

IRAN HUMAN RIGHTS REVIEW: JUSTICE

Edited by Tahirih Danesh and Hadi Enayat

Foreword by The Honorable Irwin Cotler PC, QC, MP



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Foreword
The Honourable Irwin Cotler PC, QC, MP

The Canadian Parliament concluded in May 2014 its third Iran Accountability Week, which sounded the alarm on the fourfold threat posed by the Iranian regime – nuclear, terrorist, incitement, and – in particular – the widespread and systematic violations of the human rights of the Iranian people. Parliamentarians heard expert witness testimony on the Iranian threat – particularly the massive domestic repression. In addition, a centre-piece of Iran Accountability Week was the Global Iranian Political Prisoner Advocacy Project, wherein parliamentarians ‘adopted’ an Iranian political prisoner not unlike the experience with taking up the case and cause of Soviet political prisoners.

This year’s Iran Accountability Week occurred at a most propitious time, as Iranian President Hassan Rouhani has been touting his commitment to ‘constructive engagement’ with the international community, particularly in the negotiation of a comprehensive nuclear agreement. Yet, as nuclear talks recently resumed, the systematic and widespread violations of human rights in Iran are being overshadowed – if not sanitised – by the preemptive international focus on the nuclear issue.

It should be recalled that when the U.S. negotiated an arms control agreement with the Soviet Union in 1975, it did not turn a blind eye to the USSR’s human rights abuses. Instead, the Helsinki Final Act linked the security, economic and human rights ‘baskets,’ with human rights emerging as the most transformative of the three. Negotiations with Iran should replicate this approach.

Accordingly, the ongoing nuclear negotiations should neither distract nor deflect from addressing and redressing the Iranian regime’s massive domestic repression.

The following constitutes an overview of just a few of the serious human rights abuses in Iran that continue unabated – or have even intensified – under Rouhani’s ‘moderate’ presidency.

1. Executions

Prior to Rouhani’s rise to power, Iran had the highest per capita execution rate in the world. Yet, the alarming rate of executions has actually increased under Rouhani, with more than 650 executions having been carried out since his ascension to the Presidency in August 2013 – including twenty executions during the week of his November ‘charm offensive’ at the United Nations – a fact largely ignored. Moreover, the recent execution binge has witnessed at least 330 executions since the beginning of 2014.

2. Political prisoners

According to the recent report by Dr Ahmed Shaheed – the UN Special Rapporteur on the Situation of Human Rights in Iran – there are at least 895 ‘prisoners of conscience’ and ‘political prisoners’ incarcerated in Iran.¹

Although Rouhani did free a number of political prisoners in the run-up to his September appearance at the UN – including iconic human rights lawyer Nasrin Sotoudeh – the cosmetic freeing of individual prisoners should not overshadow the ongoing painful reality of the criminalisation of innocence, including a spate of charges of ‘propaganda against the state’ following expressions of peaceful dissent.

3. Torture

According to Dr Shaheed’s March 2014 report, former detainees describe being ‘subjected to torture or cruel, inhumane or degrading treatment and prolonged solitary confinement to coerce confessions . . .’

The report documents the horrific treatment that Iranian prisoners endure, such as physical torture, including beating, whipping and assault occurring in 100 percent of cases; sexual torture, including rape, molestation and violence to genitals, occurring in 60 percent of cases; and a high prevalence of psychological and environmental torture, such as solitary confinement.

4. Persecution of the Baha’i

This year is the seventh year of imprisonment of the seven leaders of the Iranian Baha’i, known as the Yaran. Their 20 year sentences amount to a death sentence for some owing to their advanced age.

¹ Dr Ahmed Shaheed, March 2014 Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, March 2014, <http://shaheedoniran.org/english/dr-shaheeds-work/latest-reports/march-2014-report-of-the-special-rapporteur/>

Despite Rouhani's professed commitment to greater tolerance of religious minorities, Supreme Leader Ayatollah Khamenei has issued a fatwa calling on Iranians to avoid any interactions with members of the Baha'i faith, whom he maligned as a 'deviant and misleading sect.' The Iranian regime's systematic persecution of the Baha'i has also resulted in widespread religiously motivated hate crimes against them, with none of the attackers yet prosecuted or brought to justice.

5. The persecution of journalists and the assault on free speech

Dozens of journalists who were arrested during the crackdown that followed the 2009 fraudulent Presidential election remain incarcerated, while the regime continues to regularly arrest journalists and bloggers, imprisoning them without charge or trial or under trumped up charges such as 'propagating against the system' or 'insulting the President.' More recently, the regime has shut five newspapers, Bahr, Aseman, Ebtekar and Ghanoon.

6. Assault on the rule of law and the independence of the judiciary

There is a complete absence of judicial independence and rule of law in Iran. Indeed, the entire legal system is designed to enable and enforce the regime's massive repression of human rights and create a culture of impunity for its violators. In this regard, it is outrageous that Rouhani's appointee as Justice Minister is Mostafa Pour-Mohammadi – a man implicated in a litany of major human rights violations, including the 1988 massacre of 5,000 political prisoners.

Indeed, an overview of human rights violations in Iran during the past months alone shows that the regime is anything but moderate, even under Rouhani's presidency, and that it continues to systematically arrest, execute, torture and repress religious and ethnic minorities, human rights defenders, and political dissenters. Examples of this abound. For instance:

On May 25 and 28, prisoners in Bandar Abbas and Zahedan prisons were brutally beaten by prison authorities in an attack reminiscent of April's brutal assault on inmates at Evin Prison's Ward 350; two Iranian-Arab activists, Ali Chabishat and Khaled Mousavi, were executed in secret on June 16, 2014; journalist Hossein Nouraninejad, returning from Australia, was put on trial for 'propaganda against the state'; new charges of 'propaganda against the state and 'collusion against national security' brought against Narges Mohammadi; filmmaker Mahnaz Mohammadi began five years sentences on charges of 'propaganda against the state'.

Given Rouhani's ongoing charm offensive – and characterisations of him as a 'moderate' – it is particularly important to unmask the massive domestic repression and sound the alarm on the reality of repression in Iran.

Introduction

Tahirih Danesh
Hadi Enayat

'Justice' (*edalat*) has long been central to Iranian political culture. From the ancient Persian theory of the 'circle of justice' (*daire-ye edalat*) to the demands for a 'house of justice' (*edalatkhaneh*) during the Constitutional Revolution of 1906, the demand to nationalise the Iranian oil industry ending with the August 1953 US-UK engineered coup, and finally the centrality of social justice (*edalat-e ejtema'ie*) and the rule of law (*hokumat-e qanun*) to the ideology of the 1979 Revolution.

However, there is little to no consensus on the precise meaning of 'justice' among Iranians. As a result, it has been interpreted in a variety of conflicting ways across different political and religious traditions both inside and outside Iran. What many views of justice share is a belief in the basic equality of all human beings, though this leaves many questions unanswered such as equality in what terms? What is the relationship between equality and liberty? How are tensions between individual and societal rights to be resolved? What is the relationship between equality and justice? What is the source of equality? These questions have resonated at various times in modern Iranian history and have led to protracted legal and constitutional disputes on the meaning of principles such as 'equality before the law' or the proper relationship between social justice, private property and taxation.¹ As a human rights review focused on practical issues, however, this collection does not attempt to grapple with these philosophical questions and operates on the assumption that to be morally acceptable a society's institutional order must treat its citizens justly.² Broadly speaking, this means that there is formal equality in the legal and political sphere and some measure of substantive equality - or at least measures to tackle gross inequality - in the socio-economic sphere. Thus, this review focuses on two dimensions of justice in contemporary Iran. First, legal justice: issues pertaining to the rule of law, the independence of the judiciary, the legal profession and how adequately the law protects fundamental human rights. Second, social justice: issues pertaining to issues such as poverty, inequality, labour rights and access to health and education.

Legal justice

The contributions in this section of the issue examine some aspects of the legal system in Iran and its relationship to the principle of justice. It is important to note that legalism and the rule of law have been central to the rhetoric of legitimacy in the Islamic Republic. After the 1979 Revolution Ayatollah Khomeini denounced the secular legal system of the Pahlavis and pledged his commitment to a distinctly Islamic conception of legality on which the new order should be based. He declared the Persian New Year 1360 (1981-1982) the 'year of the rule of law' (*sal-e hokumat-e qanun*), maintaining that 'all the Prophets since the beginning of the world have come for the establishment of the law (*qanun*) and Islam has come for the establishment of the law'.³ The declaration paved the way for the introduction in that year of a codification of the Law of *Hodud*⁴ and *Qesas*⁵ derived from Shi'a jurisprudence (*fiqh*) replacing the secular penal code of 1926, to which new chapters (*Diyat* and *Ta'azirat*) were later added. Steps were also taken to Islamicise the judiciary culminating in 1991 in the abolition of the procuracy (*dadsara*) and a reversion to the traditional sharia court model in which the functions of prosecutor, investigator and judge were combined in the person of the judge, a move which seriously compromised the independence of the judge in legal proceedings.⁶

The current judiciary has three branches. First, the public courts in charge of criminal and civil cases. Second, revolutionary courts, whose judgements are final and cannot be appealed in any cases that in some way undermine the Islamic Republic, such as crimes against national security. Third, the special clerical courts which handle crimes committed by the clerics with judgements that are final and accountable to

¹ For example, Sheikh Fazlollah Nuri's campaign against Article 8 of the Supplementary Law of 1907 which was to establish 'equality before the law' of Muslims and non-Muslims. In the end Article 8 established equality before state law (*qanun-e dawlati*) implicitly leaving the inequality of non-Muslims in the sharia untouched, see Hadi Enayat *Law, State and Society in Modern Iran: Constitutionalism, Autocracy and Legal Reform 1906-1941* (Palgrave Macmillan): 63-66. For debates under the Islamic Republic involving the tension between land reform, private property and taxation see Asghar Shirazi, *The Constitution of Iran: Politics and the State in the Islamic Republic* (I.B Tauris, 1997): 237-9.

² Thomas Pogge, 'Rethinking Justice and Equality', *Social Europe Journal*, March 15, 2011. Available at: <http://www.social-europe.eu/2011/03/rethinking-justice-and-equality/>

³ Said Amir-Arjomand, *After Khomeini: Iran under His Successors* (Cambridge University Press): 23.

⁴ The *hodud* offenses constitute the core of Islamic penal law. These are crimes which are punished by 'divine right' and are therefore fixed and specified in the Quran and the Sunna. Their distinguishing feature is that they are violations of the claims of God (*haqq Allah*) and not the claims of people (*haqq al-nass*) which apply to private persons. The *hadd* crimes are theft, banditry, unlawful sexual intercourse, an unfounded accusation of unlawful sexual intercourse, drinking alcohol and apostasy.

⁵ *Qesas* means 'retaliation'. It is a principle of Islamic criminal law which deals with the claims of private persons (*haqq al-nass*) and regulates cases of bodily harm and homicide. Under *qesas*, which is similar to the principle of *Lex Talionis* (eye for an eye) found in other legal traditions, the victim (or their family) can demand retaliation, blood money (*diya*) or they can pardon the offender.

⁶ 'Procuracy' is the word used to describe the office of the public prosecutor (procureur) in the French civil law system on which the Iranian legal system was based.

the Supreme Leader. Article 156 of the Islamic Republic's Constitution enshrines the independence of the judiciary.⁷ However in practice, the Iranian judicial system lacks independence and has become a vital instrument in implementing the will of the Supreme Leader. For example, the Head of the Judiciary is appointed by the Supreme Leader who is charged with the appointment of the Head of the Supreme Court as well as the Minister of Justice. Furthermore, as several of the contributors to this review show, the legal system is characterised by extreme arbitrariness, judicial lawlessness, the enforcement, or at least selective enforcement, of brutal *hodud* punishments, the undermining of independent legal representation, the widespread use of torture, other egregious violations of due process, and mass prison killings in the 1980s which on any definition amount to crimes against humanity.⁸

Pressures from Iranian civil society as well as numerous international human rights reports published mainly during the 1990s and early 2000s prompted the government to restore the procuracy and make other mild attempts at reform from the early 2000s during Mahmoud Hashemi Shahroudi's tenure as head of the judiciary (2000-2009).⁹ Indeed, the establishment of the rule of law was one of the main pillars of President Mohammad Khatami's platform in 1997.¹⁰ Khatami identified the legal system as one of the most dysfunctional and abusive components of the Islamic Republic, which he emphasised, was clearly violating its own constitution.¹¹ Ironically, these very same institutions were instrumental in repressing the reform movement, manifested in the early 2000s, mainly in the shape of the judiciary shutting down reformist newspapers and the Guardian Council vetoing reformist bills.¹² Consequently, the judiciary became highly politicised during the presidency of Khatami and emerged as the main guardian of the unelected institutions (or 'deep state') in Iran.¹³ The situation deteriorated again with the crackdown on the Green Movement and its leaders during the 2009 post-election uprising, manifested in the mass show trials which followed, the widespread use of torture and rape in the course of the suppression and deaths of young protestors in the notorious Kahrizak prison and the confiscation and imprisonment of hundreds. At the height of the protests in June 2009, new regulations were introduced that, in effect, nullified Prime Minister Mohammad Mosaddeq's 1955 law guaranteeing independence for the Bar Association. Although the regulations were later suspended, they were replaced by a new bill of attorneyship which, if passed, could transform the Bar Association into a branch of the judiciary removing its independence and with it one of the main due process safeguards remaining in the legal system.¹⁴ This bill is the latest in a series of attacks on the independence of the legal profession, beginning after the revolution and continuing through the 1980s and 1990s, which, as Matine-Daftary shows in this review, has seriously undermined the long established right of defence in the criminal courts in Iran.

Another recent development is the 2012 promulgation of a revised penal code, originally commissioned by Shahroudi in part at least in the light of growing international criticism of the provisions of the old law (highlighted in the international arena by the Sakineh Ashtiani case).¹⁵ The revised code has been touted by the government as an improvement on the older version and one that broadly complies with international human rights standards.¹⁶ In reality, it employs a great deal of sophistry and vaguely worded articles to retain and even enhance many of the negative features of the old code such as stoning for adultery, arbitrary decision-making by judges (*elm-e qazi*),¹⁷ discriminatory provisions against women and religious minorities and the criminalisation of political dissent through vaguely worded crimes such as *moharebeh* (warring with God) and *efsad-e fel arz* (sowing corruption on earth).

⁷Iran Human Rights Documentation Centre, The Constitution of the Islamic Republic of Iran, <http://www.iranhrdc.org/english/english/human-rights-documents/iranian-codes/3017-the-constitution-of-the-islamic-republic-of-iran.html?p=20>

⁸ See the findings of the Iran Tribunal at: <http://www.iranhrdc.org/english/human-rights-documents/ngo-reports/iran-tribunal/index.1.html>

⁹ Mahmoud Hashemi Shahroudi (b.1948) was previously the head of the Supreme Council for the Islamic Revolution in Iraq. He was appointed by Ayatollah Khamenei as the Head of Iran's judiciary from 1999-2009. He is currently a member of Iran's Guardian Council.

¹⁰ Mohammad Khatami (b.1943) is a Reformist politician who served as President of Iran from 1997-2005.

¹¹ On Khatami's attempts to establish the rule of law see Keyvan Tabari, 'The Rule of Law and the Politics of Reform in Post-Revolutionary Iran', *International Sociology* 2003: 18-104.

¹² Ibid: 100.

¹³ Similar to the term 'state within a state' the term 'deep state' (*derin devlet*) is a term originally used by Turkish leftists and Islamists to refer to authoritarian and anti-democratic elements within the Turkish state (referring primarily to the army, judiciary and security forces).

¹⁴ On this issue see Mohammad Hossein Nayyeri, 'Iranian Bar Associations: Struggle for Independence', Iran Human Rights Documentation Centre, 28 November 2012, <http://www.iranhrdc.org/english/publications/legal-commentary/100000211-iranian-bar-associations-struggle-for-independence.html#U39kyFhdUm8>

¹⁵ Sakineh Ashtiani was sentenced to death by stoning for the crime of adultery in 2006. After a concerted international campaign initiated by her family which seriously embarrassed the Iranian government her sentence was suspended in 2011. She was eventually released from prison in March 2014.

