the law is enforced with increasing stringency with regard to ordinary converts as well as those engaged in low-level proselytising, with no distinction as to liability being made along these lines but rather having an effect on the punishment. In light of such evidence, the reliance on a single source, namely the CSW Profile from 2008, does not entirely reflect the situation as there are a number of reports to the contrary. As mentioned above, an additional source of official risk are the provisions relating to blasphemy, outlined previously. As has been correctly noted at 19.39, a draft Penal Code appears to be close to being passed by the Iranian Parliament and, in addition to those provisions regarding apostasy specifically, will also include a mandatory death penalty clause for blasphemy. As mentioned above, blasphemy charges are an alternative to apostasy and thus of some relevance; the relevant provisions are included below:

Section 4 of the Bill is of particular relevance as it deals with insults to Prophet Mohammad and other religious figures, such as Imams, and prescribes punishments.

According to Article 224-1, anyone who offends or makes a defamatory claim (*Ghazf*) against the Prophet Mohammad, will be considered to be “*Sabo-al-Nabi*” (sacrilege) and be punished by the death penalty.

Note to the Article stipulates that any offensive or defamatory claims against Prophet Mohammad’s daughter *Fatemeh* or any Imams, will be regarded as sacrilege. It is evident that the same punishment will apply as in the main Article.

According to Article 224-2, in order for a charge of sacrilege to be made out, the offender must have deliberate and free intent to utter the comment in question, rather than be coerced into doing so. Therefore, if the offender claims that he made the statement while under duress, the influence of alcohol, accidentally, as the result of provocation or impulse, as well as through repetition of others’ claims, his allegation can be heard and justified. [It is inferable from the legal phrasing that the burden of proof is on the defendant to show this was the case].

As mentioned, the Article which was previously most relevant to offences of insulting religious figures was Article 513 of the Penal Code, which reads as follows:

⁴⁰ Compass Direct, 9th June 2008
[www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=5421]

“Anyone who insults Islamic values, Prophets or any of the Imams and their families will be imprisoned from one to five years”. The Article also prescribes the death penalty for individuals who egregiously insult the Prophet Mohammad.

By comparing the two provisions, it is evident that, while Article 513 allows discretion for the Judge to choose a prison sentence as the standard punishment unless aggravating elements are found, there is no option for the Judge using the new Article 224-1 to prescribe a lower punishment once the Prosecutor shows that the Article applies. Furthermore, in our assessment the new Article also prescribes this penalty regardless of the level of insult and, due to its wide nature, could apply to any comment offensive of religion and is extremely subjective, therefore leaving the matter of classification of ‘Sabo-al-Nabi’ to each Presiding Judge.

In addition to its direct legal effect, the importance of the new statute lies in the fact that it signifies the increasingly harsh stance on converts—and does so in the most glaring and public manner possible, further indicating the government’s plans to punish such offences strictly. The government’s resolve to increase the harshness of the legal position and social attitudes regarding apostasy and blasphemy is evident from the advanced stage at which the proposed Penal Code reform is currently at. While numerous reasons have been advanced to explain the social and political rationale of this legislative reform, it is likely linked to the government’s perception of increasing conversion rates away from Islam. As such conversions are seen as threatening the Islamic foundation of the regime, the government is eager to strengthen the clarity of the legal position so as to deter other potential converts on all levels.

With regard to the current status of the statute, while it has not yet been completely passed by the Majles, it is at the very advanced stage of Second Reading. It is noteworthy that, in order to proceed to the Second Reading, significant support for the measure is required amongst the members of Parliament. This stems from the fact that, due to its wide recognition as a conservative assembly, the Judiciary which is supportive of this reform, has capacity and willingness to extensively influence its passage through Parliament.

The following BBC News account highlights the international condemnation, including the EU’s, of the provisions pertaining to religious crimes within the new law:

BBC News Online
EU attacks Iran's new penal code

The European Union has criticised the new penal code being drafted in Iran, particularly a section that imposes the death penalty for giving up Islam. The EU said this section and other parts of the code violated Tehran's commitments under

international human rights conventions. Death for apostasy already exists in Iran under Sharia - or Islamic - law. But the changes would for the first time bring the punishment into the criminal code...

An EU statement expressed deep concern about what it calls the ongoing deterioration in the human rights situation in Iran. It singled out Section Five of the draft penal code currently before the Iranian parliament, imposing the death penalty for apostasy. In the past, Iranian courts have handed down the death penalty in such cases, but have done so relying on Sharia law.⁴¹

The assessment by various international human rights groups has been similarly critical, with particular emphasis on Iran's clear defiance of its international obligations, as outlined in the 2008 account below:

Draft Iranian law threatens gross human rights violations 22 February 2008

...

Of greatest concern is a section that would mandate the death penalty for anyone who converts from Islam to another religion, a provision that would affect not only Baha'is but also Christians, Jews, and others.

"This proposed law goes against all human rights norms and standards, including international treaties that Iran itself has agreed to," said Bani Dugal, the principal representative of the Baha'i International Community to the United Nations...

The proposed law also would extend the government's reach over alleged security violations outside the country, give legal effect to discriminatory practices already in wide use against Baha'is and others, and redefine a series of "religious" and other crimes so vaguely as to place in jeopardy virtually any group facing government disapproval. "If adopted, the code will permit the government and the clergy to act with impunity against Iran's citizens on the sole basis of their religious affiliation," said Ms. Dugal...

"The text uses the word Hadd, meaning that it explicitly sets death as a fixed punishment that cannot be changed, reduced or annulled," said Ms. Dugal. "In the past, the death penalty has been handed down -- and also carried out -- in apostasy cases, but it has never before been set down in law..."

"It would also institute capital punishment for anyone who 'insults the Prophet,'" Ms. Dugal explained. "Such provisions place many groups, including Baha'is, in an extremely vulnerable position, since an 'insult' to the Prophet can be defined in almost any context, especially where religious belief is concerned..."⁴²

⁴¹ BBC News Online, [http://news.bbc.co.uk/2/hi/middle_east/7264810.stm]

⁴² <http://news.bahai.org/story/606>

Overall, the Section would, in our opinions, better reflect the situation at the present time if the sources were diversified and updated with those included above. The Draft Penal Code would also be of some importance as it is likely to be implemented in the near future and reflects the practical stance of the authorities on the subject of conversion at all levels.

As for more ordinary crimes, the police have also engaged in a massive crackdown on issues of morality and public behaviour. It has been reported that this is the most severe action in years, with tens of thousands of women reprimanded for immodest dress, cafes for allowing immoral behaviour and thousands of satellite receivers seized as part of the operation.

“The Iranian police launched the crackdown in April [2007] in a self-declared drive to “elevate security in society” that encompassed arrests of thugs, raids on underground parties and street checks of improperly dressed individuals.”⁴³

According to a report from the Iran Press Service [2007], Iranian authorities hanged on the week ending on 21 July 2007 sixteen people, twelve of them in Evin prison. They had been arrested through a series of crackdowns on Tehran’s “thugs”, starting two weeks previous, accused of homosexuality, sodomy, rape, theft and ignoring Islamic norms of the society. Saeed Mortazavi, the Public Prosecutor of Tehran, confirmed that a number of detainees were to be executed in the coming weeks, on the same offences

“Our decisive confrontation would continue in Tehran down to the very last thug”, said the Commander of the capital’s metropolitan police force, Revolutionary Guard General Ahmad Reza Radan, according to the semi-official “Fars” news agency.

Pictures taken by Fars news agency, and reproduced by several moderate dailies shows a man barefoot and stripped to the waist, with two plastic watering cans round his neck, being grabbed by a police officer, while other images showed black balaclava-clad police officers beating their captives. A number of captives were forced to ride a donkey as a “warning to others”.

Some scenes of humiliation were so repulsive that Iran’s police chief had to admit that some officers had overstepped the mark, but he emphasised that the parading of suspects around neighbourhoods had been carried out with prior approval.

Since the beginning of the morality crackdowns, it is believed that thousands of people have been arbitrarily arrested mostly on a range of “phoney charges” from non-conformity to the Islamic standard dress to alleged drug trafficking. Many thousands of women and young men have been warned or forced to make a written pledge to respect Islamic standard dress. Furthermore, a number of the

⁴³ Iran steps up crackdown against ‘immoral’ activity, 10th Sept 2007
[http://www.breitbart.com/article.php?id=070910082938.0nbc8ddu&show_article=1]

“culprits” have been turned over to the judicial authorities for the alleged offence of improper dressing.

Some young Iranian men have been flogged for taking drugs, drinking alcohol or simply for listening to a personal walkman while walking down the street.⁴⁴

The account below is the culmination of the increasingly harsh prosecutions and investigations with regard to apostates. As the account also states that the individuals were charged officially with apostasy, which is quite unusual, it suggests that the government is prepared to prosecute converts more openly:

Amnesty International

IRAN: Prisoners of conscience/ Death Penalty- Christian converts

17 September 2008

Mahmoud Matin and Arash Basirat have been formally charged with apostasy, which on conviction can carry the death sentence. Their lawyer was initially informed of their charge in early August. They are prisoners of conscience, held solely for their religious beliefs.

Mahmoud Matin and Arash Basirat were arrested on 15 May 2008 by Ministry of Intelligence officials in Shiraz, south-west Iran, where they were having a meeting with 13 other people, who were also interrogated but released. They are both being held in a detention centre in Shiraz that is controlled by the Ministry of Intelligence. They were in solitary confinement for two months before being placed in a cell together around 15 July.

Both Mahmoud Matin’s and Arash Basirat’s families have tried to secure their release on bail before their trial takes place but this was refused by the authorities. Mahmoud Matin has been able to see his wife on short visits. Arash Basirat is diabetic and has become very weak and his medical condition has deteriorated.

Mahmoud Matin and Arash Basirat were charged with apostasy under Article 214 of the Code of Criminal Procedures. This states that where there is no existing law on a matter, courts are obliged to resort to fiqh resources (religious jurisprudence/interpretative works of Islamic jurists) or credible fatwas (religious edicts) to issue verdicts and sentences. The late Ayatollah Ruhollah Khomeini’s treatise on legal affairs, the Tahrir ol Vassileh, provides a fatwa on apostasy and states that male apostates who were born as Muslims should be put to death; it is feared that this may be used when they come before the court to convict them and sentence them to death. Other charges which were initially brought against them, including “propaganda against the state”, “disturbing public opinion” and “distributing false information” have since been dropped.

⁴⁴ Iran press service, 22nd July 2007 [http://www.iran-press-service.com/ips/articles-2007/july-2007/iran_executions_22707.shtml]

...

A new version of the Iranian Penal Code has recently been passed by the majles (parliament). In the original draft it prescribed the death penalty for those considered to be apostates and it is believed that this provision remains in the version approved. The law must be vetted by the Council of Guardians for conformity to Islamic Law and the Constitution before it can be signed and come into effect.⁴⁵

Bahai's:

The Report competently highlights the extremely strict and open discrimination against the Bahai minority in Iran, with reliance on a number of reliable and up-to-date sources. To elaborate on the information regarding the government's default suspicion towards this group due to their perceived connections to Israel, as in 19.58, as well as to show the pattern of prosecutions well into August 2008, the account below is included:

"Seven Bahai individuals have set up an illegal organization with connections to a number of countries including Israel and they have received orders from them to undertake measures against the Islamic system," the Iranian daily reported.

