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纳入妇女人权和性别公平观：暴力侵害妇女

暴力侵害妇女、其原因及后果问题  
特别报告员亚肯·埃蒂尔克的报告

增 编\*

对伊朗伊斯兰共和国的访问  
(2005 年 1 月 29 日至 2 月 6 日)

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\* 本访问报告的内容提要以所有正式语文分发。报告本身载于内容提要附件，仅以原文分发。

## 内 容 提 要

本报告载有暴力侵害妇女、其原因及后果问题特别报告员 2005 年 1 月 29 日至 2 月 6 日访问伊朗伊斯兰共和国后得出的结论。报告首先回顾了伊朗伊斯兰共和国最近的历史、政府结构、国家的人权义务和妇女地位，接着讨论了一些暴力侵害妇女的事例以及歧视性的法律和司法程序在阻碍妇女伸张正义方面的影响。报告最后对实行全面司法改革的前景作了思考，并查明了为保护和增进妇女权利、消除暴力侵害妇女现象而必须采取的一些关键措施和行动。

伊朗伊斯兰共和国境内的暴力侵害妇女现象的根源是两性不平等，而维护这种不平等并使之能够持续下去的有两个相互关联的因素：(a) 建立在男尊女卑基础上的父权价值观念和态度；(b) 建立在对宗教原则所作的具有性别偏见的强硬解释基础上的国家倡导的体制结构。前者是一个普遍的历史造成的现象，而后者则是当代伊朗伊斯兰共和国的性别政治所特有的。这两种因素都代表着增强男子权力的价值观念、法律和惯例，使妇女难以逃避公共和私生活中的暴力行为。

近年来，为提高妇女地位和消除暴力侵害妇女现象，已采取了一些积极步骤。而且，平等原则已载入了《宪法》，伊朗也是各项主要国际人权文书的缔约国。不过，在保障两性平等方面还有一些令人担忧的差距。《民法》和《刑法》中的歧视性规定以及司法方面的披露削弱了妇女的权利，使她们更加容易受到侵害。此外，在国内实施现有标准的工作没有能够确保妇女享受法律上和事实上的平等地位。

鉴于现有的挑战，特别报告员建议伊朗伊斯兰共和国政府在以下四大方面采取行动：(a) 通过并遵守国际人权标准；(b) 通过透明的法律和司法改革，增进妇女伸张正义的机会；(c) 将消除暴力侵害妇女现象列为一个优先的公共政策问题，以防止、调查和惩罚一切暴力侵害妇女行为，不论行为人是个人还是国家人员；(d) 增进和支持在生活各个方面增进妇女权利的工作。

**Annex**

**REPORT OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST  
WOMEN, ITS CAUSES AND CONSEQUENCES, YAKIN ERTÜRK**

**MISSION TO THE ISLAMIC REPUBLIC OF IRAN**

**(29 January to 6 February 2005)**

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## I. INTRODUCTION

1. At the invitation of the Government, the Special Rapporteur on violence against women, its causes and consequences, undertook an official mission, to the Islamic Republic of Iran from 29 January to 6 February 2005. Overall, the mission was well received by the Government and the Ministry of Foreign Affairs showed full cooperation in facilitating her work.

2. In Tehran the Special Rapporteur met with government officials, women victims of violence and human rights defenders in order to gather first-hand information on allegations of extensive human rights violations<sup>1</sup> in the country and enquire about government plans to put in place or strengthen mechanisms for the prevention of violence against women and