¹⁶ For an English translation of the new code as well as other Iranian law codes go to <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/index.1.html>

¹⁷ On the concept of *elm-e qazi* see Drewery Dyke (this review). For a more detailed explanation see the report by Human Rights Watch 'Codifying Repression'.(2012) Available at: http://www.hrw.org/sites/default/files/reports/iran0812webwcover_0.pdf

This cursory examination of the rule of law in Iran leads to serious concerns around access to justice as reflected in a recent global rule of law index produced by the World Justice Project in which Iran ranked 82nd of 99 countries, a low ranking confirmed by the findings of this issue of Iran Human Rights Review.¹⁸

Social justice

Social justice was a central component in the ideology of the revolution of the Islamic Republic generally and the rhetoric of social justice has remained central to the discourse of successive Iranian administrations, opposition movements, as well as of the Supreme Leader.¹⁹ Backed by Article 29 of the Islamic Republic constitution, the leaders of the Islamic Republic have often boasted that in this area Iran is the envy of many developing countries, citing its impressive performance especially in the areas of poverty reduction and the provision of physical infrastructure to deprived areas. Critics of the Islamic Republic have questioned these claims by casting doubt on the veracity and reliability of essential data. Indeed, statistics published by various state agencies are often contradictory or lack detailed coverage.²⁰ Data on the balance sheets of public enterprises as well as on the accounts of *bonyads* (charitable trusts set up after the revolution which control an estimated 20-40% of Iran's GDP) are not available to the public.²¹ Therefore, observations in terms of macro-economic criteria for measuring social justice are somewhat tentative.

Since the revolution there have been several bouts of economic populism and redistribution which have had mixed results. Some scholars (including contributors to this review) have argued that levels of absolute poverty fell during the first 10 years after the Revolution and although they have fluctuated since then, poverty has generally decreased over the past 35 years.²² This was most apparent in the deprived rural areas where there were notable improvements in social services such as health, education and the provision of infrastructure such as water and electricity.²³ But whilst absolute poverty has been reduced, the Islamic Republic has fared worse in terms of reducing relative poverty (or inequality).²⁴ The Gini Index of inequality in Iran has for the most part remained at the higher end for developing countries (i.e. Iran has generally been more unequal than most other middle-income and developing countries).²⁵

While there is a debate on which is more important, absolute or relative poverty, a common trend across many societies is that as absolute poverty decreases, relative poverty becomes more important as a *political* issue. This is particularly relevant to Iran where the legitimacy of the state has often been based more on redistribution than wealth creation.²⁶ The corrosive effects of inequality are now well-documented; in brief, it tends to create social grievances and instability at the bottom and rent-seeking and corruption at the top.²⁷ The reasons for the failure to tackle inequality successfully are complex and may be attributed to a number of factors. The successive waves of botched privatisation and cronyism under Rafsanjani,²⁸ particularly intensified under Ahmadinejad's²⁹ administration, are partly to blame.³⁰ The problems with privatisation are in turn a result of the weakness of the rule of law described above. In addition, the effects of sanctions and rampant inflation exacerbated by economic mismanagement and corruption can also be cited as factors. Indeed, the fact that inequality increased dramatically during Ahmadinejad's first term, when oil prices reached new heights, fuelled suspicions of wide-scale corruption.³¹ Social mobility has also been stymied by growing inequality of opportunity in the area of education.³² Finally, another feature of the Islamic Republic undermining its rhetorical drive for social justice has been the crackdown on labour activists and trade unionists. Independent trade unions are a vital instrument in achieving social justice and reducing inequality. The repression of trade unions has been a consistent feature of the Islamic Republic since 1979 – independent trade unions are banned and labour activism has been

¹⁸ World Justice Project: <http://data.worldjusticeproject.org/#/index/IRN>

¹⁹ See Aiello (this review). This was particularly reflected in the writings of Ali Shariati but also in speeches by Ayatollah Khomeini.

²⁰ Jahangir Amuzegar 'Iran's Economy: Status, Problems and Prospects', Woodrow Wilson International Conference Paper, November 16, 2004. Available at: <http://www.wilsoncenter.org/sites/default/files/JahangirAmuzegarFinal.pdf>. Also see Aiello (this review).

²¹ Ibid.

²² See Djavand Salehi Isfahani (this review).

²³ Ibid. On the provision of health services under the IRI see Milani and Rezai (this review). Also see Eric Hoogland, 'Thirty Years of Islamic Revolution in Rural Iran', *Middle East Report*, Volume 39, Spring 2009. Available at: <http://www.merip.org/mer/mer250/thirty-years-islamic-revolution-rural-iran>

²⁴ See Aiello and Salehi-Isfahani (this review).

²⁵ The Gini index measures inequality from 1 to 100 from equal to unequal. In 2005 Iran scored 38 while Egypt scored 32 (Kevan Harris, 'Iran's Labour Flashpoint', *The Iran Primer*, February 17th, 2011.) Available at: <http://iranprimer.usip.org/blog/all/Kevan%20Harris?page=1>

²⁶ Djavand Salehi Isfahani, 'Iran: Poverty and Inequality Since the Revolution', Brookings Institute Opinion, January 29, 2009. Available at: <http://www.brookings.edu/research/opinions/2009/01/29-iran-salehi-isfahani>

²⁷ See Thomas Piketty, *Capital in the Twentieth Century* (Harvard, 2014), Joseph Stiglitz, *The Price of Inequality* (Penguin, 2013) and Richard Wilkinson and Kate Pickett, *The Spirit Level: Why Equality is Better for Everyone* (Penguin, 2010).

²⁸ Akbar Hashemi Rafsanjani (b.1934) was the President of Iran from 1989-1997. He is currently head of the powerful expediency council (*majmue-ye takhsis-e maslahat-nezam*).

²⁹ Mahmoud Ahmadinejad (b. 1956) was the President of Iran from 2005-2013.

³⁰ On privatization in Iran see Arjomand, *After Khomeini*: Chapters 3 and 8

³¹ Salehi-Isfahani, 'Poverty and Inequality' (para 10).

³² Salehi-Isfahani (this review).

repressed, often violently, and replaced with state-controlled Islamic worker boards. These organisations have policed dissent and directed worker grievances into more manageable forms.³³ This was another growing trend during Ahmadinejad's term and continues under the present administration.

In light of the above and the evidence provided by the contributions to this issue, the Islamic Republic of Iran is encouraged to:

1. Take the necessary steps to ensure independence of the judiciary.
2. Abolish the death penalty, including stoning and juvenile executions, as well as all corporal punishments.
3. Take effective legal measures to safeguard equal access to state organs and officials regardless of gender, religion, ethnicity, race, or economic means.
4. Accept a visit to the country by the UN Special Rapporteur on the situation of human rights to Iran and other special procedures of the UN Human Rights Council.
5. Safeguard access to social welfare including the highest standards of labour rights.
6. Amend the Penal Code to remove vague references and establish clear definitions for offences against the national and international security of the country in such a manner that does not violate Iran's commitment to rights of free speech and assembly.
7. Continue all efforts to guarantee effective social welfare, coverage and services free of ethnic, religious or gender discrimination.
8. Continue efforts to reduce poverty and increase access to education, healthcare and economic welfare.
9. Continue to improve programmes and policies aimed at advancing all rights of women and children.
10. Continue to improve just and equal access to economic, social and cultural rights of all citizens in Iran, both in main and marginal communities.

³³ Kevan Harris, 'Iran's Labour Flashpoint', *The Iran Primer*, February 17th, 2011. Available at: <http://iranprimer.usip.org/blog/all/Kevan%20Harris?page=1>

The Islamic Revolution and social justice

Stephen Aiello

The Iranian revolution of 1979 is best known for the idiosyncratic Islamic republic characterised by Ayatollah Khomeini's *velayat-e faqih* (guardianship of the jurist) theory of jurisprudence and governance. However, social justice was also a key component of this revolution. Khomeini and his supporters rose to power on a combination of Islamic authority and popular discontent with the condition of the national economy, especially among the impoverished lower classes. In particular, the case against the Shah highlighted the lavish lifestyle of the upper echelons of the Iranian national leadership, which was paid for by the exploitation of these classes, who lived in abject poverty.

In this regard, the Khomeinist revolution was on a strong Islamic footing, as social justice and equality find substantial support in Islamic theology, the Quran and the Hadiths. The only pillar of Islam relating to man-man relations is that of *zakat*, or the giving of charity, and there is a whole series of laws and enjoinders, such as the call for interest-free lending, charity, assistance of orphans and the creation of a society that is generally based upon social justice. For instance, one verse in the Quran states: 'Your wealth and your children are but a trial, and Allah has with Him a great reward. So fear Allah as much as you are able and listen and obey and spend [in the way of Allah]; it is better for yourselves. And whoever is protected from the stinginess of his soul—it is those who will be the successful'.¹ Another verse refers to the one who denies the Day of Judgment as one who 'drives away the orphan...doesn't encourage feeding the poor... and withholds assistance.'²

In the Iranian Constitution, such principles are expressed in repeated references to justice and equity. For example in Article 3 which states that the government of the Islamic Republic of Iran has a duty to direct all resources to: 'the planning of a correct and just economic system, in accordance with Islamic criteria in order to create welfare, eliminate poverty, and abolish all forms of deprivation with respect to food, housing, work, healthcare and the provision of social insurance for all.'³ Article 43 of the Constitution provides a further list of basic necessities guaranteed to all Iranian citizens. Despite these commitments, a closer look at the economic data and governmental practices in contemporary Iran reveals that the Islamic Republic of Iran fails to uphold its Islamic and constitutional duties of social justice towards its citizens.

Social justice in contemporary Iran

Three and a half decades after the revolution, Iran is further from realising social justice than ever. In recent years the economy has bottomed out. Despite strong natural resources and a relatively well-educated middle class, Iran has seen 30-40% inflation levels over the last two⁴ years and a steady decline in currency value punctuated by brief periods of rapid devaluation.⁵ While such occurrences harm most members of the Iranian economy and populace, they are especially harmful for the most disadvantaged members, for whom small sums of money are most significant and who don't have savings sitting in banks waiting for a brighter future. At the same time, many higher-qualified members of the middle-upper classes have left the country, leaving behind members of the lower class unable to obtain work visas or to find employment abroad.⁶

Iran's GDP shrank over the last two years, marking it as among the weakest in the world and a great disappointment considering where it stood 40-50 years ago. Its unemployment rate is close to the bottom quarter of global performance and its inflation rate is nearly the worst of the more than 250 countries, regions or political entities listed globally.⁷ These problems are aggravated by the prevention of external relief and support by bodies such as the World Bank (which ended financial assistance to Iran in 2005), the effects of sanctions and Iran's rising isolation in the global political economy.⁸

Successive Iranian administrations have not only failed to improve the situation for needy Iranians, but they have exacerbated it. A 2013 exposé by Reuters focused on Setad, a massive yet shadowy business entity directly answerable to Supreme Leader Khamenei. It was shown that the organisation, created in 1989, has acted to consolidate control over considerable property and corporate holdings domestically and

¹Quran 64: 15-16.

²Quran, 100:1

³ Government of Iran, Iranian Government Constitution, English Text, via <http://www.iranonline.com/iran/iran-info/government/constitution-4.html>

⁴ Central Intelligence Agency, Iran- CIA World Factbook 2014, <https://www.cia.gov/library/publications/the-world-factbook/geos/ir.html>.

⁵ Matthew O'Brien, Matthew. How Does a Currency Drop 60% in 8 Days? Just Ask Iran, *The Atlantic*, October 2012, <http://www.theatlantic.com/business/archive/2012/10/how-does-a-currency-drop-60-in-8-days-just-ask-iran/263159/>

⁶ Shirin Hakimzadeh, Iran: A Vast Diaspora Abroad and Millions of Refugees at Home. *Migrationpolicy.org*, Sept. 2006. <http://www.migrationpolicy.org/article/iran-vast-diaspora-abroad-and-millions-refugees-home>

⁷ Central Intelligence Agency, Iran- CIA World Factbook 2014, <https://www.cia.gov/library/publications/the-world-factbook/geos/ir.html>.

⁸ World Bank, Iran Overview, March 2014. <http://www.worldbank.org/en/country/iran/overview>

internationally.⁹ Purportedly dedicated to assisting widows, veterans and other needy members of Iranian society, in implementation Setad has been alleged to disenfranchise the poor, elderly and various minority groups, while enriching its own financial holdings. The result is what is by all accounts an incredibly wealthy (with estimates of holdings of nearly a trillion US dollars), non-transparent financial entity, one which has earned its wealth by taking the holdings of Iranian citizens. It is nominally committed to social justice but has dubious accomplishments to fall back on.

Factors in and causes of Iran's economic failures

Assessing the roots of the failure in Iran's approach to social justice is difficult given a lack of clear data, non-transparency and a lack of government cooperation. Much of the data available is questionable given the clear interest of the IRI's government in maintaining a stoic face (e.g. the discrepancies on Riyal valuations in recent years between government figures and black market reports). However, several factors lend themselves immediately to consideration.

Firstly, wide-ranging international sanctions have had a clear impact on the Iranian economy, and subsequent effect on impoverished Iranians.¹⁰ Related to the sanctions regime is an overall sense of isolation from the global economy. This isolation, coupled with domestic inhibitions from one of the world's most authoritarian regimes, has hurt the majority of Iranians while allowing a very small number of profiteers to exploit the situation for personal benefit.¹¹ The lack of transparency and oligarchic, clerical rule has also prevented the natural diversification and growth of the Iranian economy. Rather than benefiting poor Iranians, the battle against capitalism in favour of socialism has led to a system of cronyism. Finally, the oppression and restriction of the rights of various minority groups (in particular religious minorities such as minority religions not recognised by the Iranian constitution, as well as women and various sects within Islam) has led to those generally underprivileged sectors sinking deeper into hardship.

Policy suggestions

In light of the aforementioned issues, a number of policy suggestions are offered, broken down here into suggestions for domestic governmental, international state and NGO (local and international) actors.

1. Iranian government:

- a. Amending the constitution to broaden the guaranteed protection of minority groups, establishing a working group with representation of all minority communities dedicated to improving freedom for those groups.
- b. Taking active measures to restore the economic rights and commercial freedoms of women in Iran.
- c. Reversing the process of consolidation of private Iranian properties by state entities (such as Setad) and returning assets to the former legal owners to the extent possible.
- d. Pursuing a policy of transparency in law and finance, including removing powers from clerical figures and handing them over to civil servants with relevant academic backgrounds and the implementation of reforms where needed to restore confidence in the Iranian economy.
- e. Cooperating with international actors to have the sanctions regimes lifted and to resume foreign financial aid with a goal of controlling inflation and currency valuation and restoring economic growth.

2. Foreign states and international governmental organisations (IGO)s:

- a. Refining and narrowing sanctions, focusing them on state entities clearly linked to nuclear pursuit rather than broadly focusing on the Iranian economy; allowing private Iranian citizens the freedom to engage in international business and trade.
- b. Considering the harmful effects of long-term sanctions on a national economy and infrastructure (e.g. post-invasion Iraq) and reevaluating the US-led approach to negotiations with Iran in light of such considerations.

⁹ Babak Dehghanpisheh, Steve Stecklow and Yeganeh Torbati. Reuters Investigates Setad. Thomson Reuters, November 2013, <http://www.reuters.com/investigates/iran/#article/part1>

¹⁰ Toni Johnson, How Sanctions Affect Iran's Economy, Council on Foreign Relations, May 2012, <http://www.cfr.org/iran/sanctions-affect-irans-economy/p28329>

¹¹ FIDH, Iran: Rising Poverty, Declining Labor Rights, May 2013, http://www.fidh.org/IMG/pdf/iran_report_en.pdf

- c. Incorporating social justice and economic reform into current and future negotiations with Iran.
 - d. Pursuant to a revised policy towards Iran, working to restore World Bank-led assistance programming within Iran with the immediate goal of controlling inflation and currency valuation.
3. Non-governmental organisations (NGO)s:
- a. Strengthening awareness of, and commitment to, social justice within Iranian civil society.
 - b. Promoting economic rights and freedoms of minorities within Iran, as well as focusing resources on assisting impoverished and underprivileged groups to create actionable plans for improvement.
 - c. Exposing corruption and exploitation within Iran, in order to create domestic and international pressure for reform and improvement.
 - d. Working with cooperative government officials to create a framework for freer, more transparent business practices.