But citing a "decades-long campaign to stamp out the Bahai community in Iran," the international Bahai community rejected the charges and disputed the so-called confessions on Sunday, insisting that Iran's government was trumping-up charges against a minority group they consider to be apostates and heretics...

The gravity of the charges has led Moore and other representatives of the Bahai community to fear for the detainees' lives...

"We haven't seen Bahais released in the past, nor have we seen due process with regard to Bahais or other religious minorities in Iran," Moore said. "It's been steadily worsening over the past few years and we are deeply concerned about the welfare of these people."

The destruction of Bahai property and holy places had also increased in recent years, along with a pattern of arson against homes belonging to Bahais, he said. Other cases of discrimination included arresting Bahais and releasing them only after they give over the deeds to their property for bail, he said...

⁴⁵Amnesty International, 17th September 2008
<http://www2.amnesty.se/uaonnet.nsf/senastezoep/8A8B3B77955CCBAEC12574C8002EEB53?opendocument>

According to a report released by CNN this year, attacks on Bahais in Iran have increased since Mahmoud Ahmadinejad became president in 2005...⁴⁶

Other than the above account, the Report accurately reflects the situation, including with the important inclusion of the information on the six Bahais arrested in 2008 at 19.69. It also correctly identifies the extensive issues arising from the enrolment in the education system, which is further supported by the August 2008 account below:

...On 4 August 2008, just before her graduation, Neda Keshavarz Rahbar, an accountancy student at Fazilat University in Semnan, was summoned and questioned as to why she did not inform the institution that she was a Baha'i. She pointed out that her application forms indeed indicated her religion. She was given the opportunity to recant her faith, and when she declined, she was immediately expelled from the university.⁴⁷

The Report competently highlights the extremely strict and open discrimination against the Bahai minority in Iran, with reliance on a number of reliable and up-to-date sources. To elaborate on the information regarding the government's default suspicion towards this group due to their perceived connections to Israel, as in 19.58, as well as to show the pattern of prosecutions well into August 2008, the account below is included:

"Seven Bahai individuals have set up an illegal organization with connections to a number of countries including Israel and they have received orders from them to undertake measures against the Islamic system," the Iranian daily reported.

But citing a "decades-long campaign to stamp out the Bahai community in Iran," the international Bahai community rejected the charges and disputed the so-called confessions on Sunday, insisting that Iran's government was trumping-up charges against a minority group they consider to be apostates and heretics...

The gravity of the charges has led Moore and other representatives of the Bahai community to fear for the detainees' lives...

"We haven't seen Bahais released in the past, nor have we seen due process with regard to Bahais or other religious minorities in Iran," Moore said. "It's been steadily worsening over the past few years and we are deeply concerned about the welfare of these people."

The destruction of Bahai property and holy places had also increased in recent years, along with a pattern of arson against homes belonging to Bahais, he said.

⁴⁶ Jerusalem Post, 3rd August 2008

[<http://www.jpost.com/servlet/Satellite?cid=1215331177184&pagename=JPost%2FJPArticle%2FShowFull>]

⁴⁷ Bahai Organisation, 18th September 2008 [<http://news.bahai.org/human-rights/iran/iran-update.html>]

Other cases of discrimination included arresting Bahais and releasing them only after they give over the deeds to their property for bail, he said...

According to a report released by CNN this year, attacks on Bahais in Iran have increased since Mahmoud Ahmadinejad became president in 2005...⁴⁸

Other than the above account, the Report accurately reflects the situation, including with the important inclusion of the information on the six Bahais arrested in 2008 at 19.69. It also correctly identifies the extensive issues arising from the enrolment in the education system, which is further supported by the August 2008 account below:

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20. Ethnic Groups:

The introductory evidence provides an appropriate description of the level of risk faced by certain ethnic groups as well as the fact that such persecution is often more subtle than imprisonment, but rather takes the form of discriminatory employment, educational and other subtle practices ('gozinesh'). Rather than addressing each ethnic group in turn, it may be more expedient to assess the government's general stance on ethnic minorities and the measures taken against this. This section can be further assisted by the inclusion of information on the internationally acknowledged and government-sanctioned practices of land confiscation targeting a number of minorities, suspected of being motivated by a desire to weaken or displace them.

The objective evidence shows a general pattern of the government targeting groups which are seen as either threatening or unproductive, including for religious, lifestyle or economic reasons. Examples of this pattern are the Baluchi ethnic minority, resident in the south-eastern border regions of Iran:

Amnesty International Human Rights Abuses against the Baluchi Minority

...Some Baluchis have claimed that there is an official policy to dilute Iran's ethnic minorities by dispossessing them of their ancestral lands, providing

⁴⁸ Jerusalem Post, 3rd August 2008

[<http://www.jpost.com/servlet/Satellite?cid=1215331177184&pagename=JPost%2FJPArticle%2FShowFull>]

⁴⁹ Bahai Organisation, 18th September 2008 [<http://news.bahai.org/human-rights/iran/iran-update.html>]

incentives for them to move away, and encouraging other groups to take their place. Baluchi sources claimed in the 1990s that this policy had escalated following serious riots in February 1994 in Zahedan after the destruction of a Sunni mosque in Mashhad, allegedly for city planning purposes, which were reportedly quelled by Revolutionary Guards firing live ammunition into the crowd. For example, in May 1995, Revolutionary Guards are alleged to have attacked villagers in Sorvdar and Zardkoh in the Iranshahr district, forcibly displacing them to a desert area...

The UN Human Rights Committee has clarified that forced internal displacement is a violation of the right to freedom of movement and to choose a place of residence. In other cases, Baluchi houses have reportedly been demolished, particularly in the port city of Chabahar. On 30 June 2005, an unspecified number of Baluchis are reported to have been forcibly evicted and made homeless in Chabahar when their huts were demolished by security forces. The Ministry of Housing and Urban Development had apparently allocated the land for housing for the security forces. During clashes with the forces carrying out the forced eviction and home demolition, several people protesting against the destruction of their homes were reportedly injured. Those who were forcibly evicted do not appear to have been offered alternative housing. Their subsequent fate is unknown. One evicted resident, Mahgani Bahok declared that she and her children had lost everything and had been left with nowhere to seek shelter.⁵⁰

As highlighted in the above account, there is a common perception that the government policy of dispossessing minorities' lands is typical of the general campaign of discrimination that does not necessitate imprisonment, motivated by a desire to dilute the power and ethnic concentration of minorities, due to the general undesirability of the group in question, for religious, cultural, economic or other reasons. The account further shows that these actions, whilst carried out by government officials, are largely arbitrary and not reasonably explained to the subjects of dispossession; attempts to dispute or protest against the acts lead to armed responses from the security forces, including the Revolutionary Guards. With regard to further corroboration of such policies, I would like to refer to similar difficulties with 'land grabs' experienced by Arab minorities, particularly Ahwazi Arabs, with the account also highlighting the theories as to the government's motivation for such actions:

...Persianisation has involved the confiscation of Arab land and the forced displacement of hundreds of thousands of Ahwazi Arabs. This typically involves the forced migration of Arabs out of Khuzestan and their replacement with "loyal" ethnic groups, particularly ethnic Persians. Some Ahwazis are relocated to other parts of Iran, while many are forced from their farms into city slums. However, slums have also been the target of land confiscation, with the regime attacking

⁵⁰ Amnesty International Report 2007 [<http://www.amnesty.org/en/library/asset/MDE13/104/2007/en/dom-MDE131042007en.html>]

and destroying Ahwazi homes. Slums are also being turned into ghettos, with separation walls to segregate indigenous Arabs from non-indigenous and privileged migrants. Land confiscation and forced migration are in line with the "ethnic restructuring" programme outlined in a top secret letter written by Sayed Mohammad-Ali Abtahi when he served as Iran's Vice-President. The letter was leaked to the international media in 2005, prompting the April intifada in Ahwaz in which over 100 Ahwazis were killed by security forces. Motives for land confiscation:

1. Economy: Khuzestan is a major national source of oil, food and agro-industrial crops. There is a need to bring land in Khuzestan under government control as part of its centrally-directed planned economic policies...

3. Culture: There is an underlying racial prejudice against Ahwazi Arabs, who are considered culturally backward by the ethnic Persian elite—a situation that is not helped by their lack of access to education. The prevailing attitude is that Ahwazis cannot be trusted and Tehran is better able to manage Khuzestan's valuable natural resources.⁵¹

The account further corroborates that the dispossessions are not isolated incidents decided on by local authorities, but also follow a larger scheme by the government, specifically so as to ensure economic, cultural and political stability in the local area. This theory has additional weight due to the apparent confirmation within official correspondence, as highlighted in the above account. In addition, economic reasons appear to be of significant importance in making the decision to execute such dispossessions, with particular emphasis on the economic nature of the group in question. The sudden nature of the dispossessions, with no evidence of prior court/injunction warnings, suggests that the nature of these actions are arbitrary rather than based on, and subject to, a fair judicial process, in accordance with the law.

As the number of objective evidence describing the discrimination in all areas of society is overly large for inclusion into this report, I would like to include an authoritative interview with the Special Human Rights Rapporteur on Adequate Housing for the UN describing these issues generally:

Q: Can you tell me more about your findings of the state of housing and land rights of minorities and other groups in Iran?

A: There are three groups that face discrimination regarding housing and land rights in Iran. There's discrimination against ethnic and religious minorities and there's discrimination against groups that, like the Nomads, have their own category...

⁵¹ Ahwaz Human Rights Report 2007

[http://www.ahwazhumanrights.org/content/index.php?option=com_content&task=view&id=1137&Itemid=54&lang=EN]

I think that you see, for example in the neighbourhoods we visited in Khuzestan of the Laks, which is a very deprived group, that they are living in conditions of high density, again without access to adequate sanitation and water. And just nearby, you see other neighbourhoods with much better services.

And with the nomads there is a very serious problem that in spite of their significant contribution to the national economy and their long history in the country, there is this non-sensitivity to their lifestyle. There's a kind of looking down upon them, that they should settle down and be like everyone else. There are attempts being made to actually grab land, to confiscate land that is on their migratory path and where they settle for short times and there isn't a system in place where their products could be brought to the market or where health and education services could be offered to them which wouldn't be very difficult. I think in much of the land where they are, there is a lot of space. So again there's this question. Why is it that development is taking place where they are? Or on the lands which they need?

Q: At your press conference, you mentioned the issue of confiscation and land-grabbing. What do you mean by this and how is it happening?

A: There are various kinds of confiscations. One that has been very well documented is the confiscation of the lands of the Bahai's [a religious minority] which has taken place in many different parts of the country, where their lands in villages and lands in cities have been confiscated, including in Tehran.

The second type is more indirect and is related to the example of the nomads I was giving around Shiraz [a city in the southern Fars province] where lands are taken, sub-divided, trees are planted and trees are allowed to die. And then that land is sold to private entities to construct expensive housing. Those are the lands where the nomads used to migrate and have their seasonal homes, and this is done in collusion with the Ministry of Agriculture...⁵²

The information on confiscation of land above was covered not by way of providing extensive information on that issue specifically, but rather to highlight that there does exist an overarching official policy of persecution which may not be as obvious as arrests would be, but is nonetheless having a significant impact on ethnic minorities.

