



Fédération Internationale des Ligues des Droits de l'Homme

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ET DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

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Briefing note on the human rights situation in the Islamic Republic of Iran

The present briefing note has been elaborated in view of the 60th session of the 3rd Committee of the UN General Assembly meeting, as a call for the adoption of a resolution on the human rights situation in the Islamic Republic of Iran.

Added to widely documented systemic and widespread violations of human rights in Iran, FIDH has witnessed a serious deterioration of the situation since the last Commission on Human Rights in March 2005.

Faced with such escalation of the breaches of the international human rights instruments to which the Islamic Republic of Iran is a party, the International community, through the UN General Assembly, has an obligation to react, in application of its duty to protect from human rights violations.

The note focuses on three key areas of concern where the deterioration of the human rights situation is particularly significant: freedom of expression, the application of the death penalty and the situation of minorities.

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1. Freedom of expression

Web loggers

In the Fall of 2004, the authorities arrested nearly 20 on-line journalists and web loggers working with pro-Reformist Internet websites. They were subsequently released on bail. A number of the on-line journalists and web loggers arrested were tortured while in detention. Most of those web loggers have been condemned to prison terms: in 2005, **Ahmad Seyed Saraji** was condemned to six months in prison and 30 lashes, which were inflicted upon him on October 20, 2005. He is currently detained in Tabriz. **Farid Modaresi** and **Hossein Abdollahpour** were condemned to three months in prison in 2005 and appealed the sentence. **Mojtaba Saminejad** was condemned to two years in prison in June 2005 and is currently detained; his appeal is pending.

That crackdown further restricted an already very repressive landscape where the Internet was the only way to circulate independent information. This extremely repressive policy is currently continuing.

The presidential election took place in June 2005 and resulted in the election of a conservative, Mr Mahmoud Ahmadinejad, as the President. A conservative government was consequently formed in August.

The election was carried out in clear violation of Article 25 of the International Covenant on Civil and Political Rights (ICCPR), which enshrines the right to free and fair election. The Council of Guardians, a non-elected conservative body, announced in May 2005 that it rejected all the 1014 candidates to the Presidential election but six. Among those six pre-selected candidates, four were hard line conservatives and there were no women. In view of the national and international outcry about the rejection of Mr. Mostafa Moeen's candidacy, the main reformist candidate, the Supreme Leader said publicly that he should be allowed to compete for the election. The Council of Guardians subsequently allowed his candidacy, witnessing its total dependency upon the Supreme Leader, and the complete absence of separation of powers.

Journalists

Several journalists are still in prison for the mere exercise of their right to freedom of expression: **Akbar Ganji** (since April 2000), **Hossein Ghazian** (since October 2002), and **Massoud Bastani** (since August 2005).

Akbar Ganji is currently detained in total isolation in the Evin prison. He carried out a hunger strike in order to protest against his detention, and ended it on 22 August, when he was allowed two weeks to recover in hospital before being sent back to prison on 3 September. Akbar Ganji has not been allowed any visits since his return from hospital to Evin prison, where he has been on hunger strike again. The FIDH is extremely worried for his physical and psychological integrity since it got no news on Ganji's situation since one month.

Lawyers and Human Rights Defenders

Two lawyers and founding members of the Defenders of Human Rights Centre (DHRC), FIDH member organisation in Iran, are currently in jail: Mr. **Nasser Zarafshan** (since August 2002) and Mr. **Abdolfattah Soltani** (since July 30).

Mr. Zarafshan was the lawyer of Mrs. Sima Pouhandeh, the widow of Mohammed Djafar Pouhandeh, a writer and human rights defender who was assassinated in 1998 by the Iranian intelligence services. He was condemned to five years in prison for "possession of firearms and alcohol" and for declarations he made during a press interview on the assassination of Iranian intellectuals at the end of the 1990s. He is currently detained at the Evin prison, in Tehran.

Mr. Soltani is accused of "espionage" and is detained in the Evin prison as well, in solitary confinement, which makes him particularly vulnerable to abuses. He cannot receive visits from his

lawyers nor from his family, in blatant violation of international human rights standards, including the ICCPR, ratified by Iran.

The FIDH believes his arrest is actually linked to the role played by Mr. Soltani, as a lawyer, in the **Zahra Kazemi trial**. Ms. Zahra Kazemi, an Iranian-Canadian photographer, died in July 2003 as a result of torture and ill-treatment during her detention in Iranian custody. On July 25, 2005, during a hearing in camera of the Tehran Court of Appeal, Mr. Soltani, lawyer of Ms. Zahra Kazemi's family, questioned the independence and fairness of the trial, pointing out that the main officials allegedly involved in the case had not been indicted by the court, including Mr. Saïd Mortazavi, General Prosecutor of Tehran.