Some observations on the state of prisons in contemporary Iran

Anna Enayat

Many of the numerous accounts over the past thirty years of the failure of the Iranian judiciary to observe due process and the principles of a fair trial, the use of torture and poor prison conditions, have focused on political prisoners and on violations in the Revolutionary Court system. The position in the ordinary criminal justice system only became a cause for concern in the outside world after the publication of a 2003 analysis by the UN Working Group on Arbitrary Detention which pointed to factors affecting the administration of justice as a whole and raised questions about the standard of justice in criminal trials in the ordinary as well as the revolutionary courts.¹ Some international reports on human rights conditions in Iran have, since then, noted 'the absence of procedural safeguards in criminal trials'. But the limited detail on this issue that has entered international arenas has come in large measure from sources inside Iran: lawyers, working members of the judiciary, social workers and imprisoned political activists who have observed the plight of ordinary prisoners at close quarters. In criminal as in political cases, Article 128 of the code of criminal procedure is often invoked to deny detainees legal representation until police and judicial investigations are completed and because of the emphasis on confession as a method of proof in the courts, defendants are susceptible to forced confessions extracted while in police custody.² For the most part serious violations are carried out with impunity. Ordinary prisoners also have to endure what must be among the most difficult prison conditions in the world, which is the subject of this paper.

Prison conditions

Since the 1979 Revolution, Iran's prison population has increased markedly. On the eve of Revolution in 1978 there were about 10,000 prisoners representing, by the international measure known as the 'incarceration' or 'prison population' rate, 25 per 100,000 of the population. Based on the Iranian Prisons Organisation's statistics, and according to the calculation of an Iranian sociologist, by the first decade of the 2000s the incarceration rate had increased nearly ten-fold too, on average, 230 per 100,000.³ It is currently 284, significantly above the world median of between 144 and 155.⁴ Iran, in other words, has an exceptionally high prison population and, as explained in what follows, a prison system that is among the most overcrowded in the world.

During the period since 1979 prisoner numbers have waxed and waned. Official statistics showed a notable reduction between 1999 (when there were 190,000 prisoners) and 2004 (when there were 134,000). But the upward trend resumed from 2005 and by 2008 the prison population had reached 168,000. By March/April 2010 it was 184,000. From there numbers spiralled: to 204,000 in August 2010,⁵ 220,000 in March 2011, and 'over 250,000' in October 2011.⁶ Although the Prisons Organisation's figures for the prison population includes temporary detainees, it is not clear how accurately they reflect actual levels of incarceration since, especially in the first half of the 2000s, members of the judiciary and the Prisons Organisation would make frequent reference to the large numbers of citizens who experienced prison each year if only, in many cases, briefly. In the early 2000s, official sources variously put the 'transient' prison population (those in temporary detention who are under investigation or await charges, or those sentenced to short terms in prison) at between 400,000 and 600,000 each year without making it clear what impact this group had on the overall figures for prisoners held at any one time.

¹ Civil and Political Rights, Including the Question of Torture and Detention: Report of the Working Group on Arbitrary Detention. Addendum: Visit to The Islamic Republic of Iran, 15-27 February 2003 (E/CN.4/2004/3/Add.2 27 June 2003), see http://www.univie.ac.at/bimtor/dateien/iran_unwgd_2003_report.pdf

² Op. cit., the above report provides a list of certain major drawbacks in the law of criminal procedure. Article 128 being among the most important: CF, Para 18: 'During committal proceedings, counsel may be present, but may not speak until the end of the proceedings. In 'sensitive' cases, the judge has the discretionary authority to exclude counsel from the hearing for sentencing' (Code of Criminal Procedure, art. 128). A later report, of the United Nations Working Group on Arbitrary Detention (WGAD) illustrates what can happen in a 'sensitive' case, that of Kobra Rahmanpour, a young woman sentenced to death for the murder of her mother-in-law who has spent several years on death row while unsuccessful efforts were made to persuade the heirs to accept financial compensation in lieu of execution. (quote from Amnesty International AI Index: MDE 13/106/2006, 22 September 2006)

³ Said Madani. This needs more info about who the source is.

⁴ International Centre for Prison Studies, World Prison Population List, 10th edition, 2013. Though not even approaching the figure for the United States which has the highest incarceration rate of any major country (716 per 100,000).

⁵ Khabar Online, Unprecedented increase in the number of prisoners, October 2010 [9 Mehr 1398-in Persian], <http://www.khabaronline.ir/news-96668.aspx>; Radio Zamaneh, 'Iranian judiciary wants number of prisoners reduced', March 2011, <http://archive.radiozamaneh.com/english/content/iranian-judiciary-wants-number-prisoners-reduced>. See also Etemad, Report of the Prisons Organisation's Officials, January 2010 [7/11/1388- In Persian], <http://www.etemaad.ir/Released/88-11-07/205.htm>; *Shargh*, Zendan, July 2011, <http://sharghnewspaper.ir/Pdf/90-04-23/Vijeh/5.pdf>. For October 2011 see Inside of Iran, Iran: number imprisoned grows exponentially, (quoting various state news agencies), October 2011, <http://insideofiran.org/en/human-rights/2793-iran-number-imprisoned-grows-exponentially.html>; Mehr News, America is the World's Largest Prison Guard, October 2011 [17/7/1390-in Persian] <http://www.mehrnews.com/fa/NewsDetail.aspx?NewsID=1423300>.

⁶ Mehr News, October 2011, [17/7/1390-in Persian], <http://old.mehrnews.com/fa/NewsDetail.aspx?NewsId=1423300>

By way of example, in 2001 Ayatollah Hashemi Shahrudi, the Head of the Judiciary, told a meeting of his 'executive council' that the 'official figures' for prisoners were in fact only one-fifth of the actual figure:⁷

"Contrary to what the head of the state prisons organisation reports, the number of prisoners in the country is not 140 or 150,000. This figure appears to include only those who have been tried and who have received a final prison sentence. The total number of people in prison, including convicts and temporary detainees and those awaiting trial is around 600,000. But what do we mean by temporary detention when you come across a prisoner in Ahwaz who has been in jail for 21 years as a temporary detainee?"

According to the United Nations Office on Drugs and Crime (UNODC):

'In 2004-05, there were 136,427 prisoners (convicts) under the administration of the prisons authority; an unknown number of detainees under temporary arrest (estimate of 210,000) waiting for their court verdicts as well as unknown numbers of prisoners in the jails of various security organisations not under the auspices of the Iran Prisons Organisation. The known figure represents 490 prisoners per 100,000 of the population, which places the country among the six countries of the world with the highest incarceration rates. Over 95 percent of prisoners are men, which means that prisoners compose about 1 percent of the male population. The very large number of accused detained in prison awaiting trials, which creates problems for the rights of the accused, contributes to the overcrowding of the prisons and is costly for the state.'⁸

In statements issued in June and October 2006 the Head of the Prisons Organisation also put the spotlight on the throughput figures:

'From 21 March 2005 to the end of the year [March 2006] 610, 631 people entered prison ... of whom around 60 percent were held for less than 20 days.'⁹ Each year 600,000 people are sentenced to prison in Iran. Each month 50,000 people are put in prison and as a result the incarceration rate in Iran is among the top ten in the world [...].¹⁰

After 2008 officials have not made much reference to this transient population although in July 2013 a judiciary official stated that the rate of entry to and exit from prisons was equal,¹¹ and the Minister of Justice announced in his annual report that in the course of the Iranian year 2013-2014, '531, 796 entered the prison system, a reduction of 4.25 percent on the previous year.'¹²

The dramatic increase in the prison population over the three years to 2012 (26 percent/35 percent) is sometimes said to be due 'largely to increased prosecution of drug-related crimes.'¹³ But it is misleading to attribute the growth to this factor alone since the percentage of those held in prison for narcotics offences has hardly changed since the mid-2000s – 47 percent in both 2006/7 and 2013/14, for example, with only minor variations in other annual figures I have seen.¹⁴ Most Iranian lawyers asked about the matter respond that another, perhaps equally important factor, is the criminalisation of numerous offences which before the 1979 Revolution, or in most other countries, are not defined as crimes (1,640 separate offences are punishable by imprisonment under the Iranian penal code).¹⁵ There is also, according to one judge, a regrettable tendency among lawmakers to see a prison sentence as a cure all, even in the case of minor infractions. Another point raised is that assistant prosecutors have been too fast to issue arrest warrants instead of coaxing the parties to make peace.

Severely overcrowded prisons

Through the 2000s officials repeatedly put the capacity of the prison system at 55-60,000 inmates. In 2006, according to the Prisons Organisations head, Ali Akbar Yesaqi, these consisted of 224 units – 175 prisons, 25 juvenile detention centres, 23 camps and 11 temporary detention centres. There were, he added, about 100 other detention centres administered by the security forces and the police which were not under the authority of the Prisons Organisation.

⁷ Quoted in *Faslnameh-ye Majalleh-ye Hoquqi-ye Dadgostari*, No. 80, Autumn 2001 (the Judiciary's Quarterly Law Journal).

⁸ UNODC, Crime and Justice Situation: Laws and Legislations, (undated, believed 2005) https://www.unodc.org/pdf/iran/drug_crime_situation/rule_of_law/CrimeandJusticeLaws.pdf

⁹ ISNA, June 2006 [30/3/1385]; available at <http://www.vekalat.org/print.php?cat=1&newsnum=349405>.

¹⁰ ISNA, October 2006 [15 Mehr 1385], <http://www.isna.ir/Main/NewsXML.aspx?ID=959246>,

¹¹ ISNA, July 2013 [1 Mordad 1392], <http://isna.ir/fa/news/92050100635/>.

¹² Entekhab, Pourmohammadi, 'We have 217,000 prisoners', June 2014 [in Persian] <http://www.entekhab.ir/fa/news/168124>.

¹³ US State Department, Country Report on Human Rights Practices, 2013: Iran.

¹⁴ *Alef*, 47 percent of prisoners are narcotics offenders, May 2007 [18 Ordibehesht 1386-in Persian], <http://www.alef.ir/vdcj.oefuqeaisfzu.html?wml>;

47 percent of prisoners are convicted for drug offences, February 2014 [4 Esfand 1392] <http://www.tadbirkhabar.com/news/society/20300>

¹⁵ Jam-e Jam, 'A prison population awaiting a reduction in the number of crimes', July 2012 [2/5/1391-in Persian], <http://www.magiran.com/npview.asp?ID=2546699>; Radio Farda, 'Overcrowding of Prisons in Iran and Judicial Bottlenecks, September 2010 [23/6/1389] in Persian, http://www.radiofarda.com/content/F7_Aghasi_IV_on_Iran_Prisons_Capacity_and_Judiciary_Conditions/2157282.html.

For much of this period the system was holding from just under to just over 2.5 times its capacity which was, it seems, stagnating. Plans announced in 2001 for prison reconstruction, aimed at creating new capacity and removing prisons from the centre of cities had not progressed, causing Yesaqi to lament that, "Some of our prisons are in a state of extreme decay having functioned for more than half a century. Promises have been made in this connection and efforts have been undertaken. But if the trend of reconstruction proceeds at its present pace it will take another half century for the renovation of those prisons which require it to be completed."¹⁶ Another highly placed official to remark on this scenario was the Prosecutor General Ayatollah Dorri Najafabadi who in May 2007 observed that "The situation in some of the country's prisons is so bad that prison officials themselves have difficulty in tolerating it." He added that on each trip to the provinces he would inspect the local jails. "Go and look at conditions in our provincial jails. This is Tehran where conditions in the jails are better. It is not the same elsewhere [in the country] ...The Juvenile Correction Centre of Tehran was built forty years ago and has a capacity of 200-400 but our needs are far greater than this."¹⁷

By 2008 official capacity figures had risen to 65,000 but so too had the prison population, giving an occupancy rate of 243.1 percent which, according to World Prison Brief (WPB) data, ranked the Iranian system as the 9th most overcrowded in the world.¹⁸ In May 2011, the WPB put the prison occupancy rate at 258.8 percent quoting an expanded capacity of 85,000 but again a much higher prison population.¹⁹ By December 2011, when the number of prisoners reached 250,000, and the occupancy rate 294.1 percent – a little less than three times the system's capacity – the WPB ranked the Iranian system the fourth most overcrowded in the world, a hair's breadth behind the Philippines which the International Centre for Prison Studies estimated had an occupancy rate of 'circa 300 percent.'²⁰

The rapid rise in prisoner numbers over this period was not just combined with an acute shortage of space but also deteriorating financial resources, according to the head of the Prisons Organisation (Qolam Hossein Esmaili) and prison governors around the country, who in 2011 issued statement after statement confirming the growing crisis. Esmaili told the press that in the first two months of 1390 (April/May 2011) the Prisons Organisation budget had not been paid, forcing it to take huge sums in credit from the bazaar simply to feed detainees.²¹ Earlier a Ministry of Health official had declared that it had not been provided with the necessary resources to guarantee health standards and control infectious diseases in the prisons.²² And in a parliamentary debate in April Younes Mousavi, a member of the Majles judicial affairs commission said the annual budget of the Prisons Organisation did not even cover the cost of food and clothing, adding: "The prisons are facing so many difficulties that every two prisoners have to share a blanket." Mousavi said the removal of government subsidies on energy means utility bills have surged, so that the annual prison budget is just enough to cover their water, electricity and gas needs. He proposed reducing water and electricity tariffs for prisons, but parliament did not agree.²³

A month later another member of the Judicial Commission, Ezatollah Yousefian, said in a report on the welfare of prisoners published by *Sharq* newspaper that overall the country's prisons held four times their capacity and that a few were holding eight times.²⁴ Other leading officials admitted the crisis, though they quoted rather lower occupancy rates. For example, the Deputy Head of the Judiciary in Charge of Crime

¹⁶ Ibid., June 2006 [30/3/1385]. See also *Iran Daily*, July 2006 (<http://www.iran-daily.com/1385/2605/html/panorama.htm>).

¹⁷ *Etemad*, May 2007 [27/2/1386], <http://www.etemaad.com/Released/86-02-27/213.htm>

¹⁸ International Centre for Prison Studies World Prisons Brief, University of Essex, <http://www.prisonstudies.org/world-prison-brief>

¹⁹ There is some uncertainty over the official 'capacity' figure as the Prisons Organisation no longer maintains the page of key statistics previously published on its website. The Head of the Prisons Organisation and various other prison officials have, in the course of 2010 and 2011, alternatively cited a capacity of '55-60,000', 'around 80,000' and '85,000'.

²⁰ http://www.prisonstudies.org/info/worldbrief/wpb_stats_print.php?area=all&category=wb_occupancy Accessed 3 May 2011 and 3 October 2011. (This link does not work please find correct and provide details).

²¹ Khabaronline, The prisons have no space, the Prisons Organisation has no money, October 2011 [30 Mehr 1390], [http://khabaronline.ir/\(X\(1\)S\(ykol5lgkv3\)\)/detail/179661/society/84](http://khabaronline.ir/(X(1)S(ykol5lgkv3))/detail/179661/society/84).