With regard to Arab minorities, it is noteworthy that the Report at 20.32 already examines their inclusion in the land-confiscation programme. Furthermore, where the Baluchis are concerned, most recent evidence that came to light since the publication of August 2008 COIR may be of assistance to illustrate the government's response to ethnic minority activists:

⁵² IRIN News, 9th August 2005 [<http://www.irinnews.org/report.aspx?reportid=25364>]

...The Iranian government has executed Mr Yaghub Mehrnahad, a 28 year old Baluchi journalist, human rights and cultural activist, who criticised the Iranian government's treatment of Baluchi people. He executed along side another Baluchi man named Abdul Nasser...

The other five detainees were released but Yaghub Mehrnahad remained in detention. He was subjected to torture for several months before being executed in early August 2008.

IMHRO condemns the execution of Yaghub Mehrnahad, and considers it to be an act of oppression against the Baluchi people and all minorities in Iran. We call upon the Iranian government to secure the immediate release of all Baluchi activists and to permit international NGOs such as Amnesty International to visit prisons in Baluchistan.⁵³

In addition to established ethnic minorities, a number of nomadic groups and tribes are targeted for discrimination, for instance the Gheshghay. As no mention is made of this group within the Report, it may be of some assistance to provide a brief overview of their relationship with the government.

The population of the group is estimated as 2% of the Iranian population, living mainly in Fars Province in Southern Iran. Shiraz is known as the biggest centre of the group's activities, whilst a part of the group continue to be nomadic. Notably, after the 1979 Iranian Islamic Revolution, Khosrow Khan Qashqai, the Ghashghayi leader, returned to Iran from Germany, was arrested and subsequently publicly executed for advocating for the group's rights and autonomy. This has caused long-standing suspicion by the government of this ethnic group, considering it a potentially volatile one.

Moreover, 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, as described in the account below:

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.

The extent of continuous discrimination is not known. However, various laws still deem certain Qashqa'i practices to be anti-Islamic, despite the fact that the group is Shia Muslim.⁵⁴

In light of the above information, whilst those of the Ghashghayi ethnicity would not be prosecuted on basis of ethnicity alone, they may indeed be targeted on basis of ethnicity for dispossession of property, employment, education as well

⁵³ UNPO, 11th August 2008 [<http://www.unpo.org/content/view/8501/153/>]

⁵⁴ Leadership Council, [http://www.leadership-council.org/MinoritiesDatabase/Iran_Qashqais.html]

as other discrimination. Lastly, the account below suggests a possible rationale for such efforts by the government in relation to the Ghashghayi:

In 2005, Miloon Kothari, the United Nations Special Rapporteur on Adequate Housing, condemned the recent confiscation of land owned by minority groups such as the Qashqa'i. Tehran's objective with these policies, according to human rights activists, was to implement "ethnic restructuring" by forced migration out of the oil and sugar-rich Khuzestan province. In addition to land confiscation, the Qashqa'is also had to deal with traditional pastures being sold to the private sector.⁵⁵

Azeris:

With reference to the Report's coverage of the Azeri situation, most sources included only reach 2004-2005 in coverage—a time frame which does not accurately reflect the recent harshening in policies towards minorities. The account below from 2008 emphasises the prosecution incurred by those who subscribe to Azeri culture, even if they do so entirely outside the context of political opposition:

Traditional Azeri Wedding Leads To Groom's Arrest in Iran

Vedud Asadi is well-known for his work promoting the cultural and language rights of Iran's Azeri minority, so it's little surprise that he celebrated his wedding with a nod to his ethnic heritage.

Guests sang folk songs and danced traditional dances -- but the flag may have been the icing on the cake for Iranian authorities who came to arrest him two weeks after the event, according to his sister, Sumayya Asadi.

"I think it was because we put the image of the Azerbaijan's flag on the wedding cake," she says. "We sang only Azerbaijani songs, there were no Persian songs. We all were speaking Turkic [Azeri], [and there was] Turkic dancing. There is no need for Persian in a Turkic wedding. We used our flag -- we don't need others' flags. I think Vedud was arrested for this, because the first thing they asked for when they initiated the search was the wedding film."

Vedud Asadi's bride, Zahra Purasad, says the secret police who arrived at the newlyweds' flat in Rasht on the evening of July 22 did not give any reasons for her husband's arrest. "I asked, but they did not say anything," Purasad tells RFE/RL's Azerbaijani Service.

The Iranian authorities were already familiar with Asadi's activism. In 2006, the former chairman of the Islamic Students Union at northwestern Iran's Ardebil

⁵⁵ Ibid.

University was arrested for participating in a protest against cartoons that depicted Azeris as cockroaches.

His family says he spent about 3 1/2 months in prison without being charged following that arrest, and they now fear he will be imprisoned again. His wife knows only that he was taken to a local court on July 24, but has no information about the outcome in court or his current whereabouts...

Sumayya Asadi says the officers who arrested her brother seized his Azeri-language books, material on the history of Azeris, CDs, and his computer.

Iranian authorities often cite the promotion of "pan-Turkism" as the reason for detaining ethnic Azeris. But Sumayya Asadi says her brother is no separatist, he simply believes that his people's cultural and linguistic rights are worth fighting for.⁵⁶

The 2008 account below underlines the fact that dispossession actions are sufficiently frequent to merit demonstration in response:

Revolutionary Guards had opened fire on Turk farmers

Iranian revolutionary guards opened fire on Turkish farmers after they resisted the confiscation of their lands. According to Germany Deutsche Welle Persian website the attack happened in villages along the Aras River. This was at a time when the High Court had even voted in favour of the villagers.

As a result of shooting Mr. Nor Al Din Dargahi was killed. After that they beat his old father.

After the shooting the revolutionary guards searched every where to find and destroy possible cameras and any photos of the incident.

Among the injured were women and children. When the family went to hospital to visit them, they were beaten by the officers...⁵⁷

21. Lesbians, Gay, Bisexuals and Transgender Persons:

Transgender and Transsexual

⁵⁶ Ahwaz Studies, July 25th 2008

[http://www.ahwazstudies.org/main/index.php?option=com_content&task=view&id=3292&Itemid=47&lang=EN]

⁵⁷ Iran Minorities' Human Rights Organisation, 28/6/2008

[http://iranianminorityshumanright.blogspot.com/2008_06_01_archive.html]

The Report commencing at 21.49 accurately reflects the fact that the stance on such individuals and related surgery is remarkably liberal in light of Iran's general moral atmosphere. However, some evidence exists that the situation is not entirely as ideal as described by the reports within the section. Prior to addressing the point, some general information regarding the development of transgender rights may be useful to expand on information already present.

The new religious government that came to be established after the 1979 Revolution classed transsexuals and transvestites with gays and lesbians, who were condemned by Islam and faced the punishment of lashing and death under Iran's penal code.

An early campaigner for transsexual rights is Maryam Hatoon Molkara, formerly a man known as Fereydoon. Before the revolution, she had longed to become a woman but could not afford surgery and wanted religious authorization. Since 1975, she had been writing letters to Ayatollah Khomeini, and after the Revolution he eventually gave her a letter to authorise her gender reassignment operation. This letter became known as the *fetwa* that authorises such operations in Iran.

Khomeini's original *fetwa* has since been reconfirmed by the current Supreme Leader of Iran, Ayatollah Ali Khamenei, and is also supported by many other Iranian clerics. However, there is still a great deal of stigma attached to the idea of transsexuality and gender reassignment in ordinary Iranian society, and most transsexuals, after completing their transition, are advised to maintain discretion about their past. Iran remains a conservative society, laced by harsh judgments and strict mores. A few clerical decrees are unlikely to change its social attitudes towards these stigmatized groups.

Once a transgender individual has undergone gender reassignment, that person legally becomes the proper gender- male, in the case of transgender men, and female, in the case of transgender women. To obtain legal permission for sex-change operations and new birth certificates, applicants must provide medical proof of gender-identity disorder. There are now several clinics staffed by psychiatrists and clinical psychologists who are authorised to provide a clinical assessment of the patients requesting a sex change operation. After the operation, all legal documents, including birth certificates and passports, are changed accordingly.

Hojatoleslam Kariminia, a mid-level cleric who wrote his doctoral thesis on the implications of sex-change operations for Islamic law, has stated that he wishes "to suggest that the right of transsexuals to change their gender is a human right" and that he is attempting to introduce transsexuals to society through his work and by removing the stigma that is sometimes attached to their condition.

UNHCR's 2001 report says that sex reassignment surgery is performed frequently and openly in Iran, and that homosexual and cross-dressing people would be safe as long as they keep a low profile.

However, the Safra Project's 2004 report considers UNHCR's report over-optimistic. The Safra Project's report suggests that UNHCR underestimated legal pressure over LGBT.

The report further states that currently, it is not possible for transgender individuals to choose not to undergo surgery - if they are approved for gender reassignment, they are expected to undergo treatment immediately. Those who wish to remain "non-operative" (as well as those who cross-dress and/or identify as genderqueer) are considered their biological gender, and as such they are likely to face harassment as being homosexuals and subject to the same laws barring homosexual acts.

The following news item also highlights the situation as follows, elaborating on the content provided within the section of the Report from similar sources:

The Guardian
A fatwa for freedom

Every Tuesday and Wednesday morning in Dr Bahram Mir-Jalali's Tehran clinic, young men and women gather in preparation for a new start on the opposite side of the gender divide. Many are desperate, seeing the operation as an escape from a confused sexual identity that has led to parental rejection and persecution by police and religious vigilantes.

Ali-Reza, 24, wearing thick make-up, has livid red burn marks on his arm after his father poured boiling water over him in a rage over his "sexual deviancy". "I have attempted suicide three times," he says. "The interpretation of my family was that having a child like me was a punishment from God. My parents were religious and traditional and they called me trash under the name of Islam."

...Today she runs Iran's leading transsexual campaign group and has become the community's spokesperson. But two security monitors in her living room attest to her vulnerability in a society still intolerant of sexual unorthodoxy. "It is hard to live with constant fear," she says. "I hope things are easier for the next generation of transsexuals. Every time a transsexual is arrested by the police I am called to bail them out. Outside the police station there will be a crowd of vigilantes waiting to beat me or stone my car."⁵⁸

The overall finding based on the historical background as well as the objective evidence is in line with that within the Report, namely concluding that there is no

⁵⁸ The Guardian Newspaper. [<http://www.guardian.co.uk/g2/story/0,,1536658,00.html>]

evidence of officially sanctioned prosecution where no illegal acts are committed, but social condemnation and possibly vigilantism may still be a threat.

23: Women

Temporary Marriage:

The Report starting with 23.48, details the viability and social stance on temporary marriage thoroughly. However, a more extensive analysis of the legal background could be useful as a legal subtlety can determine the difference between a legitimate temporary marriage and intercourse outside marriage, if procedures are not followed appropriately.

The practice of temporary marriage, also known as Sigheh, is a contract that allows a man and a woman to be “married” for a period of time, ranging from just one hour to 99 years, by means of reciting a verse from the Koran. When the verbal contract expires, there are no obligations upon the man unless the marriage produces a child. This custom, which is unique to Shiism, dates back to the branch’s origins and has been quietly practiced in Iran for generations. Despite this fact, it has always been controversial within the society. The relevant provisions are very brief in this respect and are outlined in book 7, chapter 6 of the Iranian Civil Code. Article 1075 declares that “marriage is called temporary when it is for a limited period of time.” Under article 1076 of the same law, “the duration of the temporary marriage must be definitely determined.” The final article in this section, 1077, stipulates that, “in the case of temporary marriage, provisions concerning the wife’s inheritance and her dowry are the same as fixed in the chapter on inheritance.”

