

SUBMISSION AND LIST OF ISSUES
TO BE TAKEN UP IN CONNECTION WITH THE
CONSIDERATION OF IRAN'S THIRD PERIODIC REPORT
CONCERNING THE RIGHTS COVERED BY THE
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL
RIGHTS

FOR THE PRE SESSIONAL WORKING GROUP TO THE 101st SESSION OF THE
HUMAN RIGHTS COMMITTEE

Submitted by Kurdish Human Rights Project

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KURDISH HUMAN RIGHTS PROJECT

The Kurdish Human Rights Project (KHRP) is a UK registered charity committed to the promotion and protection of the human rights of all persons living within the Kurdish regions. Its innovative and strategic approach to international human rights practice, combined with a long-term and consistent presence in the region, enables it to secure redress for survivors of human rights violations and prevent abuse in the future.

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1. INTRODUCTION

1.1 KHRP submits this shadow report for consideration by the Human Rights Committee (Committee), in connection with the Committee's examination of Iran's Third Periodic Report on the International Covenant on Civil and Political Rights (Convention), in March 2011.

1.2 This submission summarises KHRP's main concerns about Iran's failure to implement fully its obligations under the Convention. Throughout this submission, KHRP:

- (1) respectfully suggests questions that the Committee may wish to pose to Iran during its examination of Iran's Third Periodic Report; and
- (2) provides context for the proposed questions and examples of human rights issues relevant to the examination.

1.3 Only certain articles of the Convention are discussed in this submission, as KHRP has chosen to focus on these articles in order to assist the Committee by providing information specific to KHRP's expertise and recent work. For the avoidance of doubt, KHRP does not suggest that human rights issues are not present in connection with those articles of the Convention which are not covered in this submission.

1.4 KHRP gives full permission for this submission to be placed on the website of the Office of the High Commissioner for Human Rights (OHCHR) and for it to be referred to by Committee members as a source of information during discussions with the Iranian Government.

2. OVERVIEW OF IRAN'S COMMITMENT TO THE CONVENTION

Iran's internationally and domestically stated commitment to human rights

- 2.1 As a party to the Convention without reservation, Iran has undertaken to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the Convention, such as right to life, liberty and security, fair and public hearing, freedom of expression and association, without distinction of any kind.¹
- 2.2 As noted in Iran's Third Periodic Report, certain provisions in Iran's Constitution also offer some formal guarantees of basic human rights, such as provisions against discrimination and a ban on torture.²

Compliance with human rights in practice

- 2.3 However, the human rights situation in Iran during the reporting period has been, and remains, profoundly troubling. This is reflected in the continued documentation of significant and systemic human rights violations, including:³
- (1) extensive use of the death penalty;
 - (2) torture and ill-treatment of children;
 - (3) excessive use of force;
 - (4) arbitrary arrests and detentions;
 - (5) severe restrictions on the rights to freedom of expression, association and assembly, as experienced by journalists, writers, human rights

¹ ICCPR, Article 2.

² Constitution of the Islamic Republic of Iran, available at <http://www.iranonline.com/iran/iran-info/government/constitution.html> (last accessed at 22 November 2010) ('Iranian Constitution').

³ See generally, KHRP Briefing Paper, *Human Rights and the Kurds in Iran* (26 August 2009); Amnesty International, *Submission to the UN Universal Periodic Review: Seventh session of the UPR Working Group of the Human Rights Council* (February 2010), 4-7, available at <http://www.amnesty.org/en/library/info/MDE13/009/2009/en> (last accessed 22 November 2010).

activists, women's rights activists, students, teachers and union leaders, among others;

- (6) persecution of ethnic, linguistic and religious minorities; and
- (7) persecution of persons self-identified as, or perceived to be, lesbian, gay, bisexual or transgender.

Human rights and minorities in Iran

2.4 In a context defined by institutionalised disregard for international human rights standards and entrenched patterns of human rights violations, members of ethnic, cultural, linguistic and religious minorities – including Kurds, Arabs, Azeris, Baluch and Baha'is – are especially at risk. This risk is heightened by the fact that the Iranian authorities are inclined to treat any minority activism as a separatist threat to the State. Therefore, whilst most of the human rights issues highlighted in this submission affect Iranians from all backgrounds, this submission focuses on their implications for members of minority groups, especially Kurds, in light of their particular vulnerability.

2.5 The Kurdish population in Iran is currently estimated at 6.5 million. Kurds in Iran are the second largest minority group after the Azeris, and live mostly in the western provinces of Kordestan, Azerbaijan and Kermanshah. Kordestan is one of the most deprived provinces in Iran, relying largely on farming and agriculture for income.⁴ Kurds are predominantly Sunni-muslim, whilst the official religion of the Iranian state is Shi'a Islam, which means that Kurds often face discrimination not only because of their ethnic/cultural identity also because of their religion.

2.6 Tensions between the Iranian authorities and the country's Kurdish community are long-standing. Historically, Kurds have been more active in protesting state-based discrimination than other minority groups. State

⁴ KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 3.

motives for repression of Kurds are, therefore, often based on 'security' as much as on other factors.⁵

2.7 The situation is even more alarming for those who publicly question the political and social status quo, or advocate for greater respect for the human rights of members of marginalised groups. Repression and abuses against Kurds are facilitated by discriminatory legislation and practice that run counter to Iran's obligations under international human rights law. They are also grounded in weakness in the rule of law, a lack of transparency in the judicial and penal systems, and a culture of impunity for State officials.⁶

Focus of submission

2.8 In this context, this submission focuses on human rights abuses connected with the following:

- (1) right to life;
- (2) right to liberty and security of persons, and treatment of detainees;
- (3) fair and public hearings;
- (4) freedom of expression and freedom of association; and
- (5) discrimination/minority rights.