²² Bultan News, "Ministry of Health warning on the consequences of overcrowding in the prisons", April 2011 [29 Farvardin 1390-in Persian], <http://www.bultannews.com/fa/news/45198/>. See also on the impact of Jam-e Jam, A prison population awaiting a reduction in the number of crimes, July 2012 [2/5/1391- in Persian], <http://www.magiran.com/npview.asp?ID=2546699>

²³ Radio Zamaneh, Iranian MP criticizes prison conditions, April 2011, <http://archive.radiozamaneh.com/english/content/iranian-mp-criticizes-prison-conditions>. References to the government's failure to provide an adequate budget for the prisons despite the rise in the prison population are nothing new. According to the Society for Defence of the Rights of Prisoners (ADPRI), 'While in 2007 parliament set a figure of 85,000 rials per capita for expenditure on prisons and the Plan Organisation accepted 60,000 rials, in practice only 25,000 rials is now spent per day. In Khuzestan the overall allocation to prisons in 2007 decreased by 11 per cent ... [and] in some provinces the amount spent on food has halved in 2007. For example in Ilam the budget for food has been reduced from 730 million tomans to 400 million tomans.' The Society for Defence of the Rights of Prisoners', Annual Report, 1386: <http://www.dprs.ir/ShowNews.php?4468>. See also Deutsche Welle, The Number of Prisoners in Iran has increased 25-fold over the Past Three Decades, September 2011 [in Persian] <http://www.dw-world.de/dw/article/0,,15368043,00.html>

²⁴ Saham News, MP: Iran's prisons hold eight times their capacity for prisoners, June 2011 [7 Tir 1390-In Persian] <http://sahamnews.net/1390/04/54831/>; See also Roozonline, November 2011, [in Persian], <http://www.roozonline.com/persian/news/newsitem/archive/2011/november/08/article/13-3-1.html>

Prevention said on 9 October 2011 that overall the system accommodated three times its capacity,²⁵ a figure also cited by the then Head of the National Inspectorate, Mostafa Pourmohammadi. Pourmohammadi confirmed that the government had neglected to build new prisons.²⁶

Data on individual prisons is not often made available, but what we have from a combination of official and civil society sources shows that overcrowding is significant in many major prisons with estimates ranging from almost three to as much as six times capacity.²⁷ For example, in November 2011, Vakilabad Prison, Mashhad, with a nominal capacity of 3,000 was holding around 13,000 inmates according to a judiciary official.²⁸ In 2010, Rajai Shahr prison with a maximum capacity of 90 prisoners held 1,100;²⁹ Qezel Hessar prison in Karaj, the largest in Iran, held 20,000 prisoners, more than three times its capacity according to the Head of the Alborz Prisons Administration in May 2011;³⁰ Tabriz Prison, with a capacity to hold around 2,000 had more than 6,000 prisoners in 2010 according to an inmate, a figure later confirmed by the prison governor; Isfahan with a capacity of 1,000 has 4,000 prisoners, and at times more according to judiciary officials in a September 2013 newspaper interview,³¹ Langaroud Prison, Qom with a capacity of 1,200 according to the Head of the Qom Prisons Administration had more than 4000 prisoners in November 2011.³²

Already in its 2005/06 report, filed when numbers were much lower, the now banned domestic NGO, the Association for the Defence of Prisoner's Rights, concluded that 'Despite certain improvements in comparison with previous years, we consider the overall conditions in prisons to be inappropriate and very far from acknowledged legal and human rights standards.'³³

Up until early 2009, the human reality of the situation of ordinary prisoners was occasionally attested in reports from political prisoners housed in the same wards, often by way of punishment. Many more emerged from prisons around the country following the June 2009 presidential election and the widespread arrests of civil society and political activists which followed.³⁴ These reports speak of prisoners having to sleep on the floor, in corridors and in courtyards, appalling sanitary facilities, inadequate food, medical neglect, high levels of violence outside the control of, and sometimes encouraged by guards, sexual abuse and so on. Since they were written and smuggled out of prisons at substantial personal risk by, in all cases, known political prisoners, there is no reason to disbelieve them.

Developments from January 2012-March 2014

The Judiciary has responded to the crisis of 2011 by attempting, on the one hand, to reduce the prison population, and on the other, to increase prison capacity. Additions to its building stock since numbers began to grow reportedly include two camps for drug addicts, now on-stream, in which conditions are to be intentionally 'hard.' Another three are said to be in the process of construction. The new 'greater Tehran prison' near Qom, long in the pipeline, is still only partially in operation and it appears that no more than 6,000 prisoners have so far been transferred to it.³⁵ An expanded woman's prison for Tehran province at Qarchak near Varamin, apparently a 'refurbished' building billed as an expanded and modernised premises acquired notoriety soon after women prisoners of conscience were transferred there in the Spring of 2011.³⁶ They found it contained 'subhuman' conditions: seven wards, each with a capacity of 100 inmates but each

²⁵ Daneshjoo News, October 2011, <http://balatarin.com/permlink/2011/10/9/2752550>

²⁶ Sharq, October 2011, <http://sharqnewspaper.ir/News/90/08/01/14845.html>

²⁷ Figures for 11 major prisons from a mixture of official and civil society sources, available on request.

²⁸ The Deterioration of Prison Conditions in Iran: 13 Thousand Inmates Packed in a Prison with Three Thousand Capacity,, International Campaign for Human Rights in Iran, November 2011, <http://www.iranhumanrights.org/2011/11/zoghi-prisons>

²⁹ Political Prisoner Sentenced to Life: Rajai Shahr Prison Resembles an Inferno, Persian2English, July 2010, <http://persian2english.com/?p=13193> .

³⁰ Akhbar-e Alborz, May 2011, <http://www.akhbarealborz.com/shownews.aspx?newsid=1892>

³¹ Qanoon, 20 September 2013 [24 Shahrivar 1392] available at <http://isfahanbar.org/vdcgrw9x4ak97.pra.html> .

³² Fars News, August 2010[10/5/1389], <http://www.farsnews.com/newstext.php?nn=8905100750> .

³³ Society for Defence of the Rights of Prisoners (ADPRI) <http://www.adpri.org/english/archives/000348.php> (accessed 4 March 2008, no longer accessible)

³⁴ There have been similar reports for, among others, prisons in Tabriz, Rasht, Qazvin, Boukan, Urumieh and Saveh. See for example, BBC Persian, Conditions in Iranian Prisons, July 2011 [in Persian], http://www.bbc.co.uk/persian/iran/2011/07/110717_l21_prison_health.shtml

³⁵ ISNA, Esmaili: My period of management in the prisons organisation was among the most difficult period of prison stewardship, April 2014 [10/2/1393], <http://isna.ir/fa/news/93021006924> ; Mehr, A 10 percent fall in the number of the country's prisoners, April 2014 [10/3/1393- in Persian] <http://www.mehrnews.com/TextVersionDetail/2281782> ; Khabaronline, Did the events of Ward 350 lead to a change in Esmaili's post?, Insert Western Date [3/2/1393], <http://www.khabaronline.ir/detail/351082/society/judiciary> .

³⁶ Qarchak Female Political Prisoners at Gharchak: "We Call Upon Those With A Conscience To Speak Out", May 2011, <http://insideofiran.org/en/component/content/article/68-women-rights/1138-female-political-prisoners-at-gharchak-we-call-upon-those-with-a-conscience-to-speak-out-against-a.htm> ; Gharchak Prison in Varamin A Humanitarian Disaster Waiting To Unfold, May 2010 <http://ar-ar.facebook.com/topic.php?uid=196853021630&topic=14664> ; Roozonline, This Prison Is More Like a Stable, May 2011; *Kalameh*, What it's like to be in Gharchak prison, May 2011; Committee of Human Rights Reporters. September 2012, Nargues recounts existence at Gharchak prison in Varamin, <http://chrr.biz/spip.php?article18819> .

holding close to 300 prisoners and served by only two toilets and two showers, water that could not be used to clean teeth, the poorest possible quality of food and so on.³⁷

The releases – which have been through pardons, generous amnesties for prisoners who are non-violent, and resolution, by various devices, of the situation of prisoners held because they are unable to pay blood money (*diyeh*) incurred as a result of unintentional injury – can be followed through various press reports. According to the Prisons Organisation the population of its jails were reduced in this way by 33,000 in a single year to 217,000 (official Iranian government figure for December 2012 sent to the World Prison Brief). Since then it appears to have remained steady with the latest figure announced in June 2014 being 217, 851, 3.5 percent less than ‘last year’.³⁸

³⁷ IHRDC, Campaign for the protection of women prisoners, no date, <http://www.iranhrdc.org/english/news/press-statements/3375-campaign-for-the-protection-of-women-prisoners.html#.U7qao1dUm8>

³⁸ Entekhab, Pourmohammadi, “We have 217,000 prisoners”, June 2014 [in Persian], “<http://www.entekhab.ir/fa/news/168124> .

Inequality in contemporary Iran

Djavad Salehi-Isfahani

The themes of inequality and economic justice have been an integral part of the rhetoric of the Islamic Republic of Iran (IRI). The 1979 revolution and the eight-year war with Iraq mobilised millions of the rural and urban poor and heightened their expectations for economic improvement. Thirty-five years later, demands for economic justice persist and claims that poverty is still widespread are commonly heard.

Iran's society is highly polarised, and not just along economic lines. Iranians are deeply divided on social issues, mainly on the extent of enforcement of Islamic laws and codes of behaviour. Grievances that originate in the social sphere naturally spill over into the economic sphere so it is difficult to get an accurate idea of the extent of inequality in contemporary Iran from the discussion of these issues in the media. In addition, rising expectations for a more just society may have moved the goalposts for what is attainable given Iran's economic resources. A rigorous analysis of inequality based on survey data is the only way to get a grasp on this important issue.

Fortunately, Iran publishes a vast amount of survey data with which one can gain a good understanding of the trends and the extent of inequality in the last three decades. My analysis is based on 29 rounds of the Household Expenditures and Incomes Surveys during 1984-2012.¹ My emphasis will be on the more recent years.

The discussion of inequality is usually conducted at two related levels. The easy part is to calculate the usual indices of inequality such as the Gini or Theil indices.² Since Iran's surveys are consistent over time and are comparable to similar surveys in other countries, these calculations offer a reliable way of judging the trend in inequality over time and how it compares to other countries. These are more complicated when we focus on inequality at the lower end of the income distribution, and try to understand how the welfare of the poor in Iran has changed over time or compares with other countries with similar levels of development. In doing so, I will stick to the most widely used standards adopted by international institutions such as the World Bank.

This review shows that while the Islamic Republic of Iran has a good record by international standards in reducing poverty, it has not been able to reduce inequality significantly. Furthermore, inequality of opportunity in education, which to a large extent determines the extent of economic mobility, is high and shows no tendency to improve. Some of the policies adopted by the IRI, such as family planning and the extension of infrastructure (electricity, clean water and schools) to rural areas and poor urban neighbourhoods have helped with economic mobility. But the government's overall emphasis on redistribution through foundations, cash transfers and the like has left the more fundamental determinants of inequality untouched.

Measuring poverty and inequality

Figure 1 below plots poverty rates (percentage of the population below the poverty line) for 1984-2012 using an urban poverty line equal to \$5 per person per day converted to Rials in Purchasing Power Parity conversion rates. The poverty lines for rural areas are set at two-thirds of the urban rate and for Tehran at one-third higher again to reflect the variation in the cost of living. Poverty remained high during the war years, in excess of 30%, but started to decline in the early 1990s with economic reconstruction, reaching about 5% in 2010. For comparison, consider the poverty rates for Tunisia and Turkey in 2010, two countries with comparable GDP per capita, measured at a much lower poverty line of \$2 (Purchasing Power Parity-PPP) per person per day: 4.3% and 4.7%, respectively.³

The chart also shows that inequality, as measured by the Gini Index, was much more persistent, only showing signs of decline around 2009.⁴ But, as Figure 2 shows, this movement toward greater equality was in part the consequence of declining incomes at the top. The income at the 90th percentile fell by 13.5% during 2007–2012, while that of the person at the 10th percentile rose by 24%. The person with the median income experienced a 5% increase during the same period.

Figure 1. Poverty and inequality as measured by per capita household expenditures

¹ Statistical Centre of Iran, Household Expenditure and Income, <https://www.amar.org.ir/Default.aspx?tabid=1507>

² Full definitions of these indices are available from the World Bank at Measuring Poverty, <http://go.worldbank.org/3SLYUTVY00>

³ World Bank, World Development Indicators, <http://data.worldbank.org/data-catalog/world-development-indicators>

⁴ Survey data is notorious for undercounting top incomes, so these inequality rates should be treated as the lower bounds. For this reason, the estimates in this chart are better for showing the trend than the level of inequality.

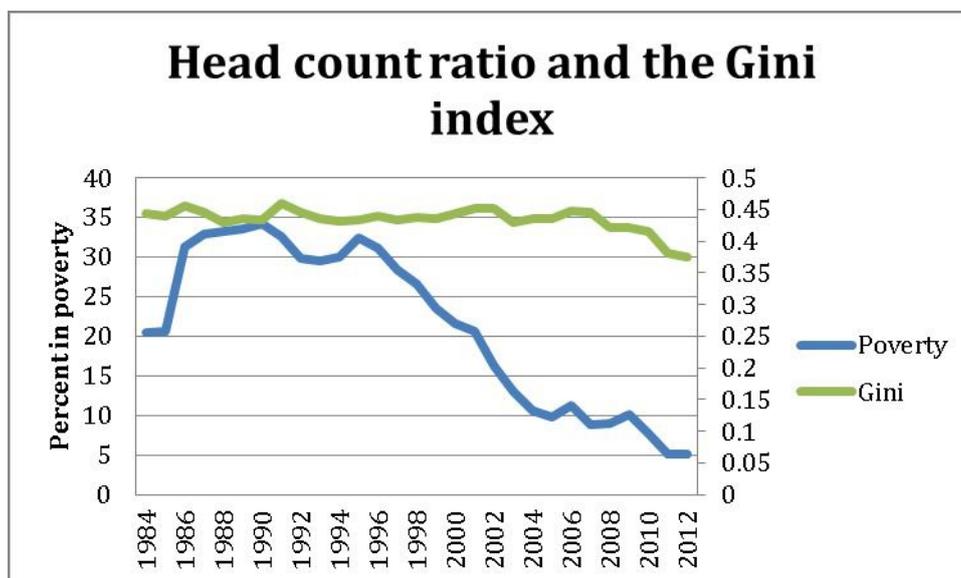
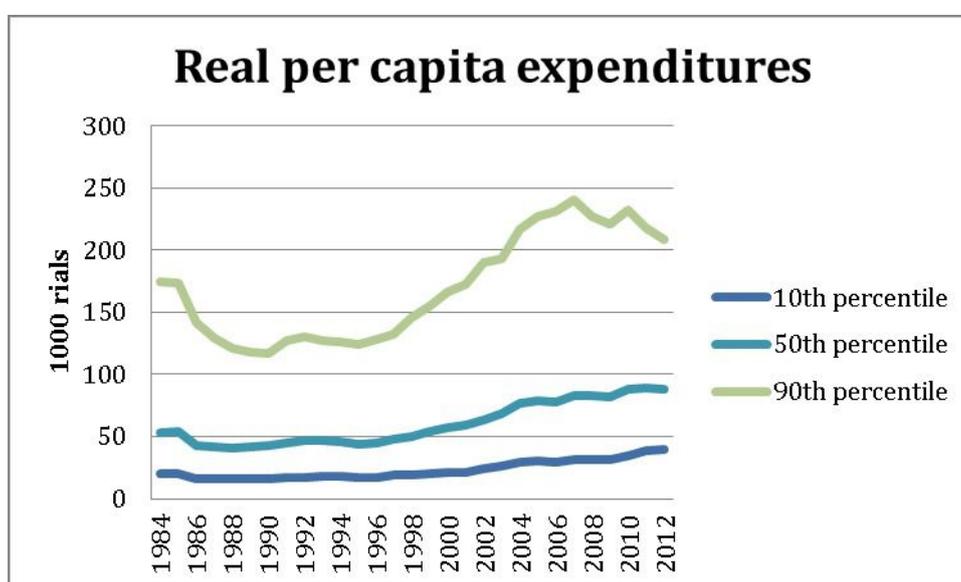


Figure 2. Changes in real expenditures per person per day for the 90th, 50th, and 10th percentile



For comparison purposes, consider again estimates of the Gini Index reported in the World Bank database. In 2010, this index in Turkey was 40.0 and in Tunisia 36.1, both in the ball park with Iran’s inequality index.