The conditions for its formation are not overly complicated; the couple could attend a Registry Office and register their marriage or simply obtain a confirmation from a clergyman. According to a Notaries’ Official, “nowadays there are more people coming here to register their temporary marriage, but there are of course many cases of such marriages that have not been registered. Since March, [to November 2002] the office had registered 271 temporary marriages nationwide. However many couples seeking brief conjugal rights merely gain approval from a local cleric.”⁵⁹

Overall, the research supports the findings shown in the relevant section of the Report, although providing the legal basis may assist users of the Report in analyzing the applicability of temporary marriage to the facts at hand.

Women’s Rights

⁵⁹ www.middle-east-online.com/english/?id=3088

With regard to the legal and social rights enjoyed by women as well as the government's response towards their attempts at securing more rights through political action, the Report provides a comprehensive but not always current sum of evidence, with most accounts from 2007-2008 not pertaining to government's actions with regard to the women's rights movement. The accounts below can better assist in showing the consequences of breaking the rules imposed on women or protesting against these rules:

Iran 'targeting' women activists BBC News

Amnesty International has called on Iran to stop persecuting people who campaign for women's rights.

The human rights group says activists involved in a big campaign to improve women's rights have been targeted.

In a new report, Amnesty says women activists have suffered an "acute" backlash since the campaign was launched in August 2006.

Iran's President Mahmoud Ahmadinejad has insisted women in his country are treated better than anywhere else.

The so-called Campaign for Equality aims to collect a million signatures for a petition to push for an end to discrimination against women.

But Amnesty says those involved in it have suffered harassment, intimidation and imprisonment. Dozens of women have been arrested...⁶⁰

The account below, from June 2008, further underlines the government's harsh response towards anyone campaigning for women's rights:

No Dignity, No Justice

On June 12, the third anniversary of National Day of Solidarity of Iranian Women, nine women's rights activists were arrested outside the Rahe Abrisham (Silk Road) Gallery just before the start of a small, peaceful assembly planned to commemorate the day.

Aida Saadat, Nahid Mirhaj, Nafiseh Azad, Nasrin Sotoodeh, Jelve Javaheri, Jila Baniyagoub, Sarah Loghmani and Farideh Ghaeb were arrested by Tehran security police, along with photographer and reporter Aliyeh Mohtalebzadeh. Of these nine women, five were journalists. All nine were released the following day in the early morning hours.

⁶⁰ BBC News, 28th February 2008 [http://news.bbc.co.uk/1/hi/world/middle_east/7268536.stm]

On the same day, a small group of women decided to go hiking on a local trail to commemorate the day. They were threatened, harassed and stopped by police forces.

On the following day, Mahbobeh Karami, a member of the One Million Signatures Campaign demanding changes to Tehran's discriminatory laws, was arrested. Her family has not heard from her since and can't even find out to which detention center she was taken...⁶¹

The Report generally provides brief but useful information on the differences in the legal positions of men and women, but elaboration of the rules with regard to retribution and other inequalities may be of assistance.

The Iranian Penal system is one of the main instruments for installing and sustaining the Iranian society and administration. The four different types of Islamic punishments, known as qesas, ta'zirat, hodoud, and diyat, expressed in the Iranian Penal Code, will be analysed below in order to determine whether they are, by their nature, discriminatory or particularly harsh against women.

According to Article 49 of the Islamic Penal Code, children are exempt from criminal responsibility and the definition of the child is said to be given in the Civil Code. Note 1 of Article 1210 of the Civil Code declares that the age of majority for boys is fifteen lunar years and for girls is nine lunar years. This means that Iranian law results in arbitrary and disparate application of laws and discriminates between girls and boys with respect to the age at which legal capacity to be liable for criminal prosecution is attained .

The above law appears to be inconsistent with inheritance, children, marriage, divorce, ownership and other laws which state that women are to be especially protected. However, when punishment is concerned, the perception of their maturity suddenly becomes greater as they are responsible for their criminal acts 6 years before boys are.

Book 2 of the Islamic Penal Codes is devoted to hodoud (plural of hadd). The Hadd is defined as "a punishment in which its form, extent and character is defined in sharia' laws" (article 13).

Article 134: "If two unrelated women appear naked under a cover without cause, they will be punished (ta'azir) with less than 100 lashes. If they repeat this act [despite] a repeat ta'zir, on the third occasion each will receive 100 lashes."

Qazf means to accuse someone of adultery or sodomy. While the normal punishment for "qazf" is a hadd of 80 lashes (Article 139), if a father or paternal grandfather accuses their child of "qazf" they will be given the lesser punishment

⁶¹ Women's Network, June 24th 2008 [<http://womennewsnetwork.net/2008/06/24/iran-arrests-globalreport801/>]

of ta'zir (article 149). The mother, however, is excluded from this reduced punishment.

Differing effect depending on gender is also the underpinning principle in the Penal Code dealing with the second category of crimes: qesas. Qesas is defined as "a punishment where the criminal's sentence must be equivalent to their crime". In the West this is commonly referred to as "an eye for an eye" (retaliation).

Article 209 states that if a man deliberately murders a Muslim woman then before he is retaliated against, the family of the woman have to pay the murderer's family half his blood money (diyeh). Thus, this means that a woman's life is valued as half that of the man, and the punishment of a man murdering a woman is not the same as a woman's unless the family of the murdered woman pays the murderer half his blood money.

Book four of the Islamic Penal Codes is devoted to diyeh (fines and blood money). These laws are also influenced by the legal discrimination against women. The 2:1 male: female relationship permeates all calculations of blood money. Indeed, this inequality shows itself in all but one Article of this Book. At times the worth of women is even less than half of men's.

Article 457 fixes the blood-money for the loss of both eyes as equivalent to the loss of life. An addendum to this article adds there is no difference between a normal, a squinted eye or a night-blind eye. Some female lawyers argue that, according to this Article, the value of a woman, whatever her knowledge, education, expertise, credit, family and social responsibility is the same as a half-blind or squinted eye of a man.

Article 430 goes further: "the severance of two testicles has a complete diyeh, the severance of the left testicle 2/3 and the right 1/3 diyeh". It goes on to add that there is no difference in blood-money between old and young, child or adult, impotent or healthy and similar deficiencies... Opponents of the current state of the law argue that the price of the left testes of an impotent old man is greater than that of a young woman.

Moreover, according to Article 439, "the breaking of the ischial bone that causes the victim to be incapable of holding their stool has a complete diyeh". Critics argue that, in effect, this means that a man's anus is worth the lives of two women.

The above information, to avoid duplication of the information available on custody, inheritance and witness-testimony, excludes those topics. Additions of one or more of the above Articles could provide a more accurate picturisation of the discriminatory nature of Iranian law, particularly with regard to serious crimes involving women.

Honour Killing

An additional source of risk for women in Iran is honour killing, which is commonplace in Iran and enjoys partial immunity from prosecution. The Report identifies this possibility but provides only a very superficial analysis at 23.44-.45, stating that sometimes offenders may escape serious punishment. A more extensive detailing of the legal background for such impunity as well as the government stance on the issue may be helpful and is included below.

Most honour killings occur in countries where the concept of women as a vessel of the family reputation predominates. The practice of honour killing is defined by the Human Rights Watch as: "Acts of violence, usually murder, committed by male family members against female family members, who are perceived to have brought dishonour upon the family. A woman can be targeted by (individuals within) her family for a variety of reasons, including: refusing to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce, even from an abusive husband or (allegedly) committing adultery. The mere perception that a woman has behaved in a specific way to "dishonour" her family, is sufficient to trigger an attack. " Honour killings can also target those who choose boyfriends, lovers or spouses outside of their family's ethnic and/or religious community. Some women who adopt the customs (or religion) of an outside group, may also be more likely to be victims.

In societies and cultures where it occurs, honour killing is often regarded as a private matter for the affected family alone; depending on the country in question, sometimes non-family members or even the courts become involved or prosecute the perpetrators. The practice is condemned by human rights supporters for being a double standard and discriminatory against women, since males will not be killed for such an "offence"; i.e. if a man rapes a woman, it is the woman who "brings dishonour" to her family and not the rapist.

Although honour killing is not expressly allowed by Islam, the governments of some Muslim countries have either provided the legal basis for honour killings, or have stayed silent. For instance, according to Article 630 of the Iranian Penal Code, "If a man finds his wife in adulterous position with a strange man and has knowledge that the woman is willing he can kill both of them in that situation. If the woman is reluctant he can only kill the man. The same rules apply to beating and injury as it does to killing."

To show the pervasiveness of this practice, we would like to refer to some objective evidence regarding the practice of honour killing in Iran, which provides information in addition to that noted in the Report at present:

'Honour killings' on the rise

... "Based on reports we have received, 45 girls under the age of 20 from just one tribe were murdered in 'honour killings' carried out by either their fathers, uncles, brothers or cousins," Pari Mirbeyk said.

"There is no court hearing or anything. They kill the girl and burn her identification card. And since there are no concrete laws to combat this they usually walk free, or otherwise nothing is reported in the first place," she added.

So-called "honour killings" are carried out for a variety of reasons, including a girl's refusal to agree to an arranged marriage, not abiding by the strict Islamic dress code or simply having contacts with males who are not family members...⁶²

Another account of this phenomenon is included below:

Honour Killing in Iran

TEHRAN (Reuters) - An Iranian man cut off his seven- year-old daughter's head after suspecting she had been raped by her uncle, the Jomhuri-ye Eslami newspaper said on Sunday.

A post-mortem, however, showed the girl was still a virgin. "The motive behind the killing was to defend my honour, fame, and dignity," the paper quoted the father as saying.⁶³

Overall, the Report's findings are in line with objective evidence in that if such a killing does occur, the prosecution would likely be minimal if at all present.

Abortion:

In addition to the information provided in the section of the Report, the data below may be of additional assistance to users in this regard.

In Iran the law is based on Sharia, in which formation of the foetus's life is divided into two stages: before the foetus is infused with life and after it (before and after it has a soul). According to Sharia Law, abortion is legal before the foetus is regarded as being infused with life, as long as the pregnancy endangers the mother's life. The Head of the Guardian Council once inquired the view of Imam Khomeini (when he was alive) if abortion was legal (before the foetus has a soul) in cases where doctors are certain or when they fear that the continuation of pregnancy would kill the mother. In response to the question, Imam Khomeini said, "not only it is legal but it is also necessary."

⁶² News 24, 27/10/2003 [http://www.news24.com/News24/World/News/0,,2-10-1462_1436398,00.html]

⁶³ Reuters (Tehran)

When asked whether abortion should be carried out after the foetus is considered to be alive, but when the pregnancy seriously threatens the life of the mother, he answered: "There is no preference. The foetus cannot be aborted and one cannot depend on chance either. If by keeping the foetus, the mother would certainly die and there is a chance that the foetus would survive, then it is legal. However if there is a doubt about the survival of the foetus and there is only a fear of the mother's death, abortion is wrong and preferably it is not legal." Imam Khomeini believed there is no need for permission in cases where abortion is legal or necessary.

