

Human Rights and the Kurds in Iran

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Summary

Amid the mass protests that erupted following suspected vote-rigging in the presidential elections in Iran in June 2009, headlines around the world highlighted the excessive use of force, extrajudicial killings, arbitrary detentions and severe restrictions on freedom of expression that characterised the official response. However, while the human rights situation in Iran deteriorated sharply during this period, the unfortunate reality is that abuses of this kind are nothing new. What is more, in a context defined by institutionalised disregard for international human rights standards, members of ethnic, cultural, linguistic and religious minorities – including Kurds, Arabs, Azeris and Baha'is – are especially at risk. With the Iranian authorities inclined to treat much minority activism – whether social, cultural or political – as bound up in an overall separatist threat, individuals from these communities are frequently arbitrarily arrested and held incommunicado, often accused of vaguely-worded crimes relating to national security. This paper gives a brief overview of the modern history of the Kurds in Iran and of the international and domestic legal framework in relation to the human rights situation that they and other Iranians face today. It goes on to explore entrenched patterns of human rights violations in Iran through analysis of four key themes: discrimination on grounds of gender and ethnicity; arbitrary detention; torture and ill-treatment in custody; and corporal and capital punishment. While most of these issues affect Iranians from all backgrounds, this paper focuses on their implications for members of minority groups, especially Kurds, in light of their particular vulnerability. In the wake of the post-elections unrest, the evidence and analysis presented here underscores the importance of keeping human rights concerns squarely at the forefront of international engagement with Iran.

INTRODUCTION

Amid the mass protests that erupted in response to suspected vote-rigging in the presidential elections in June 2009, the human rights situation in Iran became front-page news. In the weeks that followed the disputed vote, headlines around the world highlighted the excessive use of force, extrajudicial killings, arbitrary detentions and severe restrictions on freedom of expression that characterised the official response to the popular unrest. However, while the human rights situation in Iran deteriorated sharply during this period, the unfortunate reality is that abuses of this kind are nothing new.

The Iranian authorities' notorious disregard for human rights and fundamental freedoms has implications for all of the country's citizens, in all aspects of life. At the level of governance, the power structure of the Islamic Republic pays little heed to civil and political rights. Although elections are held for both the presidency and the parliament, the allegations of widespread fraud during the recent vote underscored deep concerns about the fairness of this process.¹ What is more, the influence granted to a series of unelected and largely unaccountable institutions effectively counters any scope for democratic decision-making by elected officials.

At the same time, freedom of expression and freedom of association are routinely curtailed. This was illustrated by the government's blocking of communication technologies such as

¹ See for example *Guardian*, 'Iran Elections: Guardian Council to Examine Vote-Rigging Claims,' 18 June 2009, available at <http://www.guardian.co.uk/world/2009/jun/18/iran-protest-mourning> (last accessed 25 August 2009).

text messaging and filtering of websites in the wake of the elections, but is also seen in longer-term measures such as arbitrary arrests and prosecutions of journalists, human rights defenders and other activists. Such individuals are frequently accused of national security-related crimes such as the capital offence of *moharabeh*, or 'waging war against God'.²

Torture and other forms of ill-treatment in custody are commonplace and Iran's statute books also allow for various forms of corporal punishment. Furthermore, the country remains one of the world's most prolific users of the death penalty.

The crackdown that followed the recent post-election unrest is thus distinguished by the scale of the abuses witnessed, rather than their nature. While all in Iran are vulnerable to such abuses, the situation is particularly alarming for Kurds and members of other cultural, ethnic, linguistic and religious minorities. Although the authorities claim that the rights of minorities are protected in accordance with Articles 12 and 19 of the constitution, which formally guarantee equal rights for followers of other Islamic doctrines (besides the officially-sanctioned school of Twelver Shi'ism) and ethnic minorities respectively, reality past and present paints an altogether different picture. Political activity on the basis of Kurdish identity

² In the wake of the disputed election, Mohammadreza Habibi, prosecutor-general of the province of Isfahan, pointedly reminded protestors that the punishment for this offence is death. See Human Rights Watch, 'Iran: Halt the Crackdown,' 19 June 2009, available at <http://www.hrw.org/en/news/2009/06/19/iran-halt-crackdown> (last accessed 25 August 2009).

is banned in Iran³ and in practice the authorities treat much Kurdish activism – whether social, cultural or political – as linked to an overall ‘separatist’ threat. As a result, Kurds are disproportionately targeted using security legislation. Such attitudes have hardened since 1991, as Iran and other states in the region have increasingly viewed the consolidation of self-rule in the Kurdish regions of Iraq as a threat to their own security.

This paper gives a brief overview of the modern history of the Kurds in Iran and of the international and domestic legal framework in relation to human rights. It goes on to explore the current human rights situation in Iran from the point of view of four key themes: discrimination on grounds of gender and ethnicity; arbitrary detention; torture and ill-treatment in custody; and corporal and capital punishment. While these issues affect Iranians from all backgrounds, this paper focuses on their implications for Kurds in particular, and also for members of other minorities, in light of their particular vulnerability.