The rise in per capita expenditures for the 10th percentile in Figure 2 since 2010 is most likely due to the extensive cash transfer programme that the Ahmadinejad government started as part of the subsidy reforms of December 2010. The improvement in expenditures noted for the bottom decile was not the result of economic growth because the economy has been in a very poor shape since 2010 due to international sanctions and domestic economic mismanagement. The tendency for inequality to rise, even with rising oil revenues, is evident in the rise of the per capita expenditures at the 90th percentile during 2000–2007. Oil revenues accrue to the government, which it tends to distribute unequally to the powerful and the well-connected through credit and lucrative supply contracts. Because it does not trickle down to the bottom deciles well, oil-led economic booms tend to bring with them a certain degree of corruption at the top along with resentment at the bottom.⁵

An important failure of the Islamic Republic in delivering equity has been in education. For much of Iran’s modern history, education has been the main path to social mobility. But evidence on schooling and learning show that, at least in recent years, the poor have not benefited as much from the public education system as the rich. Inequality of opportunity in learning of maths and science by 8th grade students (13-14yrs old), estimated from test scores from the 2007 round of Trends in Mathematics and Science Study (TIMSS), places

⁵ D.Salehi-Isfahani, 2009. Poverty, Inequality, and Populist Politics in Iran, *Journal of Economic Inequality*, 7(1): 5-24.

Iran as one of the least opportunity equal countries in the Middle East.⁶ These estimates indicate that the probability of a child from a disadvantaged family (illiterate parents, etc.) to place in the top 10% of her class in maths is 25% compared with 95% for an advantaged child (both parents with collage education, etc.). Equity in access to schooling (attainment) is not much better. The likelihood of a child from a disadvantaged family never attending school is 11% for boys and 8% for a girl. The probability of dropping out before reaching upper secondary school for the same child is 37% for a boy and 34% for a girl. In both cases the child from the advantaged family enjoys a probability of one of reaching high school.

In delivering other basic services, such as health, electricity, clean water and the like, Islamic Iran has done better than most developing countries. Iran has won major international acclaim for its rapid expansion of health clinics to rural areas, which played a key role in lowering fertility and enabling parents from poorer backgrounds to invest more in the education of their (fewer) children.⁷ Expansion of electricity and clean water to rural areas has been equally impressive.⁸ While they are not adequately reflected in household expenditures because they are highly subsidised, they matter for the quality of life of the poor.

⁶ D.Salehi-Isfahani, N. Belhaj-Hassine and R. Assaad, 2013. Inequality of opportunity in educational achievement in the Middle East and North Africa, *Journal of Economic Inequality*, DOI: 10.1007/s10888-013-9263-6 (forthcoming).

⁷ M. J. Abbasi Shavazi, P. McDonaldM. Hosseini-Chavochi, 2009. *The Fertility Transition in Iran: Revolution and Reproduction*. New York: Springer. And D. Salehi-Isfahani, M. J. Abbasi and M. Hosseini-Chavoshi, 2010. 'Family Planning and Fertility Decline in Rural Iran: The Impact of Rural Health Clinics,' *Health Economics*, Volume 19, Issue S1, 159–180.

⁸ D. Salehi-Isfahani, 2009. 'The Revolution and the Rural Poor' *Radical History Review*, issue 105, pp. 139–144.

Healthcare and justice in Iran

Kavian S. Milani

Shideh Rezai

Justice, often conceived as fairness or equity, is an essential element of healthcare in theory and practice. The implementation of justice in terms of healthcare policy requires an understanding of health as a human right, and a just society is one in which human rights are recognised and practiced. This paper will focus on social justice which is the intersection of justice and healthcare in the context of Iran. Social justice is culturally, economically and historically nuanced, as it does not focus on what is merely just for the individual but what is just for the whole society.

Iran is a vast country encompassing a wide and diverse geographical area in southwest Asia and has a dispersed population. Great diversity in the weather, culture, environmental hazards and infrastructure has ultimately shaped the country's health profile. The specific geographic situation of Iran and mass immigration from Afghanistan and Iraq, the eight year war with Iraq, two neighbouring wars in Iraq and Afghanistan and insecurity after these wars in the region and illegal drug trafficking from the eastern borders with Pakistan and Afghanistan all affect the health system in Iran. All this adds serious burdens to the structural inefficiencies in the Iranian healthcare system.

Iran became an Islamic republic after the 1979 Islamic Revolution. It is the 18th largest country in the world located in the Middle East and has around 80 million population. Many different ethnic groups live together including Persian 61%, Azeri 16%, Kurd 10%, Lur 6%, Baloch 2%, Arab 2%, Turkmen and Turkic tribes 2% and others 1%. Iran has the 19th highest GDP in the world, but GDP per capita was 12,800 USD in 2013 (ranked 103rd). The inflation rate in Iran was 42.3% in 2013, the 3rd highest after Syria and Venezuela. Health expenditure is around 6% of GDP (ranked 110th).¹ The United States spends slightly more than 17% of GDP on healthcare, whereas the average OECD (Organisation for Economic Co-operation and Development) country spends 9.5% of its GDP on healthcare.²

Health is an international human right and this right corresponds with an obligation for every state to provide adequate health for all members of the society.³ Healthcare should at least be adequate, affordable and accessible. From the standpoint of this paper, meaningful engagement in the various activities of life, the pursuit of prosperity and happiness and the enjoyment of human rights in their fullest expression requires health and wellbeing. Therefore, following other experts and social activists, we consider the right to health as foundational. Article 12 of the Convention on Economic, Social and Cultural Rights states:

'The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.'⁴ Iran ratified this treaty in 1966.

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Article 29 of the Islamic Republic of Iran's constitution stipulates this concept as: 'entitlement to health services and medical care, is everybody's right...'.⁵ The Ministry of Health and Medical Education is mandated to fulfill this goal through designing and implementing a national level health policy.

In 1985, at national level, medical education was merged into the health system duties; therefore the 'Ministry of Health and Medical Education' (MOHME) was developed. At the regional level, a University of medical sciences and at the local level, health networks were formed which were responsible for health and education in the community, using a 'health house' structure with rural healthcare workers (called *Behvarz*) as the first line of healthcare provision. Health indicators in all areas during the first two decades after the reform indicate the efficiency of the Iranian health system in achieving predetermined goals.⁶

It should be noted that, according to Iran's Ministry of Health and Medical Educations (MOHME), the health workers (*Behvarz*) manage health houses, 'the initial group was based on those rural inhabitants whom completed their elementary education. They then entered the special training program for 2 years and

¹ CIA, Factbook C, The World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2225rank.html>

² Jason Kane, Health Costs: How the US compares with other countries, PBS, October 2012, <http://www.pbs.org/newshour/runtdown/health-costs-how-the-us-compares-with-other-countries/>

³ Wronka, Joseph. Human Rights and Social Justice. SAGE publications. 2008

⁴ UN Human Rights. International Covenant on Economic, Social and Cultural Rights, December 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

⁵ Algar H, et al. Constitution of the Islamic Republic of Iran. Mizan Press Berkeley; 1980.

⁶ Zarenejad A, Akbari M. *Three Decades of Efforts in Health Care System*. 1st ed. Tehran, Iran: Ministry of Health and Medical Education; 2009.

appointed as *Behvarz* to the health house covering up to 1,500 people.⁷ This created an environment in which the health system had the support of the community and, for instance, it took only 3 years to increase neonatal vaccine coverage from 33% to over 90% nationwide, which was an unprecedented success. The World Health Organization (WHO) report in 2008 confirmed this success: ‘The Islamic Republic of Iran’s progressive roll-out of rural coverage is an impressive example of this model.’⁸

Health, as a fundamental human right, is considered as one of the development factors in every society. Justice in health is one of the most important components of development, measured by its quality of public health, fair distribution of health services among different social classes, as well as, the level of support of disadvantaged people against factors harmful to health.⁹ Social Determinants of Health (SDH) play a crucial role for health provision and health maintenance of individuals within society. Equity, as an overarching value, is influenced by these social determinants. Inequitable opportunities based on socio-economic positions, race/ethnicity, gender, disabilities, geography as well as group differences manifesting as differences or variations of health indices across the country lead to disparities.

Examples of health inequities in Iran include; the mean Maternal Mortality Rate (MMR) in 2004-2006 at 24.7 per 100,000 live births, but MMR varies from 6.3 to 61.3 across the different provinces in Iran, clearly showing unfair distribution and health disparities.¹⁰ Also, the illiteracy rate, – an influential factor on health, is around 15% (2008 estimate), distributed unequally according to gender (19.3% in women versus 10.7% in men) and geographic location (minimum of 6.4 and maximum of 38.9).¹¹ Other important health indices such as Infant Mortality Rate (IMR), Life Expectancy (LE), Quality Adjusted Life Years (QALY) and combined indices such as Human Development Index (HDI) are also unequally distributed across the country and different socio-demographic groups.¹²

Index	Iran	Rank in the world
Population Growth rate	1.22%	97
Death Rate	5.94 deaths/1,000 population	169
MMR	21 death/100,000 live births	137
IMR	39 death/1000 live births	55
Life Expectancy	70.89	148
Health Expenditure	6% of GDP	110
Population Growth Rate	1.22%	97
Urban Population	69.1 %	-
Annual Rate of Urbanisation	1.25 %	-

Another dramatic health-related issue is the high prevalence of drug abuse, especially opioid addiction. The head of harm reduction at the Iran Drug Control Headquarters (DCHQ) recently announced there are 3 million drug users in Iran. However, unofficial sources estimate there are up to 6 million people with substance use disorder in Iran. A member of the Health Commission of Iran's Islamic Consultative Assembly recently announced the detriments caused by drug use are estimated at 200,000 billion IRR per year, which is equal to the annual health-care budget of Iran.¹³

While more than 24,000 HIV-infected cases have been identified in Iran, current estimates from UNAIDS claim more than 90,000 HIV-positive people are living in the country. Although injection drug use (IDU) has

⁷ Asadi-Lari M, Sayyari AA, Akbari ME, Gray D, Public health improvement in Iran--lessons from the last 20 years, *Public Health*. September 2004; 118(6): 395–402.

⁸ Van Lerberghe W. The World Health Report 2008: *Primary Health Care: Now More Than Ever*. World Health Organization; 2008.

⁹ Bahadorim M, Ravangard R, ‘Analysis of the Systematic Relationships among Social Determinants of Health (SDH) and Identification of Their Prioritization in Iran Using DEMA TEL Technique’ *Iran J Public Health* [Internet], December 2013, 42(12), <http://search.ebscohost.com/login.aspx?direct=true&profile=ehost&scope=site&authtype=crawler&jrnl=22516085&AN=93352389&h=xtAKYf%2BZIn8Bd36l%2FpQg8aZtQtN%2FM2yWbt19vkOM%2BSFuglMA6YBU4AN06RfYRoIHlQUCgKmcbuX5eEtTpKlIA%3D%3D&url=c>

¹⁰ Tajik P, Nedjat S, Afshar NE, Changizi N, Yazdizadeh B, Azemikhah A, et al., Inequality in maternal mortality in Iran: An ecologic study. *International Journal of Preventative Medicine*, 2012;3(2):116.

¹¹ Tajik P, Nedjat S, Afshar NE, Changizi N, Yazdizadeh B, Azemikhah A, et al., Inequality in maternal mortality in Iran: An ecologic study, *International Journal Preventative Medicine*, 2012;3(2):116.

¹² See the following studies and published reports: Ahmed S, Li Q, Liu L, Tsui AO, Maternal deaths averted by contraceptive use: an analysis of 172 countries, *The Lancet*, 2012;380 (9837):111–25; Hosseini AR, Van Doorslaer E, Speybroeck N, Naghavi M, Mohammad K, Majdzadeh R, et al., Decomposing socioeconomic inequality in infant mortality in Iran *International Journal of Epidemiology*, 2006;35(5):1211–9; Hosseini AR, Mohammad K, Majdzadeh R, Naghavi M, Abolhassani F, Sousa A, et al., Socioeconomic inequality in infant mortality in Iran and across its provinces, *Bull World Health Organ*, 2005;83(11):837–44.

¹³ Moghanibashi-Mansourieh A, Deilamizade A, The state of data collection on addiction in Iran, *Addiction*. 2014; 109 (5):854–854.

been primarily introduced as the main route of transmission, sexual transmission has also been speculated as the second most prevalent way of HIV acquisition. In fact, except for a prevalence rate of more than 5% among IDUs, it is estimated the prevalence rate remains at less than 1% among general public, ranking Iran among countries with a concentrated epidemic status.¹⁴

Although the burden of disease in Iran has shifted from communicable disease to non-communicable disease (NCD) in recent years, the communicable disease outbreaks are still a chief concern in deprived areas.¹⁵ Also, disparities in nutritional status manifested as under-nutrition and over-nutrition are noticeable across the country and different socio-economic groups.¹⁶

Insurance coverage deficits and high out of pocket expenditures are another topic of concern, especially for the poor. The Iranian Development Plan set the goal for out-of-pocket payments to be as low as 30% in 2008. Nonetheless, almost 55% of health spending is still paid out of pocket. Studies on change in household catastrophic healthcare expenditures (CHE) and inequality in facing such expenditures in low-income societies in Iran have shown no significant change in the CHE proportion despite policy interventions aimed at reducing such expenditures. Any solution to the problem of CHE should include interventions aimed at the determinants of CHE. It is essential to increase the depth of social insurance coverage by expanding the basic benefit package and reducing co-payments.¹⁷

In addition to the above mentioned issues, other challenges at the national level, such as new changing demographic patterns, the ageing of the population, economic influences, as well as the challenges of globalisation, changing and emerging patterns of disease, immigration and the geopolitical location of Iran should be major issues of concern in any strategic planning. Also, socio-economic inequalities in major health indices such as the MMR, IMR, Burden of Disease and Injuries (QALY / DALY), Life Expectancy across the country indicate alarming justice issues. Regardless of noticeable progress in different aspects of Iran's primary healthcare and prevention program, the authors have divided the future challenges for the Iranian healthcare system from the perspective of social justice into the following categories:

1. Healthcare financing

Worldwide, the financial resources of health systems are a real challenge. According to Iran's health officials, the amount of public budget devoted to health is not sufficient. In recent years, Iran's government has made the key decision to increase the share for health tax through taxation on tobacco and a share of vehicle insurance, but since the system is faced with a fundamental shortage of financial resources, these steps do not go far enough. Inefficiency and high administrative costs have also added to this problem and out-of-pocket payments are estimated to amount to over 70% of total healthcare expenditure in Iran.

2. Sustainable human resources for the health system

Although human resource development has improved in the past three decades and the number of health professionals has increased, the sustainability of a near adequate workforce is a cause for concern.

3. Noticeable health inequalities within the country

The WHO'S statistics reveal that differences in health status and the distribution of health determinants between different population groups in Iran is high. For example, the difference between life expectancy between different provinces is 24 years and health disparities are seen in women, minorities, injection drug users (IDU), sex workers and street children.

4. Epidemiologic transition

Iran is in an epidemiologic transition and faces a double burden of disease. New emerging threats such as Crimean Congo fever and Middle-Eastern Respiratory Syndrome (MERS) should be considered. These will

¹⁴ Cf the following: Alinaghi SAS, Zadeh AOT, Zaresefat H, Hajizadeh M, Mohamadi SN, Paydary K, et al. Prevalence of HIV infection and the correlates among beggars in Tehran, Iran, *Asian Pacific Journal of Tropical Disease*, 2013;3(1):76–8. Zadeh AOT, Seyed Alinaghi S, Hassanzad FF, Hajizadeh M, Mohamadi S, Emamzadeh-Fard S, et al., Prevalence of HIV infection and the correlates among homeless in Tehran, Iran, *Asian Pacific Journal of Tropical Biomedicine*. 2014; 4(1):65–8.