The Coroner's Office has publicised the list of legal cases for abortion. The head of the judiciary branch has also approved these cases. They include diseases that put the mother's life in danger if she continues her pregnancy, diseases that cause the foetus's death inside the mother's uterus, and diseases which can not be prevented and which will cause the baby's death straight after birth.

Abortion permissions can only be issued in coroners' offices in central provincial cities, with the order of a judiciary official following a request from the couple, along with an introduction letter written by the couple's doctor. They will only be given when the foetus is in the first stage, before it is considered to have a soul.

Iranian Law and Procedure Concerning Abortion

Under the Islamic Penal Code, an abortion is illegal when carried out with awareness, knowledge, information, and bad intentions. It is considered an abortion if the foetus is destroyed or removed before the proper time, whereby the foetus does not survive or does not have the capabilities to survive. Illegal abortion can be carried out in many ways; by use of drugs or chemical substances, the science of obstetrics, or using other methods.

In Article 180 of the Penal Code before the Islamic Revolution, abortion carried a punishment of between 3 to 10 years in prison. The sentence was carried out unconditionally and in all cases without considering the life stages of the foetus. After the Islamic Revolution and the enforcement of Sharia Law, the life stages of the foetus were taken into consideration.

As we mentioned earlier, the foetus develops in two stages: before it has a soul and after it. The foetus is considered to have entered the second stage once signs of life can be observed. Based on medical science and the sayings of the Imams, the foetus is usually considered to have become infused with life after the 4th-4^{1/2} month (16 to 18 weeks) of pregnancy. Because killing any innocent human being is illegal, abortion after this time is considered a great sin and crime. Based on the current laws concerning abortion, there are three main determinations: first, if the foetus was considered alive at the time of abortion; second, whether the abortion was carried out by the mother or if someone else

was involved; and lastly if it was carried out with the help of a doctor or obstetrician.

Article 622 of the Islamic Penal Code says, "Anyone who intentionally and by hitting, beating, or bothering a pregnant woman causes an abortion [miscarriage or stillbirth], will suffer punishment appropriate to the situation. This will either be punishment by retaliation, or payment of blood money and 1 to 3 years in prison."

The blood money or retaliation depends on the life stages of the foetus. Based on Sharia, the punishment for murder is retaliation (Qisas). If at the time of abortion, the foetus was infused with life, then it is considered murder. The blood money depends on whether the foetus was infused with life or not. The blood money of foetus is determined in Article 487 and depends on the life stages of the foetus.

The article splits the stages of pregnancy into six stages, from conception (20 Dinars), through the development of the embryo to a foetus, (40-60 Dinars). Once the foetus has developed bones and a physical structure, the blood money is 80 Dinars, rising to 100 Dinars once skin has formed. In any of these stages, the sex of the foetus does not matter. After these stages, the foetus is considered to be infused with life, and thus its blood money is the same as for a normal murder.

Consequently, when someone other than the mother causes the abortion, and the foetus is in the second stage, retaliation can be carried out. If not, in addition to the punishment of imprisonment (1-3 years), the defendant must pay the right amount of blood money according to Article 487.

The punishment for a mother who has an abortion with knowledge and intention is the same as for anyone else. She has to pay the blood money if the foetus was not infused with life and undergo retaliation if the foetus was considered to have a soul and be alive at the time of the abortion. Only the father of the foetus is not punishable by retaliation (Qisas) for committing the abortion.

Recent Developments in Iranian Legislation Concerning Abortion

There is no doubt that in some cases abortion is necessary because of medical reasons. This has been accepted by the Iranian Parliament who passed a bill which would make it easier for women to terminate their pregnancies, in a wider range of conditions. The legislation was initially blocked by the Guardian Council, who requested amendments to be made to the bill. The following news items contain some information concerning the progress of the legislation:

Iran liberalises laws on abortion, By Frances Harrison - BBC News, Tehran Tuesday, 12 April, 2005

The Iranian parliament has voted to liberalise the country's abortion laws. Under the law approved on Tuesday, a pregnancy can be terminated in the first four months if the foetus is mentally or physically handicapped. Both parents must give their consent and three doctors to confirm that the foetus is damaged. The law was approved by just over half of the conservative-dominated parliament, and still has to be approved by the Guardian Council. The council is an unelected supervisory committee which vets all bills to see if they are in line with Islamic law. Previously, abortion was only allowed if the mother's life was proven to be in danger.

Stringent conditions

None of the 13 women in the Iranian parliament took part in the debate. The conditions for allowing abortion still remain very stringent.

Both parents must agree and they need three doctors, as well as the coroner's office, to confirm the foetus is damaged or the mother's life at risk.

Under this new bill, even if a woman is pregnant as a result of rape she still doesn't have the right to an abortion.

Under the existing law, an illegal abortionist and the mother in question can be sentenced to between three to 10 years in jail.

But according to the local media, that hasn't stopped tens of thousands of Iranian women undertaking expensive and sometimes dangerous backstreet abortions.

There is growing concern that Iran needs more sex education to tackle this social problem but the religious debate has centred more on when the foetus in the mother's womb is deemed to have developed a soul - with some leading clerics saying this happens only after four months of gestation.⁶⁴

Iran Rejects Easing of Abortion Law, May 9th 2005 (LifeSiteNews.com)

The Iranian Guardian Council has rejected a law that would have eased abortion restrictions. The law, passed through the Iranian parliament last month, would have allowed the abortion of unborn children up to 4 months if the child had signs of deformity due to physical or mental handicap, and the handicap would pose a financial burden on the parents.

"It is against sharia (Islamic law) to abort children who would inflict a financial burden on the parents after birth due to mental or physical handicap," the Council ruled, as reported by khaleejtimes.com, quoting parliamentary sources.

⁶⁴ http://news.bbc.co.uk/2/hi/middle_east/4436445.stm

Women in Iran can legally abort their children if a doctor is convinced the pregnancy poses a risk to the mother's life.

The measure now heads back to parliament for amendments. If the amended version remains opposed by the Guardian Council, the Expediency Council, Iran's top adjudication body, will make the ultimate ruling.⁶⁵

The Iranian Parliament made the required amendments within one month, and the Guardian Council accepted the amended bill on 15th June 2005(25/3/1384)⁶⁶, which

Drugs:

In the section for Drugs, we would like to add the following information, including on issues of procedural protections when prosecuting such cases:

In a statement by Human Rights Watch to the U.N. General Assembly's session for dealing with the fight against narcotic drugs it states that the Assembly should affirm unequivocally the international community's determination that human rights must not be sacrificed in the pursuit of counter-narcotic goals. All national and international drug control strategies must be designed and implemented within the framework of full respect for universally recognised fundamental rights. It continued that: "in Iran drug suspects face torture. The record of human rights violations committed by States in the name of drug control should be cause for grave concern to the international community. So to should be the failure of international entities devoted to drug control to give appropriate recognition to universally recognised human rights in their work. We question, for example, how officials of the United Nations International Drug Control Programme (UNDCP) can praise drug control efforts in countries such as China and Iran without also criticizing their notorious reliance on unfair trials, torture, prolonged pre-trial detention, forced confessions, executions and other human rights abuses as part of those efforts.

We question how the International Narcotics Control Board (INCB) can call on member states to curtail expression favoring drug use without even mentioning the free speech guarantees of the International Covenant on Civil and Political Rights (ICCPR)..."⁶⁷

According to a Human Rights Watch Report in 2007, since President Ahmadinejad came to power, [2005] treatment of detainees has worsened in Evin prison as well as in detention centres operated clandestinely by the Judiciary, the Ministry of Information, and the Islamic Revolutionary Guard Corps.⁶⁸ Since then, a number of operations have been set in place against ordinary offences including drug related criminal, immoral, behaviours and so called

⁶⁵ <http://www.lifesite.net/ldn/2005/may/05050909.html>

⁶⁶ <http://asp.irteb.com/article/completeArticle.aspx?id=146>

⁶⁷ Human Rights Watch [<http://www.hrw.org/press98/june/drug-pol.htm>]

⁶⁸ <http://www.unhcr.org/cgi-bin/txis/vtx/rsd/rsddocview.html?tbl=RSDCOI&id=45aca2a07&count=2>

'thuggish'⁶⁹ acts it has 2008nd May 2in a very recent report dated ,For instance .
been claimed thatfifteen thousand drug smugglers have been arrested in only
one month.

“Though the chief of Iran's national police force, Esmail Ahmadi Moghaddam, had previously announced a sharp reduction in the volume of drug imports into Iran, the police commander for drug control reported this week the discovery of 35 tons and 299 kilograms of various kinds of drugs and 15-thousand drug related arrests in the first month of the Persian new year (which began on March 20th, 2008) alone. Releasing statistics on the number of drug-related deaths and arrests in the first month of the new year, Hamid Reza Hosseinabadi said, “In Farvardin [March-April] of this year, the police carried out 161 anti-drug operations in which 53 smugglers were killed, two injured, and 15 thousand and 769 drug smugglers and distributors were arrested.” ... Hosseinabadi added: “Discovery of drugs in Farvardin of 1387 showed a 16 percent increase compared to the same period last year.” ...

Last year, the budget for the government's drug control agency (Setad-e Mobarezeh ba Mavad-e Mokhadder) was increased from 20 billion Tomans [about 22 million USD] to 103 billion Tomans [about 112 million USD], which will be spent on securing Iran's Eastern borders and combat drug trafficking. In this connection, the deputy head of the drug control agency Mohammad Reza Jahani said, “In the years 1385 and 1386 (1996 and 1997), 500 kilometers of canals, 110 kilometers of barbed wire, and 200 kilometers of concrete walls were built in border areas. However, smugglers continue to invent new methods to subvert our efforts every day, because they cannot forego the billions in profit from drug trade.” ...⁷⁰

27. Humanitarian Issues:

Adultery:

The Report's section on Adultery is overly brief in light of the frequency with which users of the Report consider situations arising from this issue. In addition, the information provided is largely outdated, with only one brief reference to a 2008 source. Moreover, the issue of the correct method of proof is not addressed to the extent that its importance merits, which is supplemented below.

There are a number of articles related to the various situations in which a relationship, between a man and a woman is illegal. These articles are used

⁶⁹ The word “thug” in Iran refers to a group of people who are socially and economically marginalised, much as the rough, violent hoodlums referred to by the English.

⁷⁰Rooz online 2/5/2008[

http://www.roozonline.com/english/archives/2008/05/15_thousand_drug_smugglers_arr.html]

by an Islamic judge to convict and sentence the defendants. Some of them set out the process and evidence required to determine the facts which would prove that the defendant has committed these crimes. These articles can be found in the Iranian Penal Procedure Code and the Civil Code. Others set out the appropriate punishment depending on the nature of the illegal relationship and the marital circumstances of the accused persons. These articles are found in the Iranian Islamic Penal Code.

According to Iranian law, a general standard of proof for a claim, applicable to both criminal and civil proceedings, is expressed in article 1258 of the Iranian Civil Code. It declares that: "The evidence admissible in proving a claim is as follows:

- a. Confession.
- b. Written documents.
- c. Witness oral testimony
- d. Circumstantial evidence.
- e. Oaths"

According to article 1321, "Circumstantial evidence means the conditions and circumstances which are considered, by virtue of law, or in the view of the judge, as proof of a case."