In October 2003, the Article 90 Commission of the Majlis (Iranian Parliament) had released its report of enquiry into Ms. Kazemi's death, which concluded that Prosecutor Mortazavi and other members of the judiciary were directly involved in her death, as a result of violent interrogation in Evin prison.

Both the UN General Assembly resolutions on the situation of human rights in Iran of 2003 and 2004 called upon the Islamic Republic of Iran "to appoint an impartial prosecutor", since the role played by Mr. Mortazavi in the death of Ms. Kazemi, but also in the repression against journalists, lawyers and more recently web loggers, has been widely reported. However, the General Prosecutor of Tehran is still in place, and continues to target human rights defenders, as in Mr. Soltani's case.

Students

Several students are still in prison in connection with the protests of 1999. **Mehrdad Lohrasebi** and **Abbas Deldar** have been condemned to 15 years in prison; **Javid Tehrani**, condemned to seven years in prison and freed four years later, was re-arrested in June 2004. **Peyman Piran** (condemned to ten years in prison) and his father, **Mostafa Piran** (condemned to 18 months in prison) are detained since more than a year.

Akbar Mohammadi (condemned to 14 years in prison), his brother, **Manoutchehr Mohammadi** (condemned to 13 years in prison), and **Ahmad Batebi** (condemned to 15 years in prison) have been freed after seven years of detention for health reasons but might be sent back in prison at any moment, notably if they communicate with the media. The same is true of **Amir-Abbas Fakhravar** and **Heshmattolah Tabarzadi**. The latter, responsible of a students' association, had been condemned to 14 years in prison in January 2005 and was liberated for health reasons in August 2005.

Bina Darab-Zand, another student, was condemned in October 2004 to three years and a half in prison and is currently detained.

18 students were arrested in September and October 2005, arrests which were confirmed by the authorities. However, their name and the reason for their arrest were not disclosed.

Other prisoners of opinion

FIDH and the Iranian League for the Defense of Human Rights (LDDHI) have been informed of the cases of **Hojat Bakhtiari**, arrested in January 2003 and condemned to four years in prison; **Arjang Davoudi** is serving a 14 years prison sentence ; **Amir-Heshmat Saran**, arrested in February 2005, was condemned to 8 years in prison; **Mehdi Ghasemian**, arrested in June 2005 is still in prison pending trial, in spite of the concerns regarding his health. This list is in no way limitative.

All those people are prisoners of opinion and should be immediately and unconditionally released.

2. The Death Penalty

The Islamic Republic of Iran continues to apply the death penalty under conditions that blatantly violate international standards.

- **Executions of minors:**

A child becomes criminally liable under the Islamic Penal Law, at nine years old for girls and at 15 years old for boys (Article 49 of the Islamic Penal Law). Accordingly, a girl of 9 years old may be sentenced to death. Whenever a boy or a girl who has not reached the age of liability commits a crime, the court is entitled to sentence him/her to corporal punishment.

Children are being executed every year in Iran: 25 minors have been condemned to death in 2004, and at least two of them were executed, a girl of 16 years old, and a boy who was executed when he reached 18 years old. Two teenage boys, Mahmoud Asgari (16) and Ayaz Marhoni (18), were hanged in Mashhad (East of the country) in July 2005. They were allegedly condemned to death for raping a 13 years old child.

In January 2005, the Iranian delegation attending the UN Committee on the Rights of the Child announced that a Bill abolishing the death penalty for crimes committed by persons under 18 had been submitted to the Majlis. However, such a Bill has not been adopted yet. This in spite of the fact that the Committee had recommended in January 2005 that the Islamic Republic of Iran “take, as a matter of the highest priority, all possible measures to achieve final official approval of this new law and to ensure its full implementation”... and “take the necessary steps to immediately suspend the execution of all death penalties imposed on persons for having committed a crime before the age of 18, ... and to abolish the death penalty as a sentence imposed on persons for having committed crimes before the age of 18, as required by article 37 of the Convention [on the rights of the child]”.

- **Executions in public:** executions in Iran are usually carried out by hanging and in public. Public executions constitute a cruel, inhuman and degrading treatment. The UN Commission on Human Rights asks States not to carry out capital punishment in public or in any other degrading manner¹.