THE KURDS IN IRAN: A SHORT HISTORY

Kurds in Iran are the second largest minority group after the Azeris, and live mostly in the western provinces of Kordestan, Azerbaijan and Kermanshah. The province of Kordestan is one of the most deprived in the country, relying largely on farming and agriculture for income. A small Kurdish enclave also populates the north-eastern city of Mashhad in Khorasan province, near the Afghan border. A lack of census data makes it difficult to determine the size of the Kurdish population, but most estimates

put the number of Kurds living within Iran’s borders at somewhere between 7 and 9 million, approximately 12 to 15 per cent of the total population.

Tensions between the Iranian authorities and the country’s Kurdish community date back long before the advent of the Islamic Republic. In perhaps the most high-profile instance of such strains, a revolt by Qazi Mohammed and the Kurdistan Democratic Party of Iran (KDPI) against the central government in the wake of the Second World War peaked with a declaration on 22 January 1946 announcing the establishment of the Republic of Kurdistan in the north-west of the country. Also known as the Mahabad Republic after the city in which it was founded, this entity is frequently spoken of as a short-lived instance of independent Kurdish statehood, though the initial manifesto drafted by the KDPI was far less precise, calling for ‘Kurdish independence within the borders of Persia’. Whatever the aspirations of its founders, Shah Mohammed Reza Pahlavi viewed the Mahabad Republic as a clear challenge to Iranian territorial integrity and quickly resolved to expunge all traces of Kurdish ‘nationalism’. In December 1946, the entity fell to the Iranian armed forces. Qazi Mohammed was arrested, tried and hanged in Mahabad’s central square on 31 March 1947 and mass executions took place in a number of other towns.

Two years later, following an assassination attempt against the Shah in February 1949, the authorities systematically cracked down on democratic movements throughout the country, including the Kurdish regions, and hundreds of KDPI members and sympathisers were jailed.

Amid the upheaval of the Iranian revolution in 1978 and 1979, Kurds once

³ Kerim Yıldız and Tanyel B. Taysi, *The Kurds in Iran: The Past, Present and Future*, (Pluto Press, London, 2007), 37-40.

again sought to advance their interests. In April 1979 the KDPI presented a comprehensive plan for autonomy within Iran to Ayatollah Ruhollah Khomeini. The plan contained provisions for an elected Kurdish parliament, local management of provincial government departments and the elevation of Kurdish to the status of official provincial language alongside Persian.

Khomeini, accusing the Kurds of seeking independence, flatly rejected the KDPI autonomy plan. His governing principle of *velayat-e-faqih* (rule of the supreme jurist) effectively institutionalised the primacy of Twelver Shi'ism, to the detriment of the majority Sunni Kurds. He also declared the very concept of ethnic minorities to be contrary to Islamic rule and accused the Kurds of attempting to undermine the unity of the nascent Islamic Republic. Patterns of the past repeated themselves in the immediate aftermath of the revolution, as Kurdish *peshmerga* (armed fighters) clashed frequently with the *Pasdaran* (Iranian Revolutionary Guard, literally translated as 'Guardians').

The Iran-Iraq war, which began in 1980 and was to last over eight years, proved to be disastrous for the Kurds, caught as they were between the fighting and regarded by both warring parties as a potential 'fifth column'. Iranian Kurds suffered heavily from Iraqi use of chemical weapons, including mustard gas, and from Iranian incursions into Iraqi territory, with as many as 2,000 square kilometres of Kordestan being cleared, resulting in tens of thousands of Kurdish refugees. The conflation of assertions of minority identities with challenges to the unity of Iran and to the security of the Tehran regime, which was already apparent under the Shah, was thus reconfirmed by Khomeini and heightened during the war. As will be shown in this paper, this attitude

continues to define the status of the Kurds and other minorities in Iran to this day, with serious implications for their human rights.

In the aftermath of the war and following the death of Khomeini, the presidencies of Ali Akbar Hashemi Rafsanjani and Mohammed Khatami brought much speculation about a new 'pragmatic' approach in both foreign and domestic policy. For the Kurds and other minorities however, human rights violations have remained a constant. The hopes for reform sparked by Khatami's electoral victory in 1997, for example, rapidly turned into disappointment for activists, students and other critics of the regime, including Kurds. Hardliners who felt threatened by Khatami's reformist platform hit back by increasingly targeting ethnic and religious minorities. The repression of Kurds escalated to such an extent that in 2001 all six Kurdish members of parliament resigned in protest.⁴

THE INTERNATIONAL AND DOMESTIC HUMAN RIGHTS FRAMEWORK

Iran is party to several international human rights treaties and conventions, most of which were signed and ratified prior to the revolution. These included the Convention for the Elimination of Racial Discrimination (CERD), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

⁴ Michael Rubin and Patrick Clawson, 'Patterns of Discontent: Will History Repeat Itself in Iran?' *Middle East Review of International Affairs*, March 2006, available at <http://www.meforum.org/921/patterns-of-discontent-will-history-repeat-in-iran> (last accessed 25 August 2009).

Following the advent of the Islamic Republic, the government of Hashemi Rafsanjani signed the Convention on the Rights of the Child (CRC) in September 1991 and ratified it in July 1994. Iran has, however, expressed wide-ranging reservations to acceptance of the CRC, stating in particular that it 'reserves the right not to apply any provisions or articles ... that are incompatible with Islamic Laws'.⁵

Iran has yet to sign or ratify either the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) or the Convention against Torture (CAT).

Certain articles of Iran's constitution also offer some formal guarantees of basic human rights. These include, for example, provisions against discrimination and a ban on torture. These clauses, and their application in practice, will be explored in more detail in the course of this briefing paper.

HUMAN RIGHTS AND THE KURDS IN IRAN

This section will explore common patterns of human rights violations via four key themes: discrimination on grounds of gender religion and ethnicity; arbitrary detention; torture and ill-treatment in custody; and corporal and capital punishment.

Discrimination

Iran's obligations under international law, and provisions within its domestic legal framework, establish principles of protection against various forms of

⁵ United Nations Treaty Collection, available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IV-11&chapter=4&lang=en (last accessed 25 August 2009).

discrimination. For example, as a party to the ICCPR, Iran is obliged to provide each of its citizens with equal protection before the law, regardless of race, colour, sex, language, religion or political opinion.⁶ In reality, however, discrimination on grounds of gender, religion and ethnicity are endemic in Iran. As this paper will show, beyond being a human rights violation in its own right, such discrimination also paves the way for further abuses like arbitrary arrest, torture and execution.

Gender-based discrimination

Although Iran has not signed CEDAW, clauses within the ICCPR oblige its government to uphold certain specific standards with respect to women's rights. Article 3 for instance, states that, 'The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.'⁷ Iran is also obliged by Article 21 (1) of its own constitution to 'create a favourable environment for the growth of a woman's personality and the restoration of her rights, both... material and intellectual.'⁸

Despite international and constitutional commitments, however, the reality of the situation facing women in Iran has been described by the UN Special Rapporteur on Violence against Women as 'a State-promoted institutional structure based on gender-biased, hard-

⁶ Article 26, International Covenant on Civil and Political Rights, available at <http://www2.ohchr.org/English/law/ccpr.htm> (last accessed 25 August 2009).

⁷ Article 3, ICCPR.

⁸ International Constitutional Law, 'Iran – Constitution,' available at <http://www.servat.unibe.ch/law/icl/ir00000.html> (last accessed 22 July 2009).

line interpretations of Islamic principles'.⁹

Core pieces of legislation pave the way for institutionalised gender-based discrimination. Amongst the most obvious everyday examples are the stringent regulations governing women's clothing. The Penal Code states that any woman who appears in public without 'proper' *hijab* should be imprisoned from ten days to two months or receive a fine of 50,000 to 500,000 rials, regardless of her religious faith.¹⁰

Besides providing for control over the minutiae of women's lives in such ways, Iranian law exposes women to abuse and violence insofar as it fails to offer them basic forms of protection. For example, rape victims are required to secure testimony from four male eyewitnesses, or from three men and two women, in order to prove their case. Those who fail to do so risk being charged themselves with 'illicit sexual relations'. Iranian law also effectively sanctions 'honour' killings, since murder is not punishable if it is committed in order to defend one's 'honour' or the 'honour' of relatives.¹¹ Moreover, whilst both men and women can be sentenced to death by stoning for adultery under the Iranian Penal Code, the discriminatory legal framework means that many more women than

men are convicted and executed for this offence.¹²

The real-life impact of such laws is illustrated by the case of Shamameh Ghorbani, a Kurdish woman who was sentenced to death by stoning for adultery in June 2006 after her husband and brothers found her in her home with a man, and reacted by murdering him and stabbing her, leaving her severely injured. Ms Ghorbani claimed she subsequently confessed to adultery, even though she was not guilty of the offence, in order that the murder would be seen as being motivated by 'honour' and her husband and brother would be spared punishment. She was later condemned to death, though in August 2008 the death sentence was overturned and replaced with 100 lashes.¹³

Activists engaged in promoting women's rights are targeted particularly harshly by the security forces. Intelligence Minister Gholamhossein Ejei has described women and student movements as part of 'the enemy's new strategy' to finance and organise domestic opposition.¹⁴

The attitude of the Iranian authorities to those who advocate for greater gender equality is illustrated by the case of Ronak Safazadeh and Hana Abdi,

⁹ Yakin Ertürk, 'Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences,' (United Nations Economic and Social Council, 26 January 2006), 3.

¹⁰ See Article 638 of the Penal Code.

¹¹ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority* (2008), 16. Available at <http://www.amnesty.org/en/library/asset/MDE13/088/2008/en/d140767b-5e45-11dd-a592-c739f9b70de8/mde130882008eng.pdf> (last accessed 25 August 2009).

¹² Geoffrey Cameron and Tahirih Danesh, *A Revolution Without Rights? Women, Kurds and Baha'is Searching for Equality in Iran*, (Foreign Policy Centre, London, 2008), 37.

¹³ Amnesty International UK, 'Iran: Woman faces 100 lashes for adultery,' 14 August 2008, available at http://www.amnesty.org.uk/news_details.asp?NewsID=17861 (last accessed 25 August 2009).

¹⁴ Iran Focus, 'Women bear brunt of Tehran's crackdown', 28 April 2007, available at http://www.iranfocus.com/en/index.php?option=com_content&task=view&id=11036 (last accessed 25 August 2009).

members of the One Million Signatures Campaign for women's rights who were arrested in Kordestan in November 2007. Both women were subjected to solitary confinement whilst in prison. On 13 April 2009, Safazadeh was sentenced to six years' imprisonment by a court in Sanandaj for 'spreading propaganda against the state'.¹⁵ Around the same time, a seven-month prison sentence against Abdi was overturned only to be replaced with a fine equivalent to approximately \$30,000.¹⁶ Abdi's lawyer had been denied access to her during questioning, and the presiding judge refused to consider the defence counsel's arguments, relying only on statements obtained from interrogations.

It is therefore clear that in the practices of the authorities, as well as in the letter of the law, gender-based discrimination remains a pervasive problem throughout Iran. This includes the Kurdish regions of the country, where rapes, murders and suicides of women are rarely investigated.¹⁷ What is more, legal barriers to gender equality are exacerbated by socio-economic factors in the Kurdish regions. Slow socio-economic development affects women disproportionately, whilst the patriarchal social architecture dominant in Kordestan is directly translated into men having the final say on any matter pertaining to the life of female relatives. As a consequence, Kordestan has one of the most alarming female literacy rates in the country, with the figure being as

¹⁵ The Observatory, 'Iran: Ongoing judicial harassment against women human rights defenders', 21 April 2009.

¹⁶ International Campaign for Human Rights in Iran, 'Hana Abdi,' available at <http://www.iranhumanrights.org/2009/03/hana-abdi/> (last accessed 25 August 2009).

¹⁷ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, fn. 11 above, 16.

low as 46 per cent among women in rural areas.¹⁸

Religious Discrimination

In addition to gender-based discrimination, discrimination against followers of religions and sects other than the officially-sanctioned Ja'afari school of Twelver Shi'ism is systematic and worsening in Iran. The European Union, speaking through the Czech presidency, recently issued a condemnation expressing 'deep concern' about the 'increasing violation' of religious freedom in Iran.¹⁹ Religious discrimination impacts on the country's Kurdish community, who are predominantly Sunni Muslims.

Such discrimination prevails despite Iran's commitment under the ICCPR and the ICESCR to allow its citizens the right to hold or adopt a religion or belief of their choice.²⁰ The ICCPR also provides for the right to 'manifest' one's religion through 'worship, observance, practice and teaching.'²¹ The Iranian constitution also contains clauses which purport to safeguard freedom of religion. For example, Article 14 of the constitution pledges respect for the human rights of all non-Muslims. Article 23 of the constitution also states that 'the investigation of individuals' beliefs is forbidden' and that 'no one

¹⁸ *Ibid.*, 19.

¹⁹ Czech Presidency of the European Union, 'Declaration by the Presidency on behalf of the European Union on the violation of religious freedom in Iran,' available at <http://www.eu2009.cz/en/news-and-documents/cfsp-statements/declaration-by-the-presidency-on-behalf-of-the-european-union-on-the-violation-of-religious-freedom-in-iran-23914/> (last accessed on 25 August 2009).

²⁰ See Article 2, Section 2 of the ICESCR and Article 18 of the ICCPR.

²¹ Article 18, Section 1 of the ICCPR.

may be molested or taken to task simply for holding a certain belief.'

In practice, however, only members of religions recognised by the Iranian state – that is, Muslims, Zoroastrians, Jews and Christians – enjoy any degree of protection under such clauses. Religious discrimination is often justified, in legal terms, with reference to activities against Islam and conspiracy against the Iranian state. In this respect, it is worth noting that Article 14 of the constitution specifically stipulates that the pledge of respect for the rights of non-Muslims excludes those who engage in 'conspiracy activity against Islam and the Islamic Republic of Iran'.

Members of the Baha'i faith, which the state has branded a 'perverse sect', suffer particularly harsh discrimination,²² including restrictions on access to education and employment. The fact that their spiritual headquarters are located in Israel means they are also frequently accused of national security-related offences. In March and May 2009, for example, seven members of a group that deals with Baha'i religious and administrative affairs were arrested and subsequently held without access to lawyers. In mid-July planned trial proceedings against them were delayed. They were reportedly likely to have faced charges of 'corruption on earth', 'espionage for Israel', 'insulting religious sanctities' and 'propaganda against the system' and could have been sentenced to death.²³

²² UK Foreign and Commonwealth Office, 'Annual Human Rights Report 2008', 141.

²³ Amnesty International, 'Trial of Seven Baha'i Religious Minority Members Delayed in Iran,' 14 July 2009, available at <http://www.amnesty.org/en/news-and-updates/news/trial-seven-bahai-religious-minority-members-delayed-iran-20090714> (last accessed 25 August 2009).

Members of the *Ahl-e-Haq* faith (also known as *Yaresan*), most of whom are ethnic Kurds, also face particular discrimination. An order from the Governor General of the province of Kermanshah issued on 22 October 2007 proclaimed that the construction of *Ahl-e-Haq* places of worship known as *Jam'eh-khane* had 'no basis, legally or with respect to the Sharia'.²⁴ In July 2006, KHRP wrote to the UN Office of the High Commissioner for Human Rights (OHCHR) on behalf of a Kurdish member of *Ahl-e-Haq* who had been an officer in the Iranian air force and had concealed his faith for ten years. Upon it being discovered, he suffered psychological torture, was stripped of his military rank and his pay was cut.

In spite of their official legal standing, Sunni Muslims in Iran, who are largely members of ethnic minorities such as the Kurds, are also reported to face human rights violations. In 2008, for example, a Sunni cleric named Ayoub Ganji disappeared for 13 days after delivering a sermon in Sanandaj. Upon his release by the authorities, he reportedly showed signs of severe trauma including not recognising his wife and child.²⁵ Sunni mosques have also been targeted by security forces. For example, on 27 August 2008, the Abu Hanifa Mosque in the city of Zabol was demolished and many of its students and staff arrested. Soon after, relatives of those arrested were themselves targeted by security forces and arbitrarily detained.²⁶ Moreover, Sunnis have pointed to the absence of a Sunni mosque in Tehran and have

²⁴ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, fn. 11 above, 47.

²⁵ *Ibid.*, 8.

²⁶ Peter Tatchell, 'Iran's war on Sunni Muslims,' *Guardian*, 16 October 2008.

complained of the authorities' alleged refusal of permission to construct one.²⁷

A further matter of serious concern in Iran is the situation of those from a Muslim background who convert to another religion. In the summer of 2008, the parliament approved a draft bill including provision for the death penalty for men who convert to another religion from Islam. The bill passed with a staggering majority, with 196 votes for and only seven against, despite directly contravening Iran's commitments under international law.²⁸

Discrimination on Grounds of Ethnicity, Culture and Language

Discrimination also affects members of ethnic, cultural and linguistic minorities in Iran. This is despite positive clauses in the country's own constitution. Article 19 of the constitution, for example, states that traits such as colour, race and language 'do not bestow any privilege'. Whilst defining Persian as the official language of Iran, Article 15 of the constitution allows for the use of 'regional and tribal languages' in print media and in school literature, and in practice the existence of Kurdish media is broadly tolerated.

However, in a political context defined by the Iranian authorities' fear of separatism, expressions of minority identity are often seen as connected with conspiracy against the state. Journalists, activists and teachers who assert their Kurdish identity or who engage in social or political criticism are therefore frequently targeted with

²⁷ US Department of State, *Iran: International Religious Freedom Report*, 2008, available at <http://www.state.gov/g/drl/rls/irf/2008/108482.htm> (last accessed 23 August 2009).

²⁸ Alasdair Palmer, 'Hanged for being a Christian in Iran', *Daily Telegraph*, 11 October 2008.

arbitrary arrest and prosecution on the pretext of national security.

Arbitrary Detention

Shortcomings in the rule of law and weaknesses in the judicial system in Iran help pave the way for a culture of impunity and unaccountability among state officials, vastly increasing the possibilities of arbitrary arrest and prosecution. Erosion of international fair trial principles is exacerbated by the fact that judges are given significant freedom over whether to apply the Penal Code or Sharia Law.²⁹ Punishments are often entirely at the discretion of the presiding judge, to the extent that court appearances have been described as 'like playing Russian Roulette.'³⁰ When a particular minority group, such as the Kurds, is identified as presenting a broadly-defined 'separatist' or 'security' threat, the scope for human rights violations becomes even wider.

The number of arbitrary arrests has peaked dramatically since the June 2009 presidential elections with hundreds, possibly even thousands, thought to have been detained during the unrest that followed.³¹ In fact, detentions had also already reportedly risen substantially in the run-up to the vote.

²⁹ Danish Refugee Council, 'Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting,' September 2008, available at http://www.nyidanmark.dk/NR/rdonlyres/90D772D5-F2DA-45BE-9DBB-87E00CD0EB83/0/iran_report_final.pdf (last accessed 24 August 2009).

³⁰ *Ibid.*, 24.

³¹ See for example *Guardian*, 'Iran Election: Faces of the Dead and Detained,' available at <http://www.guardian.co.uk/world/interactive/2009/jun/29/iran-election-dead-detained> (last accessed 22 July 2009).

According to figures published by Amnesty International, over 220 individuals, many of them from ethnic or religious minorities, were subject to arbitrary arrest or other measures between December 2008 and February 2009 alone.³²

The practice of arbitrary arrest and detention has been frequently applied to Kurdish activists. Such abuses are illustrated by the case of Mohammed Sadiq Kaboudvand, who established the Human Rights Organisation of Kurdistan in 2005. For this, he was arrested in June 2007 and subsequently charged with a series of offences relating broadly to national security and criticism of the regime, including 'widespread propaganda against the system', 'advocating on behalf of political prisoners' and 'opposing Islamic penal laws'.³³ Over the course of his detention in Tehran's Evin Prison, he has been subjected to prolonged periods of solitary confinement and his access to family has been restricted. He reportedly suffers from serious health problems, including high blood pressure, kidney pains and prostate disease, and has been denied adequate medical care. In December 2008, he is said to have suffered a heart attack in detention.³⁴

³² Amnesty International, 'Iran: Worsening repression of dissent as election approaches', 1 February 2009, available at <http://www.amnesty.org/en/library/asset/MDE13/012/2009/en/6355979b-f779-11dd-8fd7-f57af21896e1/mde130122009en.html> (last accessed 21 August 2009).

³³ International Campaign for Human Rights in Iran, 'Prominent Human Rights Defender Sentenced to 10 years in Prison', 28 October 2008.

³⁴ International Campaign for Human Rights in Iran, 'Life of Imprisoned Human Rights Defender in Danger', 19 December 2008.

Arbitrary detention is also used to silence journalists who speak out against the political and social status quo. For example, Kurdish journalist Massoud Kurdpour was reportedly arrested at his home in Bokeran on 9 August 2009 and subsequently charged with 'propaganda against the regime' because of interviews he had conducted with foreign media. He was apparently sentenced to a year in prison in October 2009.³⁵ On 28 August 2009, another Kurdish journalist, Anvar Sa'idi Muchashi, was reportedly arrested along with his cousin by security forces in Sanandaj and taken to an unknown location. A day prior to his arrest, he had apparently received a call from an individual identifying himself as a security official, who told him that he had 'crossed the red lines'.³⁶

Torture and Ill-Treatment

Opposition figures and activists who are taken into custody in Iran frequently face torture and ill-treatment, largely as a result of the lack of accountability and oversight within the detention system.

Article 38 of the Iranian constitution explicitly prohibits torture and rules that any testimony or confession obtained under duress is 'devoid of value and credence'. However, several specific provisions within the Penal Code and other key pieces of legislation increase the scope for torture or other forms of ill-treatment during criminal

³⁵ Committee to Protect Journalists, 'As media arrests mount, Iran solidifies dishonour,' available at <http://cpj.org/2009/07/as-media-arrests-mount-iran-solidifies-a-dishonor.php> (last accessed 10 August 2009).

³⁶ Committee to Protect Journalists, 'Two journalists held without charge', 3 September 2008, available at <http://cpj.org/2008/09/two-journalists-held-without-charge.php> (last accessed 21 August 2009).

investigations. For example, defendants only have the right to a lawyer after an investigation has been completed and charges have been lodged, leaving long periods of incommunicado detention when security and prison forces are almost completely unaccountable.³⁷

There have been widespread reports of torture and ill-treatment of individuals who were detained following the June 2009 elections, including allegations that some were raped in prison.³⁸ Such abuses, however, were already common in Iran long before the latest unrest.

The case of Farzad Kamangar exemplifies the link between lack of accountability and the perpetration of torture and ill-treatment in the Iranian detention system. KHRP has been active in urging UN human rights mechanisms to take steps to protect Kamangar, who was detained by police in July 2006 and appeared to have been targeted as a consequence of his Kurdish ethnicity, human rights work and journalism. He was eventually convicted of 'endangering national security and being a member of the Kurdistan Workers' Party' in a trial that lasted five minutes, and was sentenced to death. During the time that he has been held in Evin Prison and other detention centres, Kamangar is reported to have faced sustained abuse in custody. In a text purporting to be his testimony, which has been widely circulated on the internet, he describes being flogged with a length of hose, beaten unconscious, subjected to electric shocks and threatened with rape. He

³⁷ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, fn. 11 above, 41.

³⁸ See for example BBC News, 'Probe urged into Iran jail "rape"', available at http://news.bbc.co.uk/1/hi/world/middle_east/8192660.stm (last accessed 10 August 2009).

has reportedly been held in cold and filthy conditions, subjected to solitary confinement for lengthy periods and deprived of contact with his family. It is also reported that his relatives were arrested. On one occasion, Kamangar is said to have been flogged for replying 'Kurd' when asked about his origins. He also apparently faced abuse because of a Kurdish ringtone on his mobile telephone and because of his Sunni Muslim background.³⁹ At the time of writing, Kamangar is believed to still be in detention and to be at risk of imminent execution.

Patterns of abuse in the Iranian detention system are further illustrated by the example of Habibollah Latifi, a 27-year-old engineering student and social activist who was arrested in October 2007 in Sanandaj and whose case KHRP has also raised with UN human rights mechanisms. Latifi was later convicted behind closed doors in connection with his alleged membership of a Kurdish opposition party and was sentenced to death in July 2008. As a result of abuses in custody, he is reported to have suffered broken bones, major cuts to his face and internal bleeding. His lower lip was reportedly torn off, and he is also said to have suffered continuous internal bleeding in his eyes and nose as a result of being hung upside down for hours at a time.

In many cases, there is evidence to suggest that torture and ill-treatment in Iranian detention centres has gone so far as to result in the victim's death. In January 2008, for example, security forces arrested Ebrahim Lotfallahi, a Kurdish university student in Sanandaj, as he was leaving an exam. Nine days later, Lotfallahi's family were informed that he had committed suicide in

³⁹ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, fn. 11 above, 52-57.

detention. Officials apparently buried his body at night without the family's permission and requests for an autopsy were denied. After protests by his relatives, who had visited Lotfallahi following his arrest and refused to believe that he had committed suicide, intelligence officials reportedly filed charges against them.⁴⁰

In another example, Zahra Bani Yaghoub, a 27-year-old medical graduate from Tehran University, died in custody after being arrested by morality police in October 2007 whilst walking with her fiancé in a park in Hamedan. Officials again said that Yaghoub had committed suicide, but family members who had spoken to her shortly before the reported time of her death refused to believe this.⁴¹

Certain detention centres have developed a particularly alarming reputation for torture and ill-treatment. One such facility is Tehran's notorious Evin Prison, already mentioned in this paper in connection with the cases of Kaboudvand and Kamangar. Evin Prison, and in particular Section 209, which falls under the jurisdiction of the Ministry of Intelligence, is routinely used to hold political prisoners. There exists little to no independent scrutiny of conditions and practices at the facility and its inmates thus face a constant threat of abuse.

Corporal and Capital Punishment

Iran's application of the death penalty and of various forms of corporal

⁴⁰ International Campaign for Human Rights in Iran, 'Impunity Ad Infinitum', 4 February 2008.

⁴¹ Radio Free Europe/Radio Liberty, 'Iran: Female Doctor's Prison Death Causes Outcry,' November 23 2007, available at <http://www.rferl.org/content/article/1079182.html> (last accessed 22 July 2009).

punishment has been a mounting concern during President Ahmadinejad's time in power.

The most common form of corporal punishment in Iran is flogging, which is employed for a variety of offences ranging from murder to adultery (where the adulterer is unmarried)⁴² and homosexuality (in cases where a defendant is judged to be 'immature').⁴³ Amputation can be applied as a punishment in cases of theft. Crimes punishable by death include murder, incest, rape, adultery, fornication, same-sex sexual conduct, drinking alcohol, cursing the Prophet, 'enmity with God' (*moharabeh*) and 'corruption on earth'. The last two crimes are vaguely defined but include, amongst other things, a range of security-related offences.⁴⁴ In addition to judicially-sanctioned corporal punishments, militia such as the *Basij* also inflict impromptu beatings and other forms of violence against citizens in the streets, as was seen on a large scale in the wake of the 2009 elections.⁴⁵

In 2007, approximately 317 people were executed in Iran, representing a 50 per cent increase on the previous year.⁴⁶ It was reported that at least 346 executions were carried out in 2008, a further

⁴² Article 88, Islamic Penal Code of Iran.

⁴³ Articles 112-113, Islamic Penal Code of Iran.

⁴⁴ Human Rights Watch, *The Last Holdouts: Ending the Juvenile Death Penalty in Iran, Saudi Arabia, Sudan, Pakistan and Yemen*, September 2008, 4.

⁴⁵ See for example BBC, 'Will Iran's Basij Stay Loyal?' 13 August 2009, available at http://news.bbc.co.uk/1/hi/world/middle_east/8200719.stm (last accessed 25 August 2009).

⁴⁶ Amnesty International, 'Iran flies in face of global execution trend' 29 July 2008.

increase of 9 per cent on 2007's total.⁴⁷ This puts Iran second only to China in the total number of executions carried out in the course of the year.

While KHRP is categorically opposed to the death penalty under any circumstances, its use in Iran is especially alarming given the prevalence of unfair trials and use of torture to extract confessions. The death penalty is also frequently applied in cases linked to the accused's exercise of their right to freedom of expression.

For example, KHRP has been active in appealing to UN human rights mechanisms in relation to the case of Adnan Hassanpour, a regular contributor to Kurdish-language publications who had also published a book on Kurdish history and culture. Hassanpour was arrested in January 2007 and detained in a facility in Marivan. His family were not informed of his whereabouts or his condition for 61 days. Nor were they, Hassanpour's lawyers or Hassanpour himself given any reason for his arbitrary arrest and detention. The only information that family members did receive came from a fellow prisoner of Hassanpour's, who alleged that prison officials had subjected him to physical and psychological torture. In these circumstances, his family believed his arrest to be motivated largely by his writings on the historical and contemporary position of Kurds in Iran. In July 2007, he was convicted on security charges and sentenced to death. Although the sentence was finally overturned by the Tehran Supreme Court in the autumn of 2008, his case was subsequently returned to a lower court in Sanandaj.

⁴⁷ Amnesty International, 'Cruel, discriminatory, unfair and degrading – the death penalty in 2008,' 23 March 2009.

Also deeply alarming is the fact that Iran is the most prolific executioner of juveniles in the world. While Article 49 of the Iranian Penal Code exempts children from criminal responsibility, the same legislation defines a child as someone who has not yet reached puberty. This is set in the 1991 Civil Code as 15 lunar years for boys and nine for girls.⁴⁸ This conflicts with the standards set out in the ICCPR and the CRC, both of which assert that the death penalty shall not be imposed for crimes committed by individuals below the age of 18.⁴⁹

Between 2004 and 2009 Iran executed 33 children.⁵⁰ For example, On 4 December 2007, Iran executed Kurdish juvenile offender Makwan Molouzadeh on charges relating to the alleged rape of three boys, an incident which apparently took place when the defendant was 13. His accusers withdrew their allegations during the trial proceedings, apparently stating that they had either lied or had been forced to confess.⁵¹ There are currently at least 160 juveniles on death row in Iran.⁵²

In October 2008 the Iranian judiciary reportedly introduced a moratorium on executions of adolescents, thereby halting 100 executions. However, being

⁴⁸ Human Rights Watch, *The Last Holdouts: Ending the Juvenile Death Penalty in Iran, Saudi Arabia, Sudan, Pakistan and Yemen*, fn. 44 above, 5.

⁴⁹ CRC Article 37, ICCPR Article 6.

⁵⁰ Foreign Policy Centre, *From Cradle to Coffin: a report on Child Executions in Iran* (2009), 13. Available at <http://fpc.org.uk/fsblob/1063.pdf> (last accessed 25 August 2009).

⁵¹ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, fn. 11 above, 40.

⁵² Foreign Policy Centre, *From Cradle to Coffin: a report on Child Executions in Iran*, fn. 50 above, 13.

based on an administrative circular rather than law, the moratorium is not binding for judges.⁵³ It also appears that determination of a juvenile offender's real age is often overlooked by the authorities. This was certainly the case for Atefeh Sahaaleh Rajabi, who was executed in 2004 for 'acts incompatible with chastity'. Based on her physical appearance, the judge overseeing her case documented that she was 22 years old, while her real age at time of execution was only 16.⁵⁴

Iranian Judicial protocol is also often violated when children are sentenced to death, in particular as regards the authorities' duty to issue a 48-hour notice prior to execution. In April 2009, for example, Ayatollah Shahroudi issued a two-month stay on the execution of Delara Darabi, who had been sentenced to death for a murder that she allegedly committed in 2003 at the age of 17. Despite the stay of execution, Delara was executed on 1 May 2009. Reportedly, her parents only came to know of her execution just seconds before she was hung.⁵⁵

CONCLUSIONS

Throughout Iran, people from all backgrounds face the threat of arbitrary detention, torture, unfair prosecutions, and application of corporal punishments and the death penalty. Various forms of institutionalised discrimination mean that marginalised groups, including women and members of religious, ethnic, linguistic and cultural minorities, are particularly vulnerable. In the case of Iran's Kurds, this vulnerability is heightened by a longstanding tendency on the part of the authorities to conflate assertions of Kurdish identity with a potential threat

to the unity and stability of the Iranian state. The situation is even more alarming for those individuals brave enough to publicly question the political and social status quo, or to advocate for greater respect for the human rights of members of marginalised groups.

The cases highlighted in this paper represent a small cross-section of the repression faced by Kurds and others in Iran. Such abuses are facilitated by discriminatory legislation and a host of legal provisions that run counter to Iran's obligations under international human rights law. They are also grounded in weaknesses in the rule of law, a lack of transparency in the judicial and penal systems, and a culture of impunity for state officials.

In the context of Tehran's nuclear ambitions, the popular unrest that followed the disputed presidential elections in June this year, and the recent change of leadership in Washington, international diplomacy towards Iran is in a state of flux. As Western policymakers continue to reconfigure their approach to the Iranian regime, factors such as the nuclear issue must not be allowed to overshadow the deep concerns about human rights highlighted in this paper. The international community has an important role to play in keeping these concerns at the top of the agenda and facilitating open dialogue on such issues. In all efforts to engage with Tehran, it is crucial that the human rights and fundamental freedoms of all Iran's citizens, and particularly women and members of minority groups, should be treated as a priority.

RECOMMENDATIONS

In order to ensure respect for the human rights of all its citizens, the government of Iran should urgently:

⁵³ *Ibid.*, 7 and 28

⁵⁴ *Ibid.*, 41

⁵⁵ *Ibid.*, 40

- Institute reforms to bring key pieces of legislation such as the Penal Code into line with Iran's obligations under international human rights law, including the ICCPR, ICESCR, CERD and the CRC.
 - Sign and ratify the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention against Torture (CAT), and withdraw current reservations to the CRC.
 - Ensure respect for the human rights of Kurds and members of other minority religious, ethnic, cultural and linguistic groups, including cultural and linguistic rights, freedom of expression and freedom of association.
 - End the targeting of human rights defenders, journalists and others who speak out on social and political issues, and instead welcome the role they have to play in facilitating open public debate about such matters.
 - Eliminate provisions in current legislation that discriminate against women, such as those surrounding the offence of adultery and the difference in weight accorded to the testimony of men and women in court.
 - Strengthen oversight of the detention process with a view to preventing arbitrary arrest and detention, and torture and ill-treatment in custody. This should include establishing an independent body to investigate allegations of abuse, and giving serious consideration to granting civil society groups a role in this process.
 - Declare a moratorium on application of the death penalty and corporal punishments, particularly for individuals under the age of 18, and work towards the abolition of such punishments.
- In order to support the Iranian authorities in protecting the human rights of all the country's citizens, the international community should:**
- Ensure that protection of the human rights of all Iran's citizens, and particularly women and members of minority groups, is treated as a priority issue in all diplomatic engagement with Tehran.
 - Continue to monitor the human rights situation in Iran and communicate with the authorities on cases of concern, as well as the structural issues that give rise to such cases.



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The Kurdish Human Rights Project (KHRP) is an independent, non-political, non-governmental human rights organisation founded and based in London, England. KHRP is a registered charity and is committed to the promotion and protection of the human rights of all persons living within the Kurdish regions of Turkey, Iraq, Iran, Syria and elsewhere, irrespective of race, religion, sex, political persuasion or other belief or opinion. Its supporters include both Kurdish and non-Kurdish people.