Article 1324 states: "The circumstantial evidence left to the view of the judge is 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."

According to Article 83 of the Iranian Penal Code the punishment for an extra-marital sexual relationship in the situations below will be death by stoning:

- An adulterer is a man who has a permanent wife and who is able to have a sexual relationship with her at any time he wants, but also has an extra-marital sexual relationship.
- An adulteress is a woman who has a permanent husband and who is able to have a sexual relationship with him at any time she wants, but also has an extra-marital sexual relationship.

According to Article 630 of the above Code, "If a man finds his wife in adulterous position with a strange man and has knowledge that the woman is willing he can kill both of them in that situation. If the woman is reluctant he can only kill the man. The same rules apply to beating and injury as it does to killing."

A precise explanation of the standard procedure to prove adultery in Iran can be found in the Iranian Penal Code. Under Article 74, an adultery case can

be proven by the evidence of four just men or three just men and two just women. Another valid method of proof would be the accused person confessing four times to the crime, as stated in Article 68 of the same Code.

As well as the methods of proof described above, another means of proving adultery is the “Knowledge of the Judge”. This term is used in Shi’a Islamic jurisprudence to denote circumstantial and/or “ordinary” evidence (i.e. forms of evidence other than “witness”, “confession” or “oath”).⁷¹ A limitation, “*az tariq-e mota’aref*” (“customary methods/generally accepted ways is required”) exists in order to prevent convictions being based on any claim of the judge to supernatural knowledge such as visions, dreams or instinct. This method of proof is prescribed by Article 105 of the Penal Code, which reads as follows:

In both divine right (*haq Allah*) and peoples’ right (*haq al-nass*) cases the judge may rule on the basis of his own knowledge (*elm-e khod*) and may impose the *Hadd*⁷² penalty [on that basis]. It is necessary [in such cases] for the judge to state the sources of his knowledge ...

As the punishment for adultery is classified as a “Divine Right”, which leads to a “Hadd” punishment, therefore the judge has the ability to use his own knowledge as a method of convicting the subject.

It is noteworthy that any decision reached through “knowledge of the judge” must have a basis, such as the compounded combination of circumstantial evidence including forensic evidence, less-than-standard confessions and witness testimonies, as well as any similar method for his knowledge. The sum of such evidence can serve as the judge’s justification for reaching a verdict through “knowledge of the judge”.

⁷¹ Cf, for example, Mohammad Saleh Vahidi, *Hoquq-e Jaza’a-ye Omumi* (An Introduction to General Criminal Law), Tehran: Sazman-e Motale’e va Tadvin-e Kotb-e Olum-e Ensani-ye Daneshgahha, 1371/1992, pp. 308–9. Vahidi explains that whereas in ordinary parlance the word *elm* simply means “knowledge,” in Shi’i jurisprudence “knowledge of the judge” means “the judge’s certainty that a crime has been committed”: Vahidi continues that “the acquisition of such knowledge has, for the judge, the status of proof in the sense that whenever the judge becomes certain of the truth/reality [of what has occurred] he has no need to hear other types of proof such as confession or witness. The ‘knowledge of the judge’ has the same weight whether the case is criminal or civil.”

The introduction of circumstantial evidence into the contemporary codification of Sharia law in Iran under the rubric of “the judge’s reasoning” is remarked by Said Amir Arjomand of Yale University in *The Turban for the Crown: The Islamic Revolution in Iran*, (Oxford University Press, 1988), pp. 186–188 and Ervand Abrahamian of the City University of New York, *Tortured Confessions: Prisons and Public Recantations in Modern Iran* (University of California Press, 1999) p. 134. The concept is also discussed briefly in a recent article by Silvia Tellenbach of the Max Planck Institute for Foreign and International Criminal Law see “In Islam Diversity of Legal Opinion is Seen as a Divine Gift”, *Research and Society* 1/2002, pp. 90–96.

⁷² A *Hadd* punishment is a punishment fixed by ‘divine right’ in which the judge must apply the divinely prescribed penalty if the crime is proven.

The materials required for such a conviction are often gathered by means of the police investigation, which consists of collecting all possible evidence, DNA testing and also by means of arresting the subject and using torture, beating, and mental or verbal harassment in order to gain confessions, so that Article 68 will apply.

When there is no valid marital relationship between a man and a woman, and they are arrested whilst having an affair, without sufficient evidence to prove that sexual intercourse occurred (as required by articles 74 and 68) they would be punished according to the other related legal articles. The court has the capacity to consider all the incriminating evidence found against the defendant, and gives a specific punishment for each separate accusation.

Article 637 of the Islamic Penal Code states that whenever a man and a woman, who are not married to each other, commit any illegal relationship or a crime against decency, except sexual intercourse, they would be sentenced to 99 lashes if the act was not committed under duress. In cases of duress, only the agitator would be punished.

Article 86 stipulates that: sexual relations with a permanently married man or woman, who does not have access to his or her spouse, due to travel, incarceration or similar impediments, shall not require stoning.

The Article that is of the greatest relevance to the case at hand is Article 88, which states that: the punishment for an unmarried man or woman who engages in sexual intercourse shall be one hundred lashes.

Therefore, there is always some form of punishment which results from an extra-marital relationship and its severity is dependent on the outcome of the investigation. Furthermore, despite the fact that the standard of proof for adultery is high; a crime against public decency can be proven using less stringent evidence requirements.

In order to illustrate the contemporary applicability and continued practical use of 'knowledge of the judge' in similar trials, we would like to cite the 2008 account below:

Iranian sisters face stoning for adultery: report Feb 4, 2008

Two Iranian sisters convicted of adultery face being stoned to death after the Supreme Court upheld the death sentences against them, the Etemad newspaper Monday quoted their lawyer as saying.

The two were found guilty of adultery -- a capital crime in Islamic Iran -- after the husband of one sister presented video evidence showing them in the company of other men while he was away.

"Branch 23 of the supreme court has confirmed the stoning sentence," said their lawyer, Jabbar Solati. The penal court of Tehran province had already sentenced the sisters identified only as Zohreh, 27, and Azar (no age given) to stoning, the daily said.

Solati explained that the two sisters had initially been tried for "illegal relations" and received 99 lashes. However in a second trial they were convicted of "adultery."

The pair admitted they were in the video presented by the husband but argued that there was no adultery as none of the footage showed them engaged in a sexual act with other men.

"There is no legal evidence whereby the judge could have the knowledge for issuing a stoning sentence," Solati said, adding that he had appealed to the state prosecutor.

"The two sisters have been tried twice for one crime," Solati protested....⁷³

The above account is illustrative of the legitimacy of this standard of proof, as it has been approved by the Supreme Court. It is of further note that the footage in question did not portray sexual acts themselves, therefore necessitating an inference by the judges—thus distinguishing such evidence from witness testimony.

Occasionally, within the media and Human Rights Organisation's reports, it is possible to find some details of such trials and convictions for adultery. By way of example, I would like to refer to the following reports:

Amnesty International
Imminent execution 27 July 2006 IRAN Ashraf Kolhari (f) aged 37

Ashraf Kolhari, a mother of four children between the ages of nine and nineteen, is at imminent risk of execution by stoning for adultery. She has been held in Tehran's Evin prison for five years, and should by law serve the remaining ten years of her prison sentence before she is executed. However, on or around July 2006, she received the order for the implementation of her sentence, and is reportedly due to be executed by stoning by the end of July. Ashraf Kolhari had an extra marital affair after her divorce request was rejected by the court, reportedly on the basis that she had children, and therefore had to resume living with her husband. She was sentenced on two charges; the first was for participating in the murder of her husband, for which she received a sentence of 15 years imprisonment; the second was for adultery as a married woman, for which she was sentenced to execution by stoning. Article 83 of the

⁷³ http://afp.google.com/article/ALeqM5i_DprbzNwiZt_SHoi3yqoi1hqDdw

Iranian Penal Code stipulates that the penance for adultery by a married woman with an adult man is execution by stoning. In death penalty cases such as murder, in which the sentence is 'qesas' (retribution), the victim's family has the right to pardon the condemned. However, in death penalty cases where the charge is adultery, according to Article 72 of the Penal Code, if a person confesses to adultery and subsequently repents, the Judge can ask for his or her pardon by the Supreme Leader. Article 4 of the Implementation of Execution Law states that after repentance, the case must be referred to the Parole Commission. Ashraf Kolhari has reportedly written to the Head of the Judiciary, Ayatollah Shahrudi, asking for forgiveness.⁷⁴

Additionally, the account below provides both evidence of compromised judicial fairness and procedure in adultery cases, well into 2008:

49-year-old Music Teacher From Sari, Iran May be Stoned After Being Convicted of Adultery
February 1, 2008

Abdollah Farivar-Moqaddam, a 49-year-old music teacher from Sari, northern Iran, may be stoned after being convicted of adultery, Radio Farda quoted his relatives as saying on January 31. His sister said that Iran's Supreme Court has approved a stoning sentence that may be carried out as soon as written confirmation of its approval arrives in Sari.

Farivar is married and was convicted of having an affair with a girl in 2005; his family has said there was no "illegitimate" liaison as he had contracted a "99-year temporary marriage" with the girl — or she had legally become a concubine.

His sister told Radio Farda that Farivar was arrested in November or December 2005, and the local judiciary began to process his case in late 2006. She said the judiciary ignored evidence that he contracted a temporary marriage, and used what she said was unsound or even fictitious confessions obtained after his arrest.

"His entry and departure from the court was not registered at the prison; in fact there was no trial allowing these people to say that he confessed on this or that date," she said. She said she has sought in vain to take the "overlooked" evidence to senior officials, and tried to see judiciary chief Ayatollah Mahmud Hashemi-Shahrudi in Qom on January 28.

⁷⁴ <http://web.amnesty.org/library/Index/ENGMDE130832006>

She was told he was not working for the next two months, until after the Persian New Year holidays in late March, she said. It was not immediately clear when local officials would be instructed to carry out the execution.⁷⁵

31. Exit/ Entry Procedure:

In addition to the information provided at 31.01 of the Report on the procedure for issuing passports, we believe that the section could benefit from the addition of some information on this process where women are concerned, as this is only briefly mentioned at the moment. This clarification will also address the issue of various types of exit authorisations, currently thoroughly set out in 31.02 and 31.04, but which fails to provide the most up-to-date differentiation between the various authorisation types and the relevant procedure.

As correctly stated in 31.01, the basic legal position for a married woman is that she may not leave the country freely, unless authorised by a husband. What the Report does not contain is a more detailed analysis of the procedure, which is as follows. The authorisation process takes place at the point when she is applying for a passport, rather than at the time of departure.

It is at this point that confusion appears to arise within the Report as the various types of exit authorisations are not sufficiently differentiated. To clarify, although we will discuss the procedure for exit by a woman, this is also generally applicable to both genders with the exception of the husband's permission element (which, as explained, takes place at the very first stage, namely passport issue, and thus does not affect the remainder of the exit procedure).