- **Crimes for which the death penalty is applied:** The laws of the Islamic Republic of Iran notably establish the sentence of death for the following crimes:
 - a. If a married woman commits adultery with a man, the woman must be stoned to death (article 83, para. 2 of the Islamic Penal Law).
 - b. Heresy (meaning giving up the Islamic faith) shall be sentenced to death (article 513)
 - c. Killing a Muslim entails the death penalty (Article 207 of the Islamic Penal Law).
 - d. Drug trafficking (specific law on drug trafficking)
 - e. Armed robbery (art. 185 of the Islamic Penal Law)
 - f. Rape (article 82 para. 4 of the Islamic Penal Law)
 - g. Homosexual acts (art. 110 of the Islamic Penal Law)
 - h. Incest (art. 82, para. 1 of the Islamic Penal Law)
 - i. Fornication with the wife of one’s father (art. 82, para. 2 of the Islamic Penal Law)
 - j. Fornication of a non-Muslim with a Muslim woman (82, para. 3 of the Islamic Penal Law)
 - k. Armed struggle, including with knives (art. 183 of the Islamic Penal Law)

This situation blatantly violates article 6 of the ICCPR on the right to life, under which the death penalty must be restricted to the “most serious crimes”. That notion must not go beyond “intentional crimes with lethal or extremely grave consequences” and the death penalty “must not be imposed for sexual relations between consenting adults”².

¹ Res. 2004/67 and 2005/59 on the Question of the Death Penalty.

² Res. 2005/59 on the Question of the Death Penalty.

- **Lack of Transparency:** the statistics regarding the death sentences and executions are confidential, which makes any assessment difficult. Based on news published in the press, a reliable local source assessed that 179 persons were condemned in 2003 and 81 executed. According to the LDDHI, 159 persons were condemned to death in 2004, and 53 executed during the first six months of 2004. No statistics are available yet concerning the year 2005.

Again, the absence of official statistics on the number of condemnations to death and executions contradicts the UN resolution adopted each year by the UN Commission on Human Rights, which calls upon states that still maintain capital punishment to make such information available to the public.

3. The Rights of Minorities

Ethnic and religious minorities in Iran are victims of discrimination, in law and in practice.

a. Kurds

Kurds are barred from teaching the Kurdish language at schools and face restrictions in publishing Kurdish literature. Kurdish cities are among the least developed in the country with high levels of unemployment.

In July 2005, large protests took place in Iran's northwestern region of Kurdistan, harshly repressed by the authorities. The unrest erupted after security forces killed Shivan Qaderi, a Kurdish opposition activist, on July 9 in the city of Mahabad.

The authorities acknowledged that on the occasion of protests in several cities of Iran's Kurdistan, among which Mahabad, Piranshahr, Sardasht, Saghez, Eshnavieh and Sanandaj, five persons were killed and dozens civilians arrested. Other estimates of the number of civilians dead vary, mentioning between 12 and 20 persons.

In addition, hundreds of civilians have reportedly been injured while several Kurdish activists, journalists and human rights defenders have been arrested. Among them, Mr **Borhan Divangar**, a member of the Saqez Bakery Workers' Union; Ms. **Roya Tolouï**, a women's rights activist (released on bail on 5 October 2005); **Azad Zamani**, a member of the Association for the Defence of Children's Rights.

Madeh Ahmadi, Ejalal Ghavami et Saïd Saedi, Kurdish journalists also arrested in July and August 2005, are reportedly still in prison. **Mohammad-Sadigh Kaboudvand**, Director of the weekly Payamkurdistan, was condemned to 18 months in prison in August 2005.

The Iranian authorities did not carry out an independent enquiry in those events, in spite of the fact that the security forces clearly made an excessive use of force against unarmed civilians. Since the July events, a climate of terror is prevailing in Kurdistan, as well as in the Khusistan province (South of Iran).

b. Baha'is

The persecution against the Baha'is based on their faith is clearly on the rise since January 2005. In Tehran and a dozen other localities throughout the country, people were arbitrarily arrested, and subsequently released on bail, sometimes after spending nearly three months in prison.

According to the Baha'is International Community (BIC), 53 Baha'is were arbitrarily imprisoned since the beginning of the year, then released on bail; they are still awaiting trial. By October 2005, ten Baha'is were still in prison. These regular arrests create a sense of insecurity.

In addition, the Iranian authorities reportedly continued to bar Baha'is from access to university, as in the past, and despite they claim the contrary. According to the BIC, large number of Bahá'í students passed the national university entrance examinations in late June/July 2005, many with very high scores. It was not necessary to declare a religious affiliation in order to take the exam. However, when they received their results in August, they saw that they had been falsely recorded as Muslims on the official form.

It should be noted that the same happened in 2004, in spite of an express recommendation by the UN Committee on the Elimination of Racial Discrimination that “the State party permit students of different origins to register in universities without being compelled to state their religion”. The Committee had noted with concern the discrimination faced by certain minorities, including the Bahá'ís.