¹⁵ The following studies bring out this point: Izadi S, Shakeri H, Roham P, Sheikhzadeh K., Cholera outbreak in Southeast of Iran: routes of transmission in the situation of good primary health care services and poor individual hygienic practices, *Jpn J Infect Dis*, 2006;59(3):174. Japanese Journal of Infectious Disease Mehrdad R. Health System in Iran. *JMAJ*. 2009;52(1):69–73. Japanese Journal of Infectious Disease

¹⁶ There are multiple elements of interest here. The following two studies are examples of this discrepancy: Ghassemi H, Harrison G, Mohammad K., An accelerated nutrition transition in Iran, *Public Health Nutrition*. 2002; 5(1a):149–55. Kelishadi R, Ardalan G, Gheiratmand R, Majdzadeh R, Hosseini M, Gouya M, et al. Thinness, overweight and obesity in a national sample of Iranian children and adolescents: Caspian Study, *Child Care Health Development*. 2008; 34(1):44–54.

¹⁷ Kavosi Z, Rashidian A, Pourreza A, Majdzadeh R, Pourmalek F, Hosseinpour AR, et al., Inequality in household catastrophic health care expenditure in a low-income society of Iran, *Health Policy Plan*. 2012 Oct 1; 27(7):613–23.

become bigger factors as Iran becomes more integrated into the global economy and if the current détente with the United States becomes more permanent.

As we explained earlier, the new patterns can easily be undermined given that the disease burden moving away from communicable diseases in larger population centres. This epidemiological transition will affect the pattern of morbidity and mortality of non-communicable diseases and problems related to the ageing population. According to MOHME, the 'major burden of disease as a whole and especially in the large metropolitan (areas) is non-communicable diseases (NCDs) including cardiovascular disease (CVD), cancer and injuries.'

5. Inadequate mental health services

There are challenges at both primary and secondary healthcare levels; integration in the primary healthcare system and an immature family-physician programme, funding for mental healthcare services of good quality, providing a wide range of services to meet diverse clinical needs and preventive measures, and the absence of a single authority for mental health policy making and strategic planning are the most noticeable issues.

6. E- health

Although several pilot studies have been done in Iran with the largest now covering nearly 1 million people in Golestan province, computer-based health data gathering and e-health expansion is not effective.

7. Weak surveillance systems

These include: the cancer registry programme, AIDS, drug abuse, STDs, violence against women and self-burning (self-immolation).

8. Hospitals & ambulatory services

According to the Joint Commission on the Accreditation of Healthcare Organizations; 'The [Iranian] health system is one of the most complex systems with many variables and uncertainties. The management of this system needs trained managers.' One of the current shortcomings in Iran is the lack of trained managers for hospitals. The managers for health centres are usually physicians who are not trained for this job.¹⁸

9. Structural political violence and the prison system

Lastly, mention must be made of the issues related to the systematic violence as seen in the aftermath of the disputed 2009 Presidential elections and the treatment of political prisoners, as well as healthcare delivery in the prison system. The international accords to which Iran is a signatory emphasise guarantees for the well-being of prisoners with standards exceeding those that are not confined.¹⁹

Conclusion

Iran is a rich country with significant human and economic resources to create a structure amenable to concerns of social justice. Iran has also proven very successful in the past at population control and in launching the *Behvarz* program. According to Iran's vision for the future, 'Iran should be the most developed healthcare system in the region in 2025.'²⁰ However, inequalities in health are remarkable between groups of people in Iran. These unjust differences in health status have a profound impact on people's lives, determine their risk of illness and the actions taken to prevent them becoming ill and their ability to access treatment when illness occurs. The government of Iran has demonstrated a groundswell of interest in reducing the unfair distribution of health, but no strategic direction for achieving this. There is an emergent need to pay more attention to issues of equality in the distribution of health prospects and medical care and to consider justice as an important priority for the Iranian health system. Making policy, training, research and providing tools and guidelines are essential steps to reduce regional disparities in health.

¹⁸ Alavian SM, Fallahian F, Lankarani KB., Epidemiology of Hepatitis E in Iran and Pakistan., *Hepat Mon.* 2009;9(1):60–5. Win.

¹⁹ It is maintained that the standards should even exceed the non-incarcerated populations. For an up to date and interesting discussion see Zuniga, Jose M. et al, *Advancing the Human Right to Health* (Oxford University Press. 2013): 291-304.

²⁰ Health and Biomedical Science Professional Committee, Cultural Revolution Council. Comprehensive Health Map of Islamic Republic of Iran [Internet]. Ministry of Health and Medical Education; 2010, http://hbi.ir/info/banner/S&T_Map-Final.pdf

The concept of legality in the Iranian legal system

Silvia Tellenbach

The principle of legality is one of the most important principles in modern criminal law. It requires that no conduct be punished without a law that clearly describes the punishable act and the punishment provided for it. In western law it has been recognised since the 18th century. Iranian legal scholars state that it has been recognised in Islam for 1,400 years based on sources such as the Qur'an (17:15) which states: 'we do not punish anybody without having sent a messenger before' or the famous *hadith raf* that states that the responsibility for nine things is lifted from humans due to error and the lack of knowledge.¹ They also refer to the principle of *qubī 'iqÁb bilÁ bayÁn*, the 'evil of a punishment without informing (of the crime)' which is deduced from the Shi'a legal source of reason (*'aql*).² In Iranian law, the principle of legality was fixed for the first time in Article 12 of the supplementary constitutional law of 1907 and later in Articles 2 and 6 of the criminal code of 1926.³

After the Islamic revolution of 1979 and the foundation of the Islamic Republic of Iran, a new constitution, enacted in autumn 1979, provides that all law in the new state has to be Islamic (Article 4). It also contains some articles which mention the principle of legality. These are Article 36: 'A sentence to punishment and its execution must only be by the decision of a competent and by virtue of law', Article 166: 'The verdicts of courts must be well reasoned out and documented with reference to the articles and principles of the law in accordance with which they were delivered' and Article 169: 'no act or omission may be regarded as a crime with retrospective effect on the basis of a law framed subsequently.'

Also in the criminal codes enacted after the Islamic revolution (1982/1983, 1991/1995, 2013) the principle of legality is guaranteed to a certain degree. For example, Article 2 of the Law on Islamic Punishment of 1982 (1361) states that: 'Every act and every omission of an act which according to the law entails punishment or measures for the prevention of crime and reformation of offenders is regarded as a crime and no act can be regarded a crime if punishment or measures for the prevention of crime and reformation of offenders are not provided for it according to the law.'⁴ This provision was considerably modified in the Islamic Penal Code (IPC) of 1991 and its wording remains unchanged in the new code of 2013. Now Article 2 of the IPC states: 'Every act and every omission of an act for which a punishment is foreseen in the law, is regarded as a crime.' It seems that the legality principle is not protected in the same way as before, as the second part of the sentence was cancelled which stated that *only* acts or omission of acts for which punishments are foreseen in the law are regarded as crimes.

Additionally, the principle of non-retroactivity laid down in Article 6 of the Law on Islamic punishment of 1982 was replaced by and restricted in Article 11 of the IPC of 1991 and Article 10 of 2013. This provision is problematic: 'In state provisions, every punishment or measure of security and education must be based on a law which was enacted before the commission of the crime ...' Here, the characteristic structure of Islamic criminal law plays a decisive role: Islamic criminal law divides crimes into different groups often governed by different principles, namely crimes punished with *hadd* (*pl. hodud*), with retaliation (*qesas*) and blood money (*diya*) and with *ta'zir* (and from 1991-2013 *bazdarande*⁵). *Hadd*, *qesas* and *diya* punishments are regarded as divine punishments, whereas *ta'zir* (and *bazdarande*) punishments are regulated in laws made by humans. The difference between the three types of crimes is also important in the question of the retroactivity of a law. The limitation to state provisions in Article 10 means that the principle of non-retroactivity does not apply to crimes punished with *hadd*, *qesas* or *diya* punishments. Every adult Muslim is supposed to know them, though they did not exist in the former penal code. In the eyes of the supporters of this regulation the question of retroactivity of a law does not arise: as these punishments were fixed by the Shari'a, they had been in force since the revelation of Islam.

The question which has caused the most heated discussion, however, is the meaning of Article 167 of the Constitution of Iran and its influence on criminal law. Though Articles 36, 166 and 169 of the Constitution guarantee the principle of legality, Article 167 of the Constitution seems to contradict it fundamentally. Article 167 sets out that 'the judge is bound to endeavour to judge each case on the basis of the codified law. In case of the absence of any such law, he has to deliver his judgment on the basis of authoritative

¹ A. R. Milani, *Negaresh bar asl-e qanuni budan-e jara'em wa- mojazatha* (A description of the principle of the legality of crimes and punishments), 2007[1386]: Tehran: Nashr-e Mizan, 98-99.

² Milani 2007: 103.

³ Milani, 2007: 41- 42.

⁴ Translated by DR. SAYYID ALI RAZA NAQVI, Islamic Republic's Penal Code, 1985, available online at: <http://www.iranrights.org/library/document/139>

⁵ Meaning deterrent

Islamic sources and authentic fatwas. He, on the pretext of the silence of or deficiency of law in the matter, or its brevity or contradictory nature, cannot refrain from admitting and examining cases and delivering his judgment.⁶

There were many efforts to find an interpretation that renders this principle compatible with the principle of legality. Legal scholars proposed different ways. According to one opinion, Article 167 directly permits punishment for an act that is regarded as a crime under religious law, but not under positive law.⁷ Others hold that Article 167 refers to civil law only, not to criminal law.⁸ A third group of scholars argued that judges could only fill a *lacuna* by interpreting certain notions of Islamic law that had not been explained in the written law, but not create a new basis for punishment.⁹ Apart from this discussion that can be described only very roughly¹⁰ it has to be remarked that in the codified law there have always been regulations that clearly show that it should be possible to punish a conduct that was not provided for as a crime in the codified law such as Article 289 of the 1982 law modifying some articles of the criminal procedure code, Article 8 of the Law on the formation of general and revolutionary courts of 1373/1994 or Article 214 of the Code of Criminal Procedure of 1999.¹¹

The new Criminal Code of 2013¹² contains some provisions that will bring this discussion to an end. On the one hand, the principle of legality is confirmed (Art. 2, 10), albeit with some limitations. On the other hand, Article 220 refers to Article 167 in the following form: 'In the case of *hodud* which are not mentioned in this law, it will be acted according to Article 167 of the Constitution of the Islamic Republic of Iran.'

This means that every conduct which is covered by one of the crimes punishable with *hodud* punishments can be punished even if they are not laid down as a criminal provision in the criminal code or any other Iranian law. In practice, this may gain some importance in cases of apostasy from Islam which is clearly regarded as punishable in Islamic law but not stipulated as a crime in the Iranian codified law.

⁶ All the translations of the Iranian constitution of 1979 are taken from http://www.law.yale.edu/rcw/rcw/jurisdictions/assc/iranislamicrepof/iran_constitution.doc,

⁷ A. Zira'at, *Hoquq-e jaza-ye 'omumi* (General criminal law), 2006 [1385]: vol. 1. Tehran: Entesharat-e Qoqnus. 3rd ed: 69.

⁸ S. M. Mohaqqueq-Damad, *Qawa'ed-e feqh – bakhsh-e jaza'i* (The rules of Islamic Jurisprudence – Penal section). 2000 [1379]: Tehran: Markaz-e Nashr-e 'Olum-e Eslami (1379/2000): 38 ; I. Golduziyan, *Hoquq-e jaza-ye 'omumi-ye Iran* (The general part of Iranian penal law). 1.vol, 2007 [1386] Tehran: Entesharat-e Daneshgah-e Tehran, 10. ed.: 213; M. J. Habibzadeh, *Usul-e qanuni budan-e jorm wa-mojazat: zamanat-e ejra-ye hoquq-e shahrwandi dar qalamru-ye hoquq-e kaifari* (Legality principle of crime and punishment: The guarantees of the rights of the citizen in the field of criminal law), 2005-2006 [1384-1385] and *Hoquq-e omumi va-hoquq-e bashari* (Human Rights and Public Law) 1st-2nd year, 2005-2006 [1384-1385]: 73.

⁹ G. Eftekhar Jahrumi, G. 1999[1378]. *Asl-e qanuni budan-e jara'im wa-mojazat wa-tahawwolat* (The principle of the legality of crimes and punishment and its developments). *Majalle-ye tahqiqat-e hoquqi* (Revue de Recherche Juridique) 25-26, 1999 [1378/1999]: 97 and Milani (2007-as above): 131.

¹⁰ See for further details, S. Tellenbach, 2013. *The Principle of Legality in the Iranian Constitutional and Criminal Law*. In: S.A.Arjomand and N. J. Brown. *The Rule of Law, Islam and Constitutional Politics in Egypt and Iran*. (New York: Suny Press 2013): 109-113.

¹¹ Tellenbach (2013):113-116.

¹² Published in the Official Gazette (of Iran) Nr. 19873 of 27.5.2013 [6.3.1392].

The right of defense and independence of lawyers 1979-1993

Hedayat Matine-Doosty

This contribution is an extract from Part 2 of an unpublished brief presented to the Iran Tribunal convened at the Hague on 25–27 October 2012 entitled ‘Penal Policy in the Islamic Republic, an Instrument of Flagrant Abuse of Human Rights’. It traces the history of legal institutions in the Islamic Republic in its first fourteen years. It consists of two parts: (1) ‘The development of the judiciary and the penal code in the first decade of a sectarian state’ and (2) ‘A brief review of the situation of human rights at the end of the first decade.’ It argues that when Khomeini took control of the destiny of Iran in 1979 and imposed theocratic rule on the country, a major part of his political project was to eradicate the result of a 70-year modern and secular trend of legislative evolution which followed the Constitutional Revolution of 1906, and to discard the resulting secular judiciary as well as the independent Bar Associations. However, he goes on to point out, as often observed by scholars who have addressed the subject, that these early aspirations to Islamise and replace the whole body of laws ... petered out because of the difficulties of adapting the principles of Islamic law to a complex modern society and that much of the law (civil and commercial in particular) that is in force is inherited from the Constitutional Revolution and the legal system for which it stood, and developed over the following eight decades. However, there were two extremely significant exceptions to this, namely, the judiciary itself and penal policy, both crucial from the point of view of human rights. In this extract we trace the process, and logic, by which the long-established right to defence in the criminal courts was undermined.

Traditionally and in accordance with established laws which had not been abrogated or modified by the present regime in Iran, the accused had the right to select lawyer(s) for his or her defence in all courts and tribunals, before the investigating judge, prosecutors, all civil and police authorities and for all charges, big and small. Furthermore, if the defendant was unable to find, appoint or pay for a legal counsel, then the court would, upon his or her request, appoint a member of the Bar as their counsel.

In felonies when the proposed punishment exceeded 3 years of imprisonment, Article 9 of the Law for the Establishment of the Courts of Assizes of 1958 obliged the clerk of the court to automatically appoint a defence counsel for the accused in the event that he or she failed to introduce their counsel(s) within 10 days of receiving a court notice. In fact, the court could not convene and hearings could not begin unless a qualified member of the Bar was present as counsel for defence. This general rule was also extended to Military Tribunals in 1978 where, prior to this date, only military counsel could attend. Article 35 of the Constitution of the Islamic Republic reaffirmed this basic right in 1979.

On 19 September 1984, the General Council of the Court of Cassation (Supreme Court), comprised of all members of the various chambers of the court and empowered to set legally binding precedents on guarantees for due process of law, reaffirmed and at the same time modified, the established legal rights of defence. It held that:

[...] intervention of counsel for defence, briefed by the court, in the event that the accused, personally, has not appointed attorney(s) for defence, is essential in criminal proceedings in cases where the main punishment for the crime in question could be a death sentence or life imprisonment [...]

In this binding decision, the court had with great caution reiterated a principle that already existed, had been reaffirmed by the 1979 Constitution and was already a provision in the Law for the Establishment of Islamic Revolutionary Courts in the earlier days of 1979. At the same time, the right to a court-appointed lawyer was reduced from crimes exceeding 3 years of imprisonment to crimes carrying a sentence of life imprisonment or death.

Although this important guarantee was binding upon all courts of law throughout the period since February 1979, when the present regime gained power, members of the Bar faced multiple obstacles and harassments, as well as closed doors, in their attempts to represent anyone before the Revolutionary courts. Of the activities of defence attorneys, Ayatollah Rabbani-Amlashi, the then Prosecutor General, ignoring the principle of the presumption of innocence, said in an interview published in *Ettela'at* daily on 9 March 1982:

“[...] since defence from the point of view of Islam and the constitution of the Islamic Republic is permitted, the accused and the complainant may both employ the services of attorneys in courts. Of course only those attorneys who are defenders of Islam and the constitution of the Islamic Republic and not the attorneys who use their tongue and receive large sums to make the right wrong, and with a biting eloquence put falsehood on the seat of righteousness.”

On the subject of defence in courts for political prisoners or, as he described them, prisoners from 'mohareb' (warrior against God) and 'ilhadi' (atheist) crowds, Rabbani-Amlashi added:

"Their attorneys may defend the prisoners, provided that at least, they have belief in the guilt of these groups as mohareb and ilhadi (atheist) and would be ready to base their defence on the grade of their crime, demanding clemency and lenient punishments. They should not declare that the terrorist, the agent, the mohareb and the mofsed are innocent and demand their return to the society enabling them to repeat their crimes. ..."

In general, throughout the 1980s and for several years after, lawyers were not allowed entry into the Revolutionary Courts. One distinguished member of the Bar, Hadi Esma'ilzadeh, who tried, in vain, to defend a political leader and to impose himself upon the court in 1980 was arbitrarily arrested in 1982 and as an act of vengeance for his deed was tortured and kept in prison for 8 years.

Apart from the Revolutionary Courts a considerable number of other courts, too, even in civil cases refused entry to counsels for defence. Lawyers, eventually, became too intimidated to appear before the courts.

The Iranian Bar Association, a much respected secular institution, which had gained autonomy by a cherished Law of Independence on 5 May 1953, organised the legal profession, monitored the right of defence, provided legal aid both in civil and criminal cases with all members participating *pro bono*. Known for its commitment to secular justice, to the universal heritage of the enlightenment, to the right of defence and to human rights, it was, side by side with the judiciary, a prime target of the new sectarian religious authority. Comprised of the bulk of practicing attorneys in the country, it was directed by the Bar Council composed of 12 members and 6 alternates. Election to the Council took place on a regular basis according to the law every two years. It had its independent Disciplinary Prosecutor and Disciplinary Courts and other officers appointed by the Council, who, together with the members and officers of the Council, acted *pro bono*.

The process chosen to eradicate the independence of the legal profession and to suppress the exercise of the right of defence and secular justice as obstacles to the legal persecution of human beings has faced the resistance and continued struggle of several generations of lawyers, old and young, over the past 30 years. It is a sad story, yet to be told in full... I can only touch briefly on this planned and sordid process during the first decade of the Islamic Republic that was designed to pave the way for a new religious penal policy that facilitated the suppression of non-conformist opponents. Hostile actions had already begun in the early summer of 1979, but the following are the major stages of the process:

1. In June 1980 the Revolutionary Council prevented the scheduled Bar Council election from taking place, citing 'the need to purge the Bar before elections could be permitted.'
2. In May 1981 the offices of the Bar Association located in the Palace of Justice were occupied by force. The archive, the library and the funds of the association were all blocked and the offices sealed. The Council rented a property outside the Palace where the offices of the Bar Association were reopened.
3. In December 1981 the International Commission of Jurists recorded that a newly qualified lawyer, Mohsen Jahandar, had been condemned and executed by firing squad in August 1981 for having defended persons on trial in revolutionary tribunals.¹ On 1 November 1981 another young lawyer, Mohammad Reza Khaksar Bakhtiari who defended political prisoners (members of the Mojahedin) was executed solely for 'having undertaken the defense of the enemies of the regime.' Other members of the Bar executed in this period included Manouchehr Masoudi, the former legal adviser to President Banisadr; Zia Moddaress a prominent lawyer and former Assistant Disciplinary Prosecutor of the Bar; Dr Mahmoud Majzoub; Mehdi Amin-Amin a veteran lawyer of prominence, former legal advisor of Iran National Airlines and a leader in the Baha'i faith, and Dr Manouchehr Ghaem-Maghani also of the Baha'i faith.
4. On 30 January 1982, by order of an Islamic revolutionary judge, the new premises of the Bar Association were occupied and Abdol Hamid Ardalani, the President of the Bar Council, Dr Mohammad Taghi Damghani and Jahangir Amirhosseini, two members of the Council, as well as Ms Batoul Keyhani, the Administrative Secretary of the Bar Association, who were present at the time, were arrested. The remaining members of the Council, who had not already been forced to leave the country for their safety, chose to hide and eventually ask for asylum abroad. In the same period, amongst other prominent members of the Bar, Hadi Esma'ilzadeh was arrested for counselling a well known political prisoner since,

¹ International Commission of Jurists, Review No. 27 Justice in Iran, December 1981, p. 7. <http://www.iranhrdc.org/files.php?file=PUBLIC/pdf/1323440481940-tiffdocs.pdf>

during the trial, he was not admitted to the court. His detention lasted six years during which he suffered torture and his health deteriorated badly.

5. On the same day, by order of the Islamic revolutionary judiciary, a young conformist, Eftekhar Jahromi, at the time a newly qualified lawyer, was placed in charge of the Association. Those arrested suffered torture and were arbitrarily given minimum sentences of six years as *mofsehs*. The President and Dr Damghani lost their health as a result of torture and the severe condition of their detention. Mr Ardalan, a highly respected veteran lawyer died shortly after his release and Dr Damghani died ten years later in 1998 at the age of 72.
6. On 19 December 1982, the new administrative secretary of the occupied Bar, in an interview published in the daily *Ettela'at*, said that disciplinary action would be taken against some 300 members of the Bar by 'devout' and 'committed' individuals who had been invited to take up the office of disciplinary prosecutor. On the subject of a purge he added that a major purge has to be ordered by the Supreme Judicial Council.
7. On 18 June 1983, as demanded on the same day by the revolutionary prosecutor of Teheran, the Revolutionary Court presided over by Ayatollah Mohammadi-Gilani, in a single *collective* judgment made in their absence, disqualified 57 prominent members of the Bar and revoked their permits. The judge also declared a ban on their future employment with government departments. The list included the past and present members of the Council as well as disciplinary judges and prosecutors.
8. On 2 January 1984 the same revolutionary judge issued another *collective* judgment disqualifying in a similar manner 53 prominent members of the Bar.
9. A new law modifying the right of defence was legislated and under international pressure following the visits by the UN Special Representative for Human Rights in Iran, Reynaldo Galindo-Pohl, went into force in 1991. The law was an ineffective noisy drum, a publicity stunt, which quietly curtailed even the existing rules. Under the law the courts are only obliged to receive attorneys appointed by 'the parties to a legal case'. The law did not oblige the courts to appoint counsels for the defendant and to observe the rule of counsel's imperative presence 'in cases when the main punishment for the crime could be death sentence or life imprisonment.'
10. Under the same international pressure after Galindo-Pohl's visits, the efforts and effective protests of lawyers in exile, the authorities in Tehran accepted to restore the Bar and allow the election for a Bar Council to take place. The zeal shown by the members of the Bar for making the new turn a success was remarkable. Polling was scheduled for 9 October 1991. However, one day before, on 8 October, in an unconventional act, a bill was prepared, presented to the Islamic Consultative Assembly, and approved on the same day to be enforced immediately, to suspend the event pending a purge under the direction of the Head of the Judiciary.²

As indicated above, the Iranian Bar had a long tradition of independence, a brilliant record in defending human rights and fundamental freedoms and in developing the right of defence and extending legal aid to the needy.

Today, though the dismantled Bar has been reopened with only a quasi-independence controlled by the Islamic judiciary and administered by the same persons who took over by force from the elected Bar Council, an important bulk of the new generation of members, have bravely and clearly shown their devotion to the right of defence. Many are to be found in prisons or under prosecution for protecting others or have sought asylum as a last resort. The saga has yet to be told.

Throughout the 1980s not even one counsel for defence was briefed by the Islamic Revolutionary Courts to defend persons who were accused of offences whose punishment was death or life imprisonment.

In the first 14 years of the Islamic Republic, thousands of political prisoners were massacred or killed in cold blood in prisons throughout Iran by order of the Revolutionary Tribunals. Trials were held *in camera*, the observance of due process of law, the principle of presumption of innocence and rules of proper investigation were not observed, more importantly, in the absence of defence lawyers. Thousands of others, too, for various reasons—for their social and religious beliefs; for apostasy; for their way of life and

² The incident is recounted in "Final Report on the Situation of Human Rights in the Islamic Republic of Iran by the Special Representative of the Commission on Human Rights, Mr. Reynaldo Galindo Pohl", E/CN.4/1993/41, 28 January 1993, para 130.

social and cultural expression; for their relationships; for their sexual habits; or for being charged with drug trafficking and armed robbery—were executed or given long prison terms in the same kind of summary trials.

According to long standing laws and traditions of the country, the binding opinion of the General Council of the Court of Cassations of 1984, which reaffirmed the imperative presence of a counsel for defence, as well as international norms and standards pertaining to fair trials and the right of defence, trials held in the absence of defence lawyers are at all times illegal and judicially have no impact.

Those who head the regime in Iran, its government and those responsible for its judiciary are, therefore, and must be considered as responsible for taking the lives of many thousands of innocent human beings by hanging, by shooting and by various other means. The executions are not administration of justice but extra-judicial killings. Therefore, the offenders should be brought to trial. The situation in Iran calls for serious action.

Workers' rights and workers' access to the justice system in Iran Nasser Asgary

A persistent trend in the Islamic Republic of Iran has been the repression of trade unions and of labour rights. Workers are forbidden from forming independent associations, as well as not being legally allowed to participate in any collective actions because strikes are denounced as *haram* (forbidden).¹ The regime has appointed 'Islamic Workers Councils' to make decisions on behalf of workers. These agencies are working with management and the intelligence and security forces to identify activists as well as any possibilities of worker collective actions. So, if workers strike over grievances such as non-payment of wages, which is widely prevalent, they risk being persecuted. The 'ring leaders' are watched closely by those spies in the 'Islamic Workers Councils' and 'Islamic Associations' and are reported to management.

Iran's Islamic Labour Law² clearly stipulates strikes are anti-Islamic and forbidden. Forming an independent workers' organisation is a punishable crime. The regime so closely monitors workers' activity that even the statute of the 'Islamic Workers Councils' states its members must have proven their commitment to the *velayat-e faqih* (guardianship of the jurist).³ Every year hundreds of workers' protests are reported and in every case riot police are called to disperse them.⁴

On the eve of May Day 2014, Jafar Azim Zadeh and Jamil Mohammadi were arrested for having called for a workers' gathering to protest against the minimum wage announced this year.⁵ On the same day Shapoor Ehsani-Rad and Parvin Mohammadi were arrested briefly and later released after being interrogated for belonging to the same organisation as Jafar and Jamil.⁶ Reza Shahabi, another prominent labour activist from the Tehran Bus Drivers' Union was arrested in 2011 and in spite of very poor health, he has been in jail ever since for leading a bus drivers' strike in 2006.⁷ All of the labour activists from the Haft Tapeh Sugar Cane Union are under tremendous pressure from security forces. They have been silenced and many of them have lost their jobs.⁸ The Metal Workers' Union in Sanandaj was dissolved in the 1980s after every one of its key activists were arrested, tortured and jailed. Jamal Cheagh-Vaisi, one of the leading members of that union was executed.⁹ The Saqez Bakers' Union suffered the same fate.¹⁰ Mahmood Salehi, a well-known worker activist and leading member of this union was jailed under very harsh conditions. Rasoul Bodaghi, a member of the governing board of the Teachers' Trade Association is serving a six-year sentence for his union activities.¹¹

As individuals before the Justice System, Muslim workers like everyone else nominally have equal rights. But Islamic laws govern these rights. Protesting workers face arbitrary arrest and the arrested workers are labelled as 'agents of foreign enemies and threats to national security'.¹² They are often interrogated under harsh conditions; held in solitary confinement and tortured in order to give false testimony against their comrades. They are even denied regular visits. The Islamic regime's treatment of Sharookh Zamani, Jafar Azim Zadeh and Rasoul Bodaghi are examples of such treatment.

Behnam Ebrahim-Zadeh, a member of The Committee to Pursue the Establishment of Free Workers' Organization, has been in jail for defending his fellow workers' rights since June of 2010 and has been held under very harsh conditions. His charges include the allegation of being a member of an armed opposition

¹ On 15 Dey 1358 (Jan 5, 1981), in one of his speeches, Khomeini declared that: "Today strikes are *Haram*. Those that are participating in strike actions are engaged in anti Islamic activities": <http://seyyedmohammadi.blogspot.com/1390/03/25/post-208/>

² Available on-line at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/21843/64830/E90IRN01.htm>

³ Statute of Islamic Workers' Councils: <http://tashakolha.mcls.gov.ir/fa/tashakolkargari/shoraaslami/marahal>

⁴ News of workers' activities and strikes can be obtained from *Ilina* and many other websites and newspapers inside and outside Iran. My source, which collects workers' related news weekly, is: <http://www.wpiran.org/00-k-komunist/kk-index.htm>

⁵ Jafar Azim Zadeh and Jamil Mohammadi are arrested: <http://www.etehadeh.com/?page=news&nid=3703>

⁶ Iranian workers being arrested beaten on May Day: <http://persian.iranhumanrights.org/1393/02/labor-day/>

⁷ Deutsche Welle Persian, Reza Shahabi, a labour activist, is sentenced to 6 years in jail; April 2012, <http://www.dw.de/%D8%B1%D8%B6%D8%A7-%D8%B4%D9%87%D8%A7%D8%A8%DB%8C-%D9%81%D8%B9%D8%A7%D9%84-%DA%A9%D8%A7%D8%B1%DA%AF%D8%B1%DB%8C-%D8%A8%D9%87-%D8%B4%D8%B4-%D8%B3%D8%A7%D9%84-%D8%AD%D8%A8%D8%B3-%D9%85%D8%AD%DA%A9%D9%88%D9%85-%D8%B4%D8%AF/a-15884677>

⁸ Prison sentence for *Haft Tapeh* Sugar Cane union members: http://www.bbc.co.uk/persian/iran/2009/04/090415_op_hafttappe_convictions.shtml

⁹ History of Sanandaj Metal Workers Union: in an interview with one of that defunct union's members: <http://www.komitteyehamanghi.com/post143.htm>

¹⁰ History of May Day in *Saqez*: in an interview with its leader, Mahmood Salehi: <http://eshtrak.wordpress.com/2014/05/07/%D8%A7%D9%88%D9%84-%D9%85%D8%A7%D9%87-%D9%85%D9%87-%D8%AF%D8%B1-%D8%B4%D9%87%D8%B1-%D8%B3%D9%82%D8%B2-%DA%86%DA%AF%D9%88%D9%86%D9%87-%D8%A8%D8%B1%DA%AF%D8%B2%D8%A7%D8%B1-%D8%B4%D8%AF%D9%AC-%D9%82/>

¹¹ Six years prison sentence for Rasoul Bodaghi: <https://hra-news.org/fa/thought-and-expression/1-2212>

¹² Charges of collaborating with anti Islamic illegal groups: <http://exilesactivist.wordpress.com/2013/02/13/%D9%85%D8%AD%D8%A7%DA%A9%D9%85%D9%87-4%D8%B9%D8%B6%D9%88-%DA%A9%D9%85%DB%8C%D8%AA%D9%87-%D9%87%D9%85%D8%A7%D9%87%D9%86%DA%AF%DB%8C-%D8%A8%D9%87-%D8%A7%D8%AA%D9%87%D8%A7%D9%85-%D8%A7%D9%82%D8%AF%D8%A7/>, http://www.radiofarda.com/content/f6_Iran_Osanloo_Court_Prison/2121967.html

group, a claim that is strongly refuted by Mr Ebrahim-Zadeh and other activists. His son, Nima, has been diagnosed with cancer and doctors have advocated for Behnam's release as it will help Nima's recovery but it has been denied.¹³ Two other well-known members of the same organisation, Sharookh Zamani and Mohammad Jerahi are in jail for 'anti-Islamic activities' charges, as well.