The authorisation which permits a woman to receive a passport and, by default, travel outside Iran unless otherwise specified by the husband, is referred to as the Consent for International Travel. However, it is a common misconception that this Consent is itself some form of visual attribute, such as a stamp, present in the passport and verifiable—this interpretation appears to be suggested by 31.05. In fact, as the Consent for Travel is a prerequisite for the issuance of the passport itself, the very fact of a woman's possession of such a passport serves as an indicator to the relevant inspecting official, at the border, that she is in fact authorised to travel, without the need for a discrete 'stamp' as provided following a husband's consent. The only indicator of this fact, common to both men and women, is a pre-printed notice containing a box with text ("Date of issue... The holder of this passport is authorised, to cross the national border, on a multiple-entry basis, subject to the payment of the exit fee on each occasion") on page 6 of the new-format passports. In light of the above information, we believe that the objective evidence based on an interview with an Iranian official in 2006 contained in 31.02 is no longer valid as there is no application process for a general exit-authorisation, but this takes place as a part of every passport's

⁷⁵ Net News Publisher [<http://www.netnewspublisher.com/49-year-old-music-teacher-from-sari-iran-may-be-stoned-after-being-convicted-of-adultery/>]

issuance. The change has occurred since the 2006 interview took place, leading to some confusion regarding the process of acquiring international travel rights. In the past, namely prior to approximately December 2006, a separate, green stamp was physically included to the passport at the time of issue to authorise the general right to travel, leading to some confusion in terminology, calling it an 'exit authorisation/stamp'; the current procedure of making this a precondition for the very issuance of the passport reflects more accurately the nature of this process.

With regard to the description of the 'restrictions to certain applicants' in 31.03 as well as the general overview of the final airport check at 31.04, whilst they do provide a very brief suggestion that individuals of certain categories (such as those 'politically suspect' and draft-age males) may be prevented from being issued the necessary documents and eventually departing, we believe that the issue could benefit from a more holistic assessment. To elaborate, a check is carried out, at the time of passport issue, in relation to any other outstanding security issues, such as outstanding warrants, which could prevent either a male or a female from being issued the passport. This takes place at the time of the general passport application rather than when issuing any particular 'exit stamp', as explained above. This is done using a specialised database, which is also the same system used at the airport when conducting the final verification of eligibility to travel at the security checkpoint, as will be explained below. Where women are concerned, this is done in addition to the marital-consent check for married women.

With reference to the departure procedures involving document-examination in 31.04, this appears to suggest a much more thorough check of documents than actually takes place. In fact, the official at the border control point, much like in most other airports, only checks the passport rather than a full bundle of background documentation. This is done for purposes of efficiency, as the requirements on manpower, time and cost would be significantly inflated if the full background had to be checked; in addition, this would make the timely departure of flights difficult. Instead, as noted correctly in 31.04, the official has full access to a government database, which incorporates both elements of security-checks described above as well as a marital-permission status check where a woman is involved—based around a simple input of his or her passport number. Subject to a successful check of the holder's passport number, the officer would then provide an 'exit confirmation', in the form of a stamp, which is simply a confirmation that the individual crossed the border rather than any form of authorisation as such. The stamp is normally placed on the last page of the passport, unless that page is already filled.

The Report, while generally comprehensive in this area, does not provide information on the requirement for an administrative fee that must be paid in order to be enabled to leave the country. This step applies to both for men and for women regardless of marital status, is an administrative rather than a security

step. To elaborate, as noted within the text of the general passport travel consent, described above, an individual 'exit fee' must be paid prior to departing, payable within certain branches of banks as well as the airport. In the past, this fee-confirmation (previously and currently referred to as "awarez khorooj") took the form of a stamp within the passport, which had the effect of confusing commentators due to the presence of 3 different types of 'exit' confirmations. However, the contemporary procedure, in place by the end of 2006, requires the official to issue a separate receipt, on a discrete piece of paper unattached to the passport, indicating confirmation—as this is more consistent with the fact that the stamp is not a security/immigration measure but rather a levy-collection one. The individual who left legally and in compliance with this procedure would not have evidence of this payment as the receipt/confirmation is handed over to the border official to prove that payment has occurred. The payment procedure is still often mistakenly referred to as 'stamping' the passport for exit.

Overall, it is our assessment that the section on exit procedures is comprehensive but is in need of updating with the information provided above, particularly to reflect the changes which occurred since 2006, which is the date for most sources on the issue cited in the Report.

Exit Prohibitions and Related Procedure

Having examined the references to the computerised criminal-warrant checks carried out by the airport and LEF officials, including at 31.04 and 28.05, it is our evaluation that although the information is basically accurate, the phrasing does suggest a far wider scope of inquiry into the background of the individual than is actually the case, by using phrases such as 'wanted lists'. In particular, reference is made to 'any unsettled matters' with the authorities, which are said to lead to a refusal of exit permission at the last stage of the check. However, it must be clarified that, in reality, only those individuals who have been the subject of a specific Exit Ban order are 'flagged' on this system, rather than those who are being investigated, released on bail, summonsed to court or indeed any other stage prior to the issuing of the actual Exit Ban. A common misconception, which appears to be reflected by the objective evidence provided in 31.04, is that an arrest warrant that has been issued in an individual's name will be displayed within the exit-check computer system. This is simply not the case, however, due to the fact that each Exit Ban must be issued manually rather than automatically (in conjunction with an arrest warrant or an in absentia verdict etc.) and requires a Judge to dedicate his time to reviewing the application and granting it. For purposes of administrative efficiency and time economy, Exit Bans are only rarely issued unless there is a very specific reason to believe the individual would attempt to depart from the country.

In reference to those individuals at the investigative stages of the case against them, it is noteworthy that, at the time of issuing a complaint, the individual

against whom a crime is alleged is simply a suspect and not a proven, convicted defendant. The nature of the allegations, the stage at which the proceedings are at as well as the personal circumstances of the defendant, would influence the decision regarding a Court Order's issuance in all cases, even where an arrest warrant has already been issued in that same case. Another point which merits special clarification due to the common misconceived reliance on this point when analysing Iranian procedure is whether an Exit Ban is issued automatically or, indeed, frequently, in conjunction with a release on bail. Due to the need to save time and in light of the sheer number of individuals on bail throughout the country, it would be impracticable to include all these names within the database automatically. As explained above, whilst the procedure does exist to apply for an Exit Ban in relation to someone who is out on bail, this has to be substantiated by reference to a specific fact suggesting that international flight is the individual's intention. Also, this process may be lengthy due to the need to review the case facts as well as the business of the Courts. To illustrate that Exit Bans are not commonly issued in cases of those out on bail, please review the below accounts relating to high-profile individuals released on bail but still able to legally leave the country:

Haleh Esfandiari leaves Iran

Iranian-American scholar Haleh Esfandiari, who was released on bail after being held in custody in Iran for months, has left the country. One of Esfandiari's lawyers, Abdol-Fatah Soltani, confirmed that she left the country on Sunday. She has reportedly arrived in Austria where her sister lives...

Haleh Esfandiari, the Director of the Middle East Program at the Woodrow Wilson International Center for Scholars, was charged with conspiracy against Iran's national security and detained by security officials on May 2007.

She was released on a \$300,000 bail on August 21, 2007. Although she is permitted to leave the country, she must appear in court, whenever she is summoned by judiciary officials.⁷⁶

In order to highlight the extent to which the Iranian authorities perceived Ms. Esfandiari as a threat, I would like to cite the following account, describing the authorities' motivation for the arrest of Ms. Esfandiari and three others:

The Americans being detained are Haleh Esfandiari, director of the Middle East program at the Woodrow Wilson International Center for Scholars; Parnaz Azima, a journalist with U.S.-funded Radio Farda; Kian Tajbakhsh, an urban planning specialist affiliated with George Soros's Open Society Institute; and an American who apparently has not yet been formally charged, Ali Shakeri, who helped found the Center for Citizen Peacebuilding at the University of California-Irvine.

⁷⁶ Press TV, 3rd September 2007 [<http://www.presstv.ir/detail.aspx?id=21697§ionid=351020101>]

Lurking in the background of this standoff is a \$75 million U.S. fund to promote democracy in the Islamic republic. U.S. officials do not identify who receives the money, but the Iranians apparently suspect that at least some of the four are among them. Hard-line Iranian officials view the democracy fund as part of a U.S. strategy to engineer a "soft revolution" akin to the Orange Revolution that toppled an authoritarian government in Ukraine 2 1/2 years ago. Critics of the administration's democracy program predicted last year, when it was launched, that dissidents and others would suffer the wrath of the Iranian government.⁷⁷

It is noteworthy that Ms. Esfandiari's departure from Iran is not an isolated incident in this case, but that Ms. Parnaz Azima, one of the four detainees, was also released on bail of 550,000 Tumans, and departed Iran despite awaiting trial for her alleged crime of having been a threat to national security.⁷⁸

In light of the above information, we believe that as this issue arises frequently in proceedings, it is advisable to compliment the overly short description of the database-check that is currently present at 31.04 with all or some of the facts provided above.

Illegal Departure:

The section pertaining to illegal departure commencing at 28.07 could, in our assessment, benefit from the addition of more objective evidence, although the coverage of the interrogation procedures on return is comprehensive in nature. According to Article 34, 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 100,000 and 500,000 Rials. In order to proceed the cases relating to illegal departure, a special court is located in Mehrabad Airport in Tehran. Its branch number is given as 1610.⁷⁹ If an Iranian arrives in the country, without a passport or any valid travel documents, the 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 organisations or groups and any other circumstances. The judge will decide the severity of the punishment within the parameters of Article 34. This procedure also applies to people who are deported back to Iran, not in the possession of a passport containing an exit visa; in this case the Iranian Embassy will issue them with a document confirming their nationality.

In relation to 28.12, where with reliance on the FCO, it is stated that those who have departed illegally do not experience any 'significant' issues, we believe that

⁷⁷ US News, 17th June 2007 [<http://www.usnews.com/usnews/news/articles/070617/25iran.htm>]

⁷⁸ Radio Free Europe, September 19th 2007 [<http://www.rferl.org/featuresarticle/2007/09/64f04de9-00dd-455b-baaf-42740dc9f056.html>]

⁷⁹ http://www.iran-press-service.com/articles_2002/May_2002/poorzand_kaar_letter_17502.htm

the phraseology used does not accurately reflect the practical application of Article 34 to such individuals. We would like to highlight recent accounts, two of them based on verdicts of Iran's Supreme Court, showing the recent practice of arresting, investigating and prosecuting those guilty of illegal departure.

A March 2008 account,⁸⁰ consisting of a Mehr News interview with Mr. Jamshidi, a spokesman for the Iranian Judiciary, reveals that Mr. Shahram Jazairi, a corrupt businessman, who left the country illegally by using his illegally acquired and maintained property, has been sentenced to an additional total of three years imprisonment. The spokesman provides a breakdown which clearly specifies that two years of the sentence are based on illegal departure alone, while the remaining year is due to the illegal property charge.

Moreover, according to the Human Rights Organisation of Kurdistan, a Mr. Hadi Keikhosravi, was convicted to six months' imprisonment, by a first instance Court, subsequently approved by the Supreme Court during an appeal in October 2007 (13/7/1386).⁸¹

A report from the same organisation, issued in November 2006, states that a Ms. Zinat Bayazidi, was being tried for illegal departure by the Mohabad Revolutionary Court, Branch No. 2.⁸² A subsequent report states that Ms. Bayazidi was convicted to six months' imprisonment in March 2007, which was cumulative with an offence of disinformation.⁸³

In an interview with the newspaper Hamshahri, dated 22 Tir 1384 (13th July 2005,) Judge Zafarqandi stated that his court, at the Airport Court Complex, is in charge of, "cases of individuals who left the country illegally, or before the Revolution, and return."