General Proposed Questions for List of Issues

2.9 Please indicate the extent and manner of the participation of civil society in the preparation of the Third Periodic Report.

2.10 Please indicate plans for full implementation of the Convention in practice, including reference to planned laws, policies, and strategies.

⁵ KHRP, *Submission to the UNHCHR, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance* (21 June 2010), 39.

⁶ KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 14.

- 2.11 Please provide information about the current factors and difficulties impeding the full application of the Convention in Iran.
- 2.12 Please provide information as to what plans Iran has to address the issues faced by members of minorities within Iran, in particular the Kurdish population, which impede or prevent their full enjoyment of the rights and freedoms provided for under the Convention.

3. ARTICLE 6 - RIGHT TO LIFE

3.1 Proposed questions for the Committee's List of Issues:

- (1) Please provide information on the number of death sentences carried out during the reporting period, the nature of the crime, the age, ethnic origin and sex of those sentenced to death.
- (2) Please provide information on the number of persons awaiting execution, including the nature of the crime, the age, ethnic origin and sex of those persons.
- (3) Please provide information on the procedures to be followed in the application of the Iranian Penal Code to persons alleged to be *mohareb* ('enemies of God') and/or alleged to be involved in terrorist activities, including the criteria applied by the judiciary in selecting the appropriate punishment.
- (4) Please provide information on the procedures under Iranian law to be followed in the carrying out of executions, including notification procedure(s) to lawyers and families, and investigations carried out in relation to non-compliance with procedures and their outcome, including remedies and compensation for the families of the victims.
- (5) Please provide information on extrajudicial killings, including the number of such executions, steps taken to prevent such executions, investigations carried out in relation to such executions and their outcome, prosecution and punishment of perpetrators, and remedies and compensation for the families of the victims.

Introduction

3.2 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 Convention provides that in countries which have not abolished the death penalty, a sentence of death may be imposed only for the most serious crimes. Contrary

to this provision, the death penalty is imposed in connection with a wide range of crimes, including for crimes:

- (1) not punishable by death under Iranian law ;
- (2) which do not have a high level of severity; and/or
- (3) which are based on vaguely-worded provisions of Iran's Islamic Penal Code.

3.3 Also deeply alarming is the fact that Iran is the most prolific executioner of juveniles in the world.⁷

The imposition of the death penalty in practice

3.4 Iran continues to execute a disproportionately high number of Kurdish people within its territory, which, coupled with other rights violations, suggests that individuals from this minority group are being targeted on the basis of their ethnicity.

3.5 Further, in such cases, the death penalty has often been imposed in connection to crimes covered by articles related to "national security" in the Iranian Penal Code; such articles are extremely loosely worded and there is an urgent need for more clarification in order to provide appropriate protection against the death penalty for those not directly involved with terrorist activities.⁸

3.6 Taking armed action is a punishable crime by death sentence pursuant to Article 186 of the Islamic Penal Code.⁹ Under Articles 186-188, all members of groups or organisations 'waging armed insurrection against the Islamic government' may receive the death sentence, even if they were not personally

⁷ Human Rights Watch, 'Iran, Saudi Arabia, Sudan: End Juvenile Death Penalty' (8 October 2010), available at <http://www.hrw.org/en/news/2010/10/09/iran-saudi-arabia-sudan-end-juvenile-death-penalty> (last accessed 22 November 2010).

⁸ Article 183-188 of the Islamic Penal Code, translated from Islamic Penal Code at http://www.dadkhahi.net/law/Ghavanin/Ghavanin_Jazae/gh_mojazat_eslami.htm (last accessed 22 November 2010).

⁹ Ibid. See also the Third Periodic Report of the Islamic Republic of Iran on the International Covenant on Civil and Political Rights Department of Human Rights (October 2009), 98.

involved in military action.¹⁰ Article 186 of the Islamic Penal Code also states that when any group or organisation attempts armed confrontation against the Islamic Republic of Iran, so long as its leadership is intact, each of its members and supporters who are aware of the organisation's positions and take steps to further its objectives will be considered to be a *mohareb* (an 'enemy of God'), even if they are not involved in the organisation's military branch.¹¹

3.7 The vaguely worded provisions of such Penal Code provisions allow such assertions to operate as a catch-all term, giving rise to convictions in connection with all forms of political dissent, violent and non-violent. On many occasions little evidence has been required to ensure conviction under these provisions; this is most evident when the State links civilian political activists to bombings and violent acts, often based on very scant evidence.

3.8 Examples of executions of Kurdish and other individuals in Iran include:¹²

(1) On 9 May 2010, Iranian authorities executed five prisoners (Farzad Kamangar, Ali Heidarian, Farhad Vakili, Shirin Alam Holi and Mehdi Eslamian), the first four of them ethnic Kurds, without warning their families or lawyers. The executions followed convictions which appear to have relied on the use of torture. Authorities maintain that all five were engaged in 'terrorist operations, including involvement in the bombing of government and public centers in various Iranian cities'.¹³

(2) In October 2010, Abdullah Sarvari, an ethnic Kurd who had served for 25 years in Iran's Armed Forces, was sentenced to death by the Sanandaj Military Court on charges of espionage, having been

¹⁰ Translated from Islamic Penal Code, above note 8.

¹¹ Ibid.

¹² See also: Human Rights Watch, 'Iran: Crisis Deepening One Year After Disputed Elections: Pressure Mounting on Iranian Civil Society' (10 June 2010), which reported that, as at June 2010, more than a dozen Kurdish dissidents sit on death row at imminent risk of execution, available at <http://www.hrw.org/en/news/2010/06/10/iran-crisis-deepening-one-year-after-disputed-elections> (last accessed 22 November 2010).

¹³ KHRP Submission to the UNHCHR, above note 5, 40.

arrested by the Security Forces in 2009 immediately after returning from a trip to visit relatives. According to reports, Mr Sarvari's family have been threatened by State security forces, and ordered not to release any information about his death sentence or speak with the media.¹⁴

- (3) On 11 November 2009, Ehsan Fattahian, an Iranian Kurdish activist on whose behalf KHRP had sent urgent action appeals to UN bodies, was executed on charges of being a *mohareb* due to his alleged membership of the Kurdistan Independent Life Party (PJAK). However, Mr Fattahian denied carrying arms and participating in an armed struggle, and his family has consistently maintained that he was persecuted for his Kurdish political activities. During his detention he complained that he was subjected to torture and attempts to force him to make a false confession on tape.¹⁵
- (4) In January 2010, Fasih Yasmini, another Kurdish prisoner, was executed after alleged torture in custody.¹⁶

3.9 Earlier in 2010, KHRP raised concerns with the UN about the fate of other Kurdish prisoners potentially facing the death penalty in Iran, including Sherko Moarefi, Zeynab Jalaliyan, Habibollah Latifi, Hossein Khezri, Mohammad Amin Agoushi, Sayed Sami Hosseini, Iraj Mohammadi, Sayed Jamel Mohammadi, Mostafa Salimi, Aziz Mohammadzadeh, Hassan Talai, Rostam Arkiya, Mohammad Amin Abdolahi, Ghader Mohammadzadeh, Rashid Akhkandi, Ahmad Pouladkhani and Anwar Rostami.¹⁷

Imposition of the death penalty on children

3.10 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

¹⁴ RAHANA, 'Yet another Sanandaj citizen sentenced to death' (19 October 2010), available at <http://www.rahana.org/en/?p=7642> (last accessed 22 November 2010).

¹⁵ Urgent action letter from KHRP to the OHCHR (17 May 2010), 3. See also KHRP, *Impact Report 2009*, 21.

¹⁶ KHRP, *Impact Report 2009*, 21.

¹⁷ Urgent action letter from KHRP to the OHCHR, above note 15.

boys and nine for girls.¹⁸ This conflicts with the standards set out in the ICCPR and the Convention on the Rights of the Child (CRC), both of which assert that the death penalty shall not be imposed for crimes committed by individuals below the age of 18, not to mention disproportionately affects girl children in violation of Article 3 of the ICCPR.¹⁹

3.11 Between 2004 and 2009, Iran executed 33 children.²⁰ 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 that apparently took place when the defendant was 13 years old. His accusers withdrew their allegations during the trial proceedings, apparently stating that they had either lied or had been forced to confess.²¹

3.12 As at August 2009, there were at least 160 juveniles on death row in Iran.²² In October 2008, the Iranian judiciary reportedly introduced a moratorium on executions of adolescents, thereby halting 100 executions.²³ However, being based on an administrative circular rather than law, the moratorium is not binding for judges, so the situation remains extremely serious for any child or young person subject to criminal conviction in Iran.²⁴

3.13 It also appears that determination of a juvenile offender's real age is often overlooked by the authorities. This was the case for Atefeh Rajabi Sahaaleh, who was executed in 2004 for 'acts incompatible with chastity'. Based on her physical appearance, the judge overseeing her case found that she was 22 years old, whereas her real age at the time of execution was only 16 years old.²⁵

¹⁸ Civil Code of November 1991, Article 1210.

¹⁹ CRC, Article 37; ICCPR, Article 6.

²⁰ The 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 22 November 2010).

²¹ Amnesty International, *Iran: Human rights abuses against the Kurdish Minority* (2008), 40, available at www.amnesty.org/en/library/info/MDE13/088/2008/en (last accessed 22 November 2010).

²² The Foreign Policy Centre, above note 20, 13.

²³ Translated from ETEMAD 1797, available at <http://www.magiran.com/npview.asp?ID=1723076> (last accessed 22 November 2010).

²⁴ The Foreign Policy Centre, above note 20, 7 and 28.

²⁵ *Ibid*, 41.

- 3.14 Iranian judicial protocol is often violated when children are sentenced to death, in particular as regards the authorities' duty to issue a 48-hour notice prior to execution.²⁶ For example, in April 2009, 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, Ms Darabi was executed on 1 May 2009. Reportedly, her parents only came to know of her execution just seconds before she was hung.²⁷
- 3.15 Death sentences are also carried out against adults for offences committed when they were minors, such as that of 23 year old Kurd Mosleh Zamani. He was hanged on 17 December 2009, having been convicted six years earlier for having sexual relations with his girlfriend outside of marriage.²⁸

²⁶ Article 7 of the Iranian Code of Criminal Procedure, translated from http://hoghoogh.online.fr/article.php3?id_article=87 (last accessed 22 November 2010).

²⁷ The Foreign Policy Centre, above note 20, 40.

²⁸ KHRP, *Impact Report 2009*, 21.

4. ARTICLE 7 - NO ONE SHALL BE SUBJECT TO TORTURE OR TO CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

4.1 Proposed questions for the Committee's List of Issues:

- (1) Please provide information on circumstances where the use of corporal punishment is permitted in Iran. If the Committee finds it necessary, is the Iranian government willing to amend the domestic law to bring it into line with its commitment to international standards in this regard? And if yes, what is the implementation procedure?
- (2) Please provide details of control mechanisms that have been instituted and/or planned to ensure that persons arrested or detained are not subjected to torture or ill-treatment.
- (3) Please provide information about the procedures under which complaints about torture or ill-treatment by the police, security forces or prison officials can be filed and are investigated and prosecuted.
- (4) Please provide information about complaints about torture or ill-treatment made during the reporting period, how such complaints were investigated, the age, ethnic origin and sex of those submitting complaints (or on whose behalf complaints were submitted) and the outcome of such complaints.
- (5) Please provide information about any torture or ill-treatment that resulted in death, including the age, ethnic origin and sex of those persons, and details of investigations into such deaths, the outcomes of such investigations, and remedies and compensation for the families of the victims.

People in Kurdish regions being subject to Torture or to Cruel, Inhuman or Degrading Treatment or Punishment

4.2 Torture and other forms of ill-treatment in custody are commonplace and Iran's statute books also allow for various forms of corporal punishment. 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.²⁹

- 4.3 There were 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.³⁰ Such abuses, however, were already common in Iran. 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.
- 4.4 Although 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', 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 investigations.
- 4.5 Iran's application of the various forms of corporal 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)³¹ and homosexuality (in cases where a defendant is judged to be 'immature').³² 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, designation as a *mohareb* and 'corruption on earth'. The last two crimes are vaguely defined but include, amongst other things, a range of security-related offences.³³

²⁹ KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 2.

³⁰ 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.

³¹ Islamic Penal Code of Iran, Article 88.

³² Islamic Penal Code of Iran, Articles 112-113.

³³ Human Rights Watch, 'The Last Holdouts: Ending the Juvenile Death Penalty in Iran, Saudi Arabia, Sudan, Pakistan and Yemen' (10 September 2008), 5.

- 4.6 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.³⁴ The crackdown that followed the post-election unrest was distinguished by the scale of the abuses witnessed, rather than their nature.
- 4.7 Further, convictions may themselves result in actions that can be considered torture. For example, Article 16 of the Iranian Penal Code introduces certain physical sentences (*ta'zir*) that can be applied solely based on judge's discretion.³⁵ Under Article 112, if an adult has sexual intercourse with a person, of the same sex, under 18 years old, the adult will be sentenced to death and the juvenile will be sentenced to 74 lashes.³⁶
- 4.8 KHRP has received reports of the following alleged instances of the use of torture and ill-treatment by Iranian authorities:
- (1) During the time that he was held in Evin Prison and other detention centres, Farzad Kamangar (referred to in paragraph 3.8(1) above), is reported to have faced sustained abuse in custody. Prior to his execution, he secretly sent a letter from prison in which he described how he was isolated, tortured and beaten, and that the prison guards had mentioned his ethnicity and human rights work as the basis for his ill-treatment. He had been subjected to solitary confinement, electrocution, the technique known as "the chicken kebab" (a process where one is trussed up and whipped), sleep deprivation, subjected to insanitary conditions, starved of edible foods, and was continuously denied medical care.³⁷ 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 and threatened with rape. He was reportedly held in cold and filthy conditions, subjected to

³⁴ See, for example, BBC News, 'Will Iran's Basij stay loyal?', available at http://news.bbc.co.uk/1/hi/world/middle_east/8200719.stm.

³⁵ Translated from the Islamic Penal Code, above note 8.

³⁶ *Ibid.*

³⁷ Urgent action letter from KHRP to the OHCHR, above note 15, 2.

solitary confinement for lengthy periods and deprived of contact with his family. On one occasion, he was said to have been flogged for replying 'Kurd' when asked about his origins.³⁸

- (2) Prior to his execution, Ehsan Fattahian (referred to in paragraph 3.8(3) above) complained that he was subjected to torture and attempts to force him to make a false confession on tape during his detention. In protest at his detention and treatment he commenced a hunger strike on 8 November 2009, which was supported by his fellow Kurdish prisoners in the Central Sanandaj Prison.³⁹
- (3) Ali Heidarian, Farhad Vakili, Mehdi Eslamian and Shirin Alam Holi (each referred to in paragraph 3.8(1) above) were all executed in early 2010, following allegations by them of torture. In particular, the latter two alleged that they were coerced into making false confessions which were used as evidence against them.⁴⁰
- (4) Sherko Moarefi (referred to in paragraph 3.9 above) claims that, since his detention, he has not been permitted to receive any legal or family visits, and that he has been subjected to torture and ill-treatment.⁴¹
- (5) Habibollah Latifi (referred to in paragraph 3.9 above), an engineering student and social activist, was convicted on the basis of his alleged membership of a Kurdish opposition party and sentenced to death in July 2008. Whilst in detention at a Ministry of Intelligence detention facility, he has allegedly been tortured to the extent that this has resulted in injuries to his head and internal bleeding.⁴² 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.⁴³

³⁸ Amnesty International, *Iran: Human Rights Abuses against the Kurdish Minority*, above note 26, 52-57.

³⁹ KHRP letter to the OHCHR, (17 May 2010), 3.

⁴⁰ Urgent action letter from KHRP to the OHCHR, above note 15, 2.

⁴¹ *Ibid*, 3.

⁴² *Ibid*, 4.

⁴³ KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 11.

- (6) Hossein Khezri (referred to in paragraph 3.9 above), who was convicted of being a *mohareb* on 11 July 2009 and is awaiting execution, was reported to be subjected to extensive torture by the Iranian authorities during his detention, which has led to the partial loss of his eyesight.⁴⁴
- (7) On 21 August 2009, the Iranian Intelligence Services arrested Hamid Doniai in the city of Saghez, after which he was taken to the Intelligence Services office in Saghez. The grounds of Mr Doniai's arrest are unknown, and it is unclear whether he has been informed of the charge levelled against him. Sources indicate that Hamid has been subjected to the 'worst forms of torture' during his detention. The Iranian authorities have allegedly ignored all pleas from Hamid's family for information on his condition. Meanwhile his employment as a teacher has also been terminated by the education board, who themselves have reportedly been unwilling to assist him.⁴⁵

4.9 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. For example:

- (1) In January 2008, security forces arrested Ebrahim Lotfollahi, a Kurdish university student in Sanandaj, as he was leaving an exam. Nine days later, Mr Lotfollahi's family were informed that he had committed suicide in 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 him following his arrest and refused to believe he had committed suicide, intelligence officials reportedly filed charges against them.⁴⁶
- (2) Zahra Bani Yaghoub, a 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

⁴⁴ Urgent action letter from KHRP to the OHCHR (15 April 2010), 2.

⁴⁵ Kurdish Aspect, 'Appeal to save the life of a Kurdish teacher' (March 2009), available at <http://www.kurdishaspect.com/doc090909PD.html> (last accessed 22 November 2010).

⁴⁶ International Campaign for Human Rights in Iran, 'Impunity Ad Infinitum' (4 February 2008), available at www.iranhumanrights.org/2008/02/impunityadindefinitum/ (last accessed 22 November 2010).

said that Ms Yaghoub had committed suicide, but family members who had spoken to her shortly before the reported time of her death do not believe this account.⁴⁷

⁴⁷ Radio Free Europe/Radio Liberty, 'Iran: Female Doctor's Prison Death Causes Outcry,' (23 November 2007) available at <http://www.rferl.org/content/article/1079182.html> (last accessed 22 November 2010).

**5. ARTICLE 9 - RIGHT TO LIBERTY AND SECURITY OF PERSON AND
ARTICLE 10 - TREATMENT OF PERSONS DEPRIVED OF THEIR
LIBERTY**

5.1 Proposed questions for the Committee's List of Issues:

- (1) Please provide details of control mechanisms that have been instituted and planned to prevent the unlawful or arbitrary arrest or detention of people in Iran.
- (2) Please provide information on complaints about unlawful or arbitrary arrest and detention made during the reporting period, whether and how such complaints were investigated, the age, ethnic origin and sex of those submitting complaints (or on whose behalf complaints were submitted) and the outcome of such complaints.

People in Kurdish regions being deprived of their right to liberty and security of person and as a result, being subjected to arbitrary arrest or detention

5.2 Shortcomings in the rule of law and weaknesses in the judicial system in Iran help pave the way for a culture of impunity and lack of accountability among State officials, vastly increasing the possibilities of arbitrary arrest and detention. Whilst this issue affects many Iranians, activists, journalists, students and teachers have been particularly targeted, particularly where they are associated with a particular minority group, such as the Kurds, and therefore often identified by the State as presenting a broadly-defined 'separatist' or 'security threat'.⁴⁸

5.3 The number of arbitrary arrests peaked dramatically following the June 2009 presidential elections, with hundreds, possibly even thousands, thought to have been detained during the unrest that followed.⁴⁹ Detentions had also

⁴⁸ KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 9.

⁴⁹ See for example, Amnesty International, 'Iranian political prisoners detained for dissent since the 2009 election (8 June 2010)', available at <http://www.amnesty.org/en/news-and-updates/iranian-prisoners-conscience-detained-dissent-2010-06-08> (last accessed 22 November 2010).

already reportedly risen substantially in the run-up to the vote. 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.⁵⁰

5.4 KHRP itself has received numerous reports of arbitrary arrests and detentions. Furthermore, detentions are routinely carried out without any information being given to either the detainees or their families explaining the reason for the arrest, and treatment of detainees fails to accord with human rights obligations.

5.5 Examples of the practice of arbitrary arrest and detention as applied to Kurdish activists and teachers include the following cases:

(1) Mohammad Sadiq Kaboudvand was arrested in June 2007 after establishing the Human Rights Organisation of Kurdistan in 2005, and 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'. He was sentenced to 10 years in prison.⁵¹ Over the course of his detention in Tehran's Evin Prison, he has reportedly 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 was reported to have suffered a heart attack in detention.⁵² Based on reports provided in

⁵⁰ Amnesty International, 'Iran: Worsening Repression of Dissent as Election Approaches' (February 2009), available at <http://www.amnesty.org/en/library/asset/MDE13/012/2009/en/6355979b-f779-11dd-8fd7-f57af21896e1/mde130122009en.html> (last accessed 22 November 2010).

⁵¹ International Campaign for Human Rights in Iran, 'Prominent Human Rights Defender Sentenced to 10 years in Prison' (28 October 2008), available at <https://www.iranhumanrights.org/2008/10/prominent-human-rights-defender-sentenced-to-10-years-in-prison/> (last accessed 22 November 2010).

⁵² International Campaign for Human Rights in Iran, 'Life of Imprisoned Human Rights Defender in Danger' (19 December 2008), available at

July 2010 and according to information received by his family he continues to be in a very bad state of health.⁵³

- (2) On 26 May 2010, Mohammad-Ali Shirazi and Mohammad-Ali Shahedi, two activists from the Teachers Association Center, were detained and arrested. As at June 2010, other detained teachers included: Ali-Akbar Baghani, Mahmoud Beheshti, Rasoul Badaghi, Ali-Reza Hashemi, Esmail Abdi, Hashem Khastar, Abdullah Momeni, Mohammad Davari, Alireza Ghanbari and Bahman Nasirzadeh.⁵⁴

5.6 Arbitrary arrest and detention is also used to silence journalists who speak out against the political and social status quo, and such individuals often experience adverse treatment during detention. For example:

- (1) Kurdish journalist Massoud Kurdpour was reportedly arrested at his home in Bokeran on 9 August 2008 and subsequently charged with 'propaganda against the regime' in connection with interviews he had conducted with foreign media. He was sentenced to a year in prison in October 2008.⁵⁵
- (2) 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'.⁵⁶
- (3) Isa Saharkhiz, a detained reporter, experienced a worsening in his coronary illness after being detained in Gohar Dasht (Rajai) Prison for

<http://www.iranhumanrights.org/tag/mohammad-sadiq-kaboudvand/> (last accessed 22 November 2010).

⁵³ Planet Iran, 'Critical health condition of detained human rights activist in Iran' (19 July 2010), available at <http://planet-iran.com/index.php/news/19431> (last accessed 22 November 2010).

⁵⁴ KHRP Submission to the UNHCHR, above note 5, 40.

⁵⁵ Committee to Protect Journalists, 'As media arrests mount, Iran solidifies a dishonor', available at <http://cpj.org/2009/07/as-media-arrests-mount-iran-solidifies-a-dishonor.php> (last accessed 22 November 2010).

⁵⁶ 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 22 November 2010).

unknown reasons. Upon transfer to the prison, his medication was apparently not delivered to him and prison authorities initially refused to return his medication. As at June 2010, Mr Saharkhiz had been under temporary detention for almost a year without a trial, and his legal status remained uncertain.⁵⁷

⁵⁷ KHRP submission to the UNHCHR, above note 5, 39.

6. ARTICLE 14 - EVERYONE SHALL BE ENTITLED TO A FAIR AND PUBLIC HEARING

6.1 Proposed questions for the Committee's List of Issues:

- (1) Please indicate the procedure applied by the judiciary to decide whether a case falls within the 'exceptional' category and will therefore be closed to the public.
- (2) Please provide information as to the individuals subject to closed trials, including the age, ethnic origin and sex of those persons.
- (3) Please provide information on complaints about unfair trials made during the reporting period, how such complaints were investigated, the age, ethnic origin and sex of those submitting complaints (or on whose behalf complaints were submitted) and the outcome of such complaints.

6.2 According to information received by KHRP, Iran has failed to ensure fair and public hearings by competent, independent and impartial tribunals, and to guarantee minimum trial standards in accordance with human rights standards.

6.3 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 have checks on their actions towards the detainee.⁵⁸ 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.⁵⁹ Punishments are

⁵⁸ Amnesty International, *Iran: Human Rights Abuses against the Kurdish Minority*, above note 26, 41.

⁵⁹ Danish Refugee Council 'Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc: Fact finding mission to Iran 24th August - 2nd September 2008' (April 2009), 19, available at http://www.nyidanmark.dk/NR/rdonlyres/90D772D5-F2DA-45BE-9DBB-87E00CD0EB83/0/iran_report_final.pdf (last accessed 22 November 2010).

often entirely at the discretion of the presiding judge, to the extent that court appearances have been described as 'like playing Russian Roulette'.⁶⁰

6.4 Examples of contraventions of Article 14 in connection with Kurdish individuals include the following:

- (1) As at June 2010, Isa Saharkhiz (referred to in paragraph 5.6(3) above), had been under temporary detention for almost a year without a trial, with his legal status uncertain.⁶¹ On 27 September 2010, he was sentenced to three years' imprisonment.⁶²
- (2) Fasih Yasmini (referred to in paragraph 3.8(4) above), a Kurdish prisoner, was executed in Khoy on 6 January 2010, allegedly without his lawyer being informed, which is a requirement under Iranian law.⁶³
- (3) Habibollah Latifi (referred to in paragraph 3.9 above), was charged with and subsequently convicted of being an active member of a Kurdish Opposition Party. In addition to suffering from very serious acts of torture, he was also reportedly subjected to a manifestly unfair trial which took place after eight months on remand. The trial occurred in a secret manner behind closed doors in the Revolutionary Courts in Sanandaj. Mr Latifi's family, who spent nine days searching for him in detention centres and hospitals following his arrest, were not allowed to be present at the trial. Furthermore he was not represented by a lawyer of his choice.⁶⁴
- (4) Farzad Kamangar (referred to in paragraph 3.8(1) above) was found guilty of 'endangering national security by being a member of the Kurdistan Workers Party', after a trial that lasted approximately five minutes, during which time his lawyer, Mr Khalil Bahramian, was unable to present a defence. Mr Bahramian has stated that 'there is

⁶⁰ Ibid, 24.

⁶¹ KHRP Submission to the UNHCHR, above note 5, 39.

⁶² PEYVAND, 'Prominent Iranian Journalist Isa Saharkhiz Jailed For Three Years' (29 September 2010), available at <http://www.payvand.com/news/10/sep/1276.html> (last accessed 22 November 2010).

⁶³ Urgent action letter from KHRP to the OHCHR, above note 15, 3.

⁶⁴ Ibid, 4; KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 11.

absolutely no evidence against Farzad that connects him to a terrorist group or activity... He is not a member of any group'. Further, no evidence was presented at trial to support a legitimate conviction. Mr Kamangar's execution was subsequently carried out without any notification being sent to his family or lawyer.⁶⁵

⁶⁵ Urgent action letter from KHRP to the OHCHR, above note 15, 2.

7. ARTICLE 19 - RIGHT TO FREEDOM OF EXPRESSION

7.1 Proposed questions for the Committee's List of Issues:

- (1) Please provide information on any incidents of violence or threats of violence against journalists, teachers, students, union leaders and activists or others in connection with their expression of views, including the age, ethnic origin and sex of those experiencing such incidents.
- (2) Please provide information on complaints made about arrests, detention or conviction during the reporting period in connection with the expression of views, including how such complaints were investigated, the age, ethnic origin and sex of those submitting complaints (or on whose behalf complaints were submitted) and the outcome of such complaints.
- (3) Please provide information as to how many publications were banned or otherwise prevented from circulation during the reporting period, and the ethnic origin of the owners of, and journalists connected with, such publications.

People in Kurdish regions facing severe restrictions of freedom of expression and association

7.2 Article 23 of Iranian Constitution states: 'The investigation of individuals' beliefs is forbidden' and that 'no one may be molested or taken to task simply for holding a certain belief'.⁶⁶ Article 24 provides for freedom of expression in press and publications.

7.3 However, it is apparent that Iranian authorities use security laws, press laws and other legislation to arrest and prosecute Iranian Kurds solely for exercising their right to freedom of expression and association.⁶⁷ In particular, restrictive, contradictory and vaguely worded provisions

⁶⁶ Iranian Constitution, above note 2.

⁶⁷ KHRP submission to the UNHCHR, above note 5, 39.

contained in the Penal Code and other Iranian legislation undermine the full exercise of the right to freedom of opinion and expression.

- 7.4 Particular targets of the use of arbitrary detention and prosecutions as a means of restricting or preventing the expression of views seen as a threat to the status quo include journalists, human rights defenders, political and social activists, students, teachers and union leaders. The Iranian government has ordered the closure of Kurdish-language newspapers and journals, banned books and punished publishers, journalists and writers for actual or perceived opposition and criticism of government policies. Authorities repress legitimate activities of nongovernmental organisations by denying registration permits or charging employees of such organisations with false security offences.⁶⁸
- 7.5 A large number of journalists and rights defenders have fled Iran during the past year and live as refugees in neighbouring Turkey.⁶⁹
- 7.6 Specific examples of restrictions on the right to freedom of expression include the following:
- (1) Isa Saharkhiz (referred to in paragraph 5.6(3) above), journalist and former head of the press department at the Iranian Ministry of Culture and Education during former President Khatami's administration typifies this situation. Mr Saharkhiz had been under temporary detention for almost a year without a trial and has now been sentenced to three years' imprisonment. He has been banned from any political activities and involvement with the press for a period of five years, and banned from leaving the country for a period of one year.⁷⁰

⁶⁸ Human Rights Watch, 'Iran: End Repression in Kurdish Areas: Peaceful Dissidents Jailed, Books and Publications Banned' (9 January 2009), available at <http://www.hrw.org/en/news/2009/01/08/iran-end-repression-kurdish-areas> (last accessed 22 November 2010).

⁶⁹ Human Rights Watch, above note 12.

⁷⁰ Translated from Human Rights News Agency of Iran - JARAS, available at <http://www.rahesabz.net/story/24290/> (last accessed 22 November 2010).

- (2) Mohammad Sadiq Kaboudvand (referred to in paragraph 5.5(1) above) was arrested following his establishment of the Human Rights Organisation of Kurdistan and 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'.
- (3) The detention of Farzad Kamangar (referred to in paragraph 3.8(1) above), appears to have occurred as a consequence of his Kurdish ethnicity, human rights work, and journalism.
- (4) The family of Adnan Hassanpour, a regular contributor to Kurdish-language publications who had also published a book on Kurdish history and culture, believe that his arrest was motivated largely by his writings on the historical and contemporary position of Kurds in Iran.⁷¹

7.7 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, members of the One Million Signatures Campaign for women's rights who were arrested in Kordestan in November 2007.⁷² Both women were reportedly subjected to solitary confinement whilst in prison. On 13 April 2009, Ms Safazadeh was sentenced to six years' imprisonment by a court in Sanandaj for 'spreading propaganda against the state'.⁷³ Around the same time, a seven-month prison sentence against Abdi was overturned only to be replaced with a fine equivalent to approximately US\$30,000.⁷⁴ 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.⁷⁵

⁷¹ KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 13.

⁷² *Ibid.*, 6-7.

⁷³ The Observatory for the Protection of Human Rights Defenders, 'Iran: Ongoing judicial harassment against women human rights defenders' (21 April 2009), available at <http://www.omct.org/human-rights-defenders/urgent-interventions/iran/2009/04/d19974/> (last accessed 22 November 2010).

⁷⁴ International Campaign for Human Rights in Iran, 'Hana Abdi' (25 March 2009) available at <http://www.iranhumanrights.org/2009/03/hana-abdi/> (last accessed 22 November 2010).

⁷⁵ KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 7.

**8. ARTICLE 26 - PROHIBITION OF NON-DISCRIMINATION AND
ARTICLE 27 - MINORITY RIGHTS**

8.1 Proposed questions for the Committee's List of Issues:

- (1) Please provide information as to how Iran proposes to gather information about its ethnic groups as means to identifying the existence of racial, religious and gender discrimination.
- (2) Please provide information as to any steps taken by Iran to provide a legal framework which can adequately investigate and address allegations of human rights abuses based on ethnicity, religion and gender.
- (3) Please provide the information as to how Iran will respond to the recommendation of the Committee on the Elimination of Racial Discrimination (CERD Committee) to make renewed efforts to update the information on its ethnic composition, relying on the principle of self-identification.⁷⁶
- (4) Please provide information about the factors and difficulties impeding the full application of the Convention in Iran in respect of women who are also members of ethnic minorities.⁷⁷
- (5) Please provide information as to how Iranian authorities intends to implement effective measures to enable persons belonging to ethnic minorities such as Kurds to have adequate opportunities to learn their mother tongue language and to have it used as a medium of instruction.⁷⁸

Introduction

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

⁷⁶ Concluding observations of the Committee on the Elimination of Racial Discrimination: Islamic Republic of Iran, UN doc. CERD/C/IRN/CO/18-19 (27 August 2010), recommendation no. 6.

⁷⁷ *Ibid*, recommendation no. 9.

⁷⁸ *Ibid*, recommendation no. 12.

discrimination. However, discrimination on the grounds of gender, religion and ethnicity commonly occurs in Iran. As is evident throughout this submission, beyond being a human rights violation in its own right, such discrimination paves the way for further abuses such as arbitrary arrest and detention, torture and execution, as well as an inability to fully enjoy the other rights protected in the Convention.

Gender discrimination

8.3 Although Iran has not yet 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.'⁷⁹ 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.'⁸⁰

8.4 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-line interpretations of Islamic principles'.⁸¹ 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.⁸²

⁷⁹ ICCPR, Article 3.

⁸⁰ Iranian Constitution, above note 2.

⁸¹ Commission on Human Rights, 'Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk: Mission to the Islamic Republic of Iran (29 January to 6 February 2005)' UN doc. E/CN.4/2006/61/Add.3 (27 January 2006), 2.

⁸² Article 638 of the Iranian Penal Code, Article 638.

- 8.5 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 through an adequate due diligence approach to human rights. 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'.⁸³
- 8.6 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.⁸⁴ 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.⁸⁵
- 8.7 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.⁸⁶

⁸³ KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 6.

⁸⁴ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, above note 21, 16.

⁸⁵ Geoffrey Cameron and Tahirih Danesh, 'A Revolution Without Rights? Women, Kurds and Baha'is Searching for Equality in Iran' (The Foreign Policy Centre, London, 2008), 37, available at <http://fpc.org.uk/fsblob/1013.pdf> (last accessed on 22 November 2010).

⁸⁶ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, above note 21, 16. See also, 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 22 November 2010).

- 8.8 Activists engaged in promoting women's rights are targeted particularly harshly by the security forces. Iranian former Intelligence Minister Gholamhossein Ejei has focused on women activists when he claimed that 'the enemy's new strategy is to finance and organize various groups under the cover of women's or student movements.'⁸⁷
- 8.9 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.⁸⁸ 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 low as 46 per cent among women in rural areas.⁸⁹

Religious discrimination

- 8.10 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. In May 2009 European Union, speaking through the Czech presidency, issued a condemnation expressing 'deep concern' about the 'increasing violation' of religious freedom in Iran.⁹⁰ Religious discrimination impacts on the country's Kurdish community, who are predominantly Sunni Muslims.

⁸⁷ Iran Focus, 'Women bear brunt of Tehran's crackdown' (28 April 2007), available at http://www.iranfocus.com/en/?option=com_content&task=view&id=11036 (last accessed 22 November 2010).

⁸⁸ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, above note 21, 16.

⁸⁹ *Ibid*, 19.

⁹⁰ 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->

- 8.11 Such discrimination prevails despite Iran's commitment under both the Convention and the ICESCR (International Covenant on Economic, Social and Cultural Rights) to allow its citizens the right to hold or adopt a religion or belief of their choice.⁹¹ The Convention also provides for the right to 'manifest' one's religion through 'worship, observance, practice and teaching.'⁹² At the domestic level, the Iranian Constitution 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 may be molested or taken to task simply for holding a certain belief.'⁹³
- 8.12 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'.
- 8.13 Members of the Baha'i faith, which the Iranian State has branded a 'perverse sect', suffer particularly harsh discrimination, including restrictions on access to education and employment.⁹⁴ 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

[presidency-on-behalf-of-the-european-union-on-the-violation-of-religious-freedom-in-iran-23914/](#) (last accessed 22 November 2010).

⁹¹ ICESCR, Article 2(2); ICCPR, Article 18.

⁹² ICCPR, Article 18(1).

⁹³ Iranian Constitution, above note 2.

⁹⁴ UK Foreign and Commonwealth Office, *Annual Report on Human Rights 2008* (March 2009), available at <http://www.fco.gov.uk/resources/en/pdf/pdf15/human-rights-2008> (last accessed 22 November 2010), 141.

arrested and subsequently held without access to lawyers. In July 2009, 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.⁹⁵

8.14 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 *Ahle- Haq* places of worship known as *Jam'ekhane* had 'no basis, legally or with respect to the Sharia'.⁹⁶ In July 2006, KHRP wrote to the 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.⁹⁷

8.15 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.⁹⁸ 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.⁹⁹ Moreover, Sunnis have pointed

⁹⁵ Amnesty International, 'Trial of Seven Baha'i Religious Minority Members Delayed in Iran' (13 July 2009), available at <http://www.amnesty.org/en/news-and-updates/news/trial-seven-bahai-religious-minority-members-delayed-iran-20090714> (last accessed 22 November 2010).

⁹⁶ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, above note 21, 47.

⁹⁷ KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 8.

⁹⁸ Amnesty International, *Iran: Human Rights Abuses Against the Kurdish Minority*, above note 21, 8.

⁹⁹ Peter Tatchell, 'Iran's war on Sunni Muslims' *The Guardian* (16 October 2008), available at <http://www.guardian.co.uk/commentisfree/2008/oct/16/iran-humanrights> (last accessed 22 November 2010).

to the absence of a Sunni mosque in Tehran and have complained of the authorities' alleged refusal of permission to construct one.¹⁰⁰

- 8.16 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.¹⁰¹

Discrimination on grounds of ethnicity, culture and language

- 8.17 As noted throughout this submission, individuals in Iran who are members of ethnic, cultural and linguistic minorities face significant discrimination. This is despite positive clauses in the State's own Constitution. For example, Article 19 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.¹⁰²

- 8.18 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 States.¹⁰³ As noted above, a wide range of individuals in Iran (including in particular journalists, activists, students and teachers, especially those who assert their Kurdish identity or who engage in social or political criticism) are frequently targeted with arbitrary arrest, detention and prosecution on the pretext of national security, and face torture and ill-treatment and unfair trials.¹⁰⁴

¹⁰⁰ US Department of State, *International Religious Freedom Report* (2008), available at <http://www.state.gov/g/drl/rls/irf/2008/> (last accessed 22 November 2010).

¹⁰¹ Alasdair Palmer, 'Hanged for being a Christian in Iran' *Daily Telegraph* (11 October 2008).

¹⁰² KHRP Briefing Paper, *Human Rights and the Kurds in Iran*, above note 3, 9.

¹⁰³ *Ibid*, 9.

¹⁰⁴ *Ibid*, 9-10.