In 2010, members of the Free Union of Workers in Iran (*Ettehadīye Azad-e Kargarān-e Iran*), in Sanandaj, were fined and sentenced to flogging in public for participating in a May Day rally.¹⁴ Three members of the Collaborative Council of Labour Organisations and worker activists from Mohabad in West Azerbaijan, Vahed Seyedeh, Yousef Abkharabat, Mohammad Molanaie (who is 76 years old) were arrested and detained without the right to bail, for participating in workers' rights-related activities in mid February 2014.¹⁵

Worker activists are never treated as 'innocent until proven guilty', but they are always 'guilty until proven innocent'. Almost every known worker activist has been summoned for interrogation and face huge bail requests which act to restrict and limit their freedom to participate in workers' rights-related activities. Most of these activists are also being prevented from travelling abroad; or have to go through red tapes before being allowed to travel. This was the case in a recent travel plan for Dawood Razavi of the Tehran Bus Drivers' Union who had an invitation from trade unions in France to attend a conference.¹⁶

Lawyers defending workers rights and worker activists are facing intimidation as well. This was the case when Mahmood Salehi was first arrested as well as with the lawyers of executive members of *Haft Tapeh* Sugar Cane Union.¹⁷

Afghan immigrant workers do not even have those nominal equal rights. They are considered illegal residents and anyone employing them will be fined and prosecuted.¹⁸ The Islamic regime treats non-Muslim workers as non-equal citizens and they are not treated the same before the law as Muslim citizens.

It is important to also keep in mind there are no independent, trained judges overseeing court cases related to workers concerns. The judges are clerics trained to lead prayers and hold marriage or death ceremonies. Based on their teachings from seminaries they make arbitrary legal decisions. Most of the time, when a lawyer brings up a clause in a legal document to defend his/her client, they are shut down and their legal documents are dismissed. Most statutes that seem to establish rights for workers in Iran contain clauses which effectively deny these basic rights.

¹³ Behnam Ebrahim-Zadeh's son, Nima, writes about his father and his own illness: <https://tavaana.org/fa/content/%D8%B1%D9%86%D8%AC%D9%86%D8%A7%D9%85%D9%87-%D9%86%DB%8C%D9%85%D8%A7-%D8%A7%D8%A8%D8%B1%D8%A7%D9%87%DB%8C%D9%85%E2%80%8C%D8%B2%D8%A7%D8%AF%D9%87%D8%8C-%D9%81%D8%B1%D8%B2%D9%86%D8%AF-%DA%A9%D8%A7%D8%B1%DA%AF%D8%B1-%D9%85%D8%B9%D8%AA%D8%B1%D8%B6-%D8%B2%D9%86%D8%AF%D8%A7%D9%86%DB%8C-%D8%A8%D9%87%D9%86%D8%A7%D9%85-%D8%A7%D8%A8%D8%B1%D8%A7%D9%87%DB%8C%D9%85%E2%80%8C%D8%B2%D8%A7%D8%AF%D9%87-0>

¹⁴ Workers participating in May Day rally are sentenced to be flogged in public: <http://www.k-hamahangy.com/AhkameSalaq1May.htm>

¹⁵ Press release from Committee to defend jailed workers from *Mohabad*: <http://komitedefaa.blogspot.ca/2014/02/3.html>

¹⁶ Dawood Razavi is prevented from traveling to attend a conference organized by French trade unions: <http://www.ettehadeh.com/?page=news&nid=3774>

¹⁷ An interview with Mohammad Sharief, Mahmood Salehi's lawyer: http://anjomane-d-mataleb.blogspot.ca/2008/03/blog-post_24.html

¹⁸ Anyone employing Afghan workers will be fined up to 1.5 million *tomans*: <http://www.dolat.ir/NSite/FullStory/News/?Serv=106&Id=203668>

Iran's 2013 'Islamic Penal Code' – one year on Drewery Dyke

Overview

In May 2013 a revised version of Iran's Islamic Penal Code (IPC) came into force. Iran's judiciary, parliament and higher legislative bodies, notably the Guardian Council¹, had agreed to amendments to the parts of the IPC that are based on Islamic Law, or Sharia. Another part of the IPC containing laws that are discretionary² remained substantially unchanged.

This essay will examine whether the revised Code has brought any changes to long-term patterns in respect to the use of the death penalty in Iran? What is the emerging evidence, a year after the introduction of the revised IPC?

This assessment, which excludes political developments occurring during the introduction and implementation of the revised IPC, reviews recent trends with respect to drug offences, murder and sexual conduct-based criminality.

Iran has never publicised its use of the death penalty, but human rights groups monitoring over the decades since the establishment in 1979 of the Islamic Republic demonstrate that for decades most of those judicially executed in Iran were convicted of murder³.

In recent years, notably since the entry into force of the 2011 Anti-Narcotics Law (see below), human rights groups estimate approximately 50-75% of all executions are now in connection with drug trafficking. Speaking in May 2011, the Head of Iran's High Council for Human Rights⁴, Mohammad Javad Larijani said that almost three quarters of all executions in Iran are of convicted drug offenders⁵.

Murder convictions account for around 20-25%; violent crime, including rape, varies between 10-15% while other convictions, including 'enmity against God' (see below) and others still not known, range between 5-10%.

At a glance – Iran's revised Penal Code

The IPC provides for the death penalty for acts with lethal consequences, usually intentional or unintentional murder, including by juvenile offenders - those accused of committing a capital offense while under the age of 18 – but it does not address drug offenses. The IPC also provides the death penalty for non-lethal but violent crimes including rape; non-lethal or repeated acts, some of which, such as adultery or other consensual sexual relations (both same and different sex) or the 'crime' of insult of the Prophet of Islam', do not amount to internationally recognisable criminal offenses.

The IPC – both the previous and revised version - also contains laws that provide for flogging and amputation, such as for repeated acts of theft, both of which are considered torture under international human rights treaties to which Iran itself is a state party. Other provisions, some of which are also punishable by death, undermine due process rights by containing vaguely worded or sweeping provisions, such as the 'crime' of 'enmity against God' or 'sowing corruption on Earth'. Provisions defined as 'crimes against God', usually rooted in moral conduct are not eligible for pardon or commutation despite these being internationally recognised legal principals.

The IPC allows judges to base verdicts on non-codified law, such as an interpretation of Islamic law. This is in contravention to the United Nations' human rights treaties to which Iran is a state party. For example, the state may prosecute for apostasy by using the provision that allows for prosecution of non-codified law.

The code also contains a concept known as *elm-e qazi* (knowledge of the judge), which allows the judge to use 'his' (for at least two decades or more there have not been any women judges in the criminal courts)

¹ The Guardian Council is a higher review body that ensures that legislation passed by parliament and agreed with the intermediary, Expediency Discernment Council of the System, or Expediency Council, conforms to Islamic law and Iran's Constitution.

² This part of the IPC came into force in 1996. It addresses crimes against national security, crimes against property and crimes against people, covering themes including theft, fraud, forgery, insult and a wide range of other offenses. For more information, see: Iran Human Rights Documentation Center (IHRDC), Islamic Penal Code of the Islamic Republic of Iran – Book Five, May 1996 (translated June 2013), <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/100000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html>

³ See successive annual reports on Iran issued by Amnesty International, such as those between the mid-1980s and late 1990s.

⁴ The High Council for Human Rights is a body under the auspices of the judiciary. One of its main functions is to provide rebuttals to international criticism of Iran's human rights record.

⁵ Citation taken from Amnesty International, *Iran: Addicted to Death – Executions for Drugs Offenses in Iran*. 2011 <http://www.amnesty.org/en/library/asset/MDE13/090/2011/en/0564f064-e965-4fad-b062-6de232a08162/mde130902011en.pdf>

‘insight’, or personal intuition not clearly based on objectively verifiable evidence. Finally, the IPC contains discriminatory laws that give, in instances, less value to, for example, non-Muslims or testimony provided by women.

Drugs and the death penalty

The 2011 amendments to Iran’s Anti-Narcotics Law set out 17 drug related offenses punishable by death, including by introducing new crimes aimed at addressing the burgeoning growth of synthetic, non-medical psychotropic drugs. The law, however, removed the right to an effective appeal by making lower court decisions subject only to a review – or confirmation – by the Prosecutor General or the Supreme Court.

The table below, citing data from international human rights groups, shows that the total number of executions continues to climb. Drug offenses constituted 43% of death penalty cases in 2009 and, as shown by the table, that percentage peaked in 2011. Campaigners have, in part, attributed the decline to human rights groups’ campaigns targeting the UN body assisting Iran with its drug trafficking control programme. In 2013, both Ireland and Denmark withdrew their financial support for the UN’s drug programme in Iran.

Iran – executions and percentage of drug-related offenses ^a				
Year	Acknowledged	Reported	Total no. of executions	Percentage drug offenses (acknowledged / reported)
2010	253	300	553	68% / 80%
2011	360	274	634	Up to 80% ^b
2012	314	230	544	71% of the officially acknowledged executions
2013	369	335	704	48% ^c

^a Human rights bodies such as Amnesty International and Iran Human Rights both use an ‘official’ figure of those executed, taken from sources within Iran and a ‘reported’ figure, taken from a basket of reliable sources outside Iran.

^b This formula is used in Amnesty International’s 2012 annual report, covering events in 2011, in the Iran chapter. See: <http://www.amnestyusa.org/sites/default/files/air12-report-english.pdf>

^c This figure is derived from data given in Iran Human Rights’ Annual Report on the death penalty-2013, March 2014, <http://iranhr.net/2014/03/report-death-penalty-iran-2013/>

Acts with lethal consequences

Punishment for the act of intentional or unintentional murder in the amended IPC remain defined, as previously, in terms of personal dispute usually between two parties and punished by a retributive act – a life for a life - or a cash fine paid by the family of the person convicted to the family of the victim. The execution of the person (s) convicted is entirely in the hands of the family of the person killed.

The 2013 IPC introduced greater nuance on the question of intent in respect to an act with lethal consequences. While appearing to introduce more safeguards there is nonetheless a tendency to treat the act as ‘intentional-like’.

Likewise, provisions relating to juvenile offenders appear to extend the application of the death penalty to them, by stating that if they are cognisant of the act, then the full force of the law applies.

Iran’s interpretation of Islamic law and its resulting codified law aims to absolve the state of the responsibility of the punishment - a judicial killing. It only provides the locus of the resolution of the dispute between two parties. It has also provided, through the provision of paying *blood money*, for the freeing of a person sentenced for having murdered someone.

Human rights groups argue that this approach to a violent act with lethal consequences is flawed. By conceptualising the ‘dispute’ as personal and allowing for a payment of money in lieu of a meaningful punishment in line with international practice, it places a ‘price’ on the value of human life that richer convicted perpetrators may be able to meet over poorer ones. As ability to pay will not be shared equally amongst those sentenced, life and death may come down to a family’s ability to pay.

Sexual conduct, acts and relationships

Consensual sexual acts, whether between people of the opposite sex, or between men, and women, are protected by human rights law and standards. They cannot validly be made the subject of criminal law let alone being subject to the death penalty. Despite this, the enacted version IPC did not result in the decriminalisation of such consensual acts. Conversely, the death penalty for ‘illicit sex’ remains in the Penal

Code where consensual sexual acts – whether heterosexual or between individuals of the same sex – are referred to.

The IPC criminalises sexual relations in the following four categories, providing both the death penalty and flogging as the relevant punishments:

- Adultery, a specific definition of fornication or penetrative sex between a man and woman;
- Sodomy, a defined form of penetrative sexual relations between two men;
- Non-penetrative foreplay; and
- Lesbianism.

International human rights law and standards assert that when undertaken freely in private or discreetly such acts are, in themselves, an exercise of individuals' right to freedom of expression, association and assembly, privacy, and liberty. Its criminalisation is also a form of discrimination.

Stoning in the IPC

Death penalty and human rights campaigners in Iran have, for many years, campaigned on behalf the approximately 10-12 women who currently remain in prison having been sentenced to stoning in previous years. The amended IPC continues to keep stoning as an option, but provides alternatives.

The IPC provides for recourse to stoning (*rajm*) for adult, married adultery for both sexes. The article adds that if it is not possible to implement the sentence, the court issuing the final verdict can recommend, with the agreement of the Head of the Judiciary, that the convicted be executed or flogged 100 times.

Amnesty International has recorded a total of 77 instances of stoning of both women and men since 1979.⁶ The vast majority have been women. Apparently, in response to international pressures and sustained criticism from rights and women's groups inside Iran, the then Head of the Judiciary issued a circular in 2002 that called for a moratorium on the practice of stoning. Despite the circular, authorities executed at least five men and one woman by stoning following distribution of the circular. In 2008, the circular was revoked, officials noting that it was never legally binding and contravened provisions in the Penal Code.

The issue once again received considerable attention in 2010 and 2011 when campaigners publicised the case of Sakineh Mohammadi Ashtiani, a 43-year-old woman sentenced to stoning for adultery, alongside a conviction relating to murder. In the course of the international outcry over the case, one lawyer was targeted for arrest and fled the Iran; another, was arrested in Iran, in part for speaking to journalists about his client's case.⁷

Apparently, because of the international opprobrium shown over the case, judicial officials in East Azerbaijan province declared that the stoning sentence would be suspended, but she remains on death row, and there is legitimate fear that authorities may execute her by hanging instead.⁸ At the time of writing, she remains jail: she is required to remain in jail even if her other convictions are spent since she is not allowed to be 'released' until the stoning sentence is implemented.

Whither the death penalty in Iran?

This summary review is too short to consider the judicial and socio-political factors that inform the administration of justice in Iran. However, while hopes for meaningful death penalty reform were dashed following the May 2013 election of Hasan Rouhani, there have been sporadic anti-death penalty protests and there appears to be, as of August 2014, a small, emerging anti-death penalty constituency.

⁶ See: *Amnesty International: Iran - Executions by Stoning*, December 2010 (AI Index MDE 13/095/2010), <http://www.amnesty.org/en/library/asset/MDE13/095/2010/en/968814e1-f48e-43ea-bee3462d153fb5af/> and Maryam Hosseinkhah, *The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code*, May 2012, pp 17-18; <http://www.iranhrc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html>

⁷ For more information about the case of Sakineh Mohammadi Ashtiani, see: *Amnesty International - Iran: Sakineh Mohammadi Ashtiani: A life in the balance*, AI Index MDE 13/089/2010, September 2010; <http://www.amnesty.org/en/library/info/MDE13/089/2010>

⁸ For further information on this issue, see, Mohammad Hossein Nayyeri, *The Question of "Stoning to Death" in the New Penal Code of the IRI*, February 2012; <http://www.iranhrc.org/english/publications/legal-commentary/1000000059-the-question-of-stoning-to-death-in-the-new-penal-code-of-the-iri.html>

It remains to be seen whether the current decline in rate of executions related to drugs offences, and the corollary increase in executions for murder will remain. If it does, it would return Iran to the general pattern witnessed in the 1990s and the first decade after 2000.

International human rights groups argue that the application of the death penalty for both drugs and murder, in a context where unfair trial is common, impacts disproportionately against the poor as there is evidence that some poor have turned to petty drug trafficking to increase their income while the poor are less able to offer *blood money* in capital murder cases. As the economic sanctions imposed against Iran may appear to impact most on the poor, there may be merit in this argument.

Application of the death penalty to cases of consensual sexual relations looks set to remain limited. Pious political figures decry falling moral standards in Iran, but the changing internal and external context, where more are willing to speak out against the criminalisation of such cases renders them unpopular cases for judicial opprobrium. Above all, however, the political climate in Iran and its complex relationship with internal social factors and external campaigning will significantly inform the administration of justice in Iran and direct how courts use the death penalty.

In the short term, in the absence of domestic political or social change, Iran's rates of execution look set to remain amongst the highest in the world, though death penalty campaigners insist that progress can be achieved in the four years that remain of President Rouhani's administration.