According to ILNA news agency (28th November 2005,) Mr Madeh Ahmadi, a Kurdish journalist, has been convicted to one year's imprisonment and fifty lashes for his illegal departure from Iran in a hearing at Marivan Revolutionary Court. This information has also been confirmed by Amnesty International.⁸⁴

Moreover, as is evident from the above accounts, illegal departure is often prosecuted in conjunction with other, unrelated offences. Such a methodology appears to suggest that it is the investigation into the facts surrounding the easily observable and provable offence of illegal departure, namely the motive for such an act (as a decision to depart illegally suggests a desire to escape

⁸⁰ Mehr News, 29th March 2008 (10/2/1387)
[<http://www.mehrnews.com/fa/newsdetail.aspx?NewsID=674126>]

⁸¹ December 2007 overview of Iranian Human Rights
[<http://www.iransos.com/etelayeh/12.07/gozaresh.htm>]

⁸² [<http://www.faryadiran.com/sarkob-khabar3.htm>]

⁸³ Kurdish News Human Rights Watch (Farsi)
[<http://yarsan.web.surftown.se/newyarsan/public/news.php?id=816>]

⁸⁴ <http://web.amnesty.org/library/Index/engmde130102006>

prosecutorial/police detection for past illegal deeds), that eventually results in the discovery of the underlying offence, leading to a combined prosecution.

In light of the above empirical support for the consistent application of illegal departure penalties, it is our opinion that content to that effect be added to better reflect the existing legal situation.

Annexes

Annex C

On page 242 in the above section, it refers to Rafsanjani was president from 1989 – 1995. This should be altered to read: 1989 – 1997.

D. Biographical Information on the Authors

1- Reza Molavi

School of Government & International Affairs, Institute for Middle Eastern & Islamic Studies (IMEIS)

Durham University, Elvet Hill Road, Durham, DH1 3TU

Tel: **0191 334 45664**, Email: **reza.molavi@durham.ac.uk**

RESEARCH AGENDA

Current research interests investigate how energy is shaping the geo-economics of the Persian Gulf; the paradoxical implications energy has on development, security and sustainability in the Middle East; and Energy as a global security concern, central to national security of producer and consumer states. Specialist in the Political Economy of Iran, and behavioural discourses pertaining to the regions political and governing elite. Future research interests look to a theoretical synthesis between Privatisation and Democracy in the Persian Gulf.

CURRENT POSITIONS

2008-present **School of Government & International Affairs, Durham University**
Executive Director, Centre for Iranian Studies (CIS)
Editor-in-Chief, *Policy Brief Quarterly*

2008-present **Home Office, HMG**
Consultant, Advisory Panel on Country Information (APCI)

- APCI is an independent body, set-up in 2003 to advise the Home Secretary on the content of its Country of Origin Information (COI) — the information produced on asylum seekers' countries of origin for use by officials working in the asylum process — to ensure that this is as accurate, balanced and objective as possible; the APCI now advises the Chief Inspector of the UK Border Agency

2006-present **Centre for Strategic Research (CSR), Tehran**
Senior Research Associate

EDUCATION

2003-2007 **Durham University, England**
Doctorate of Philosophy in Middle East Studies (focus on the Political Economy of Oil)

- Thesis Title: *An Assessment of the Political Will for Oil & Gas Privatisation in Iran*

1970-1971 **Massachusetts Institute of Technology USA**
Certificate in Data Entry Equipment

1967-1970 University of Central Oklahoma, USA
Bachelors of Business Administration

- Dean's Honour Roll

SCHOLARSHIP

Existing and Forthcoming Research Publications

- 2009 *Oil and Gas Privatization in Iran*, New York: Ithaca Press (forthcoming publication, ISBN: 978-0-86372-340-7)
- 2008 *Iran as a Regional Player in the Arab-Israeli Conflict* (forthcoming chapter in a volume edited by Sibylle Reiter, entitled "Bound to Co-Operate: Europe and the Middle East II", published by Bertelsmann Stiftung, Germany), September 2008
- 2008 *Iran as part of the Solution in Iraq, not the Problem*, Bitterlemons-International, August 2008

Conference Papers

- *Iran's Emerging Role: An Assessment of Iran's Regional and International Policy*, organised by Globe Research and Durham University Centre for Iranian Studies; Rome, Italy; 9-10 February 2007
- *Iran – US Nuclear Standoff*, Durham University (SGIA), 18 June 2007
- *Iran and Its Emerging Regional Role: An Overview*, UNIFIL-Plus Force; Berlin and Lisbon; 25-30 June, 2007
- *Rise of Iran, Geopolitics: EU Role in Middle East & Moving the Israeli-Palestinian Track Forward – Options and Challenges*; Ljubljana, Slovenia; 7-8 November 2007
- *Iran and Its Emerging Regional Role: An Overview*, UNIFIL-Plus Force; Berlin and Lisbon; 25-30 June, 2007
- *Rise of Iran, Geopolitics: EU Role in Middle East & Moving the Israeli-Palestinian Track Forward – Options and Challenges*; Ljubljana, Slovenia; 7-8 November 2007

Conference Organisation

- Foreign Policy as a Social Construction: study on subjective grounds in Iranian society'; May 2008. Durham University
- Medical, Ethical and Technological Challenges of the 21st Century: the response of Shi'ite Islamic jurisprudence; June 2008. Durham University
- The Persian Gulf in Prehistory and History; July 2008. Durham University

Awards

- Ferdousi (Persian 17th century poet) lecture series: Iranian Embassy in London
- Farabi (Persian philosopher) lecture series: Institute for Social Sciences Research, Ministry of Education in Iran
- Emir of Kuwait Endowment for post-graduate research in Food, Water and Energy Security in the Persian Gulf

Other Editorial Experience

- Editor-in-Chief, *National Interest*, 2006-present
- Editor-in-Chief, *SGIA News*, 2004-2007

OTHER QUALIFICATIONS

Languages Fluent Farsi, English, and Azeri

Computer skills Comprehensive knowledge of Microsoft Windows and Office, Macintosh OS and many other business application

Professional Affiliations and Memberships

Member of International Institute for Strategic Studies (IISS)
Member of the Royal Institute of International Affairs (RIIA)
Member of the Caspian and Turkey Business Information Group (CATBIG)
Member of the Institute of Marketing
Member of the European and Atlantic Group
Fellow, the Institute of Directors

Employment History

Tennant, Minneapolis, Minnesota, USA, 1971-1973, Regional Manager, Oklahoma, Texas, and New Mexico

- Products and systems support for preventive maintenance of strategic surfaces. Sales of equipment, to U.S. Federal Government offices, ie: Scarifiers, Floor and Runway Treatment Chemicals, Runway and ramp Sweeps.
- Sales of chemicals for treatment of concrete and wood floors in warehouses and runways
- Management of 13 military and civilian airports and federal government agencies

General Tire and Rubber Corp, Tehran, Iran, 1973-1975, Sales Manager

- Set up of distribution networks in Iran, and, provided sales and marketing training
- Set up of warehouses for distribution of products
- Market Research

Comet Enterprises Ltd., Tehran and Comet Enterprises UK Ltd., London, 1975-Present Chairman & Managing Director

I set up this company in 1975. Comet was initially involved in representation of companies and groups from USA and then also Europe, who wanted to have a presence in Iran and were interested in promoting their capabilities, products and services in Iran. This entailed:

- Conducting market research and constructing market strategies.
- Finding the right partners for them and generally managing their affairs and providing them with project management for implementation of contracts.
- Conducting initial ground work and providing initial services and machines.
- Sourcing products for projects.
- Acting as local offices for many of the US and European companies we represented.

Comet Enterprises provides a whole range of services and expertise in many sectors of business including aviation and marine, energy and electronic navigation aids.

Canadian Helicopters Corp (CHC Helicopters International., Canada, 2000-Present

Director, Business Development

- Provide helicopter transportation services to the offshore Oil and Gas Industry in the Middle East, North Africa and Transcaucasia.
- Conduct monthly research and interviews within Middle East, Near East and Transcaucasia.
- Give presentations and offer viable business plans to the National or the Multi-National Oil and Gas companies of the region.
- Liaise with multi-national oil companies and provide them market research on developments within the sector, in the region.
- Provide helicopters with crew, on a wet lease agreement, to the Oil and Gas industry in the region

2- Mohammad Mehdi Hedayati-Kakhki

**Centre for Iranian Studies (CIS)
Institute for Middle Eastern and Islamic Studies (IMEIS)
School of Government and International Affairs,
Durham University
Durham, England
Tel: 0191-334 5664**

Education and Qualifications:

1986-1990

Law Department, Shahid Behesti University; Tehran, Iran

Bachelor of Law Degree

Dissertation on Comparative Law of Iran and France on Espionage and Criminal Offences against National Security

1997-1999

Law Department, University of Shiraz; Iran

Masters Degree in International Law

2004-2008 Institute for Middle Eastern and Islamic Studies, School of Government and International Affairs, Durham University

PhD Thesis in Comparative Islamic and International Law and Politics

Membership of Professional Legal Organisations

- Member of Iranian Bar Association as a First-Class Attorney
- Member of the International Bar Association
- Member of the IBA Human Rights Institute
- Member of IBA Legal Practice Committee for Immigration and Nationality Law
- Member of the Immigration Law Practitioners' Association (ILPA)

Employment History:

2002-present

Analyst of Islamic and Iranian Law and Procedure

- Responsible for analysing Islamic and Iranian criminal law and procedure within the local socio-political context and within the framework of human rights protection.
- Developed extensive understanding of interaction between Islamic Criminal Justice and International Human Rights Law, including with regard to comparative analyses with Western criminal systems.
- Gained the position of lecturer in Comparative Criminal Law at Durham University and membership of the Centre for Criminal Law and Criminal Justice Research at said University.
- Research member of the Centre for Iranian Studies, Durham University.

1998-2002**Practicing Barrister**

- Conducted civil and criminal cases, including liaising with clients and counsel, researching relevant law and conducting advocacy.
- Acquired extensive empirical knowledge and understanding of the interaction between Islamic Justice generally and Iranian Criminal Law.
- Gained experience in interacting with religious judges and improved awareness of underlying Islamic jurisprudence principles.
- Defended numerous clients in criminal proceedings at all judicial levels.
- Awarded status of First-Class Attorney in Iran, enabling representation in the Supreme Court of Iran

1993-1998**In-House Counsel, Iran's Export Development Bank**

- Investigated and conducted criminal fraud cases and debt recovery.
- Increased awareness of property offences within Sharia and Iranian law.
- Developed an understanding of Islamic criminal law's permeation of society on all levels, including civil law, business and commerce.

1990-1992**Investigator and Prosecutor, Iranian Army's Military Prosecutor Office**

- Investigated and analysed legal aspects of military misconduct, based on Penal and Military Codes.
- Gained greater understanding of criminal law's operation in practice.

1986-1990**Paralegal**

- Assisted in preparation of criminal and civil judicial proceedings.
- Developed research skills as result of being tasked with investigating legal aspects and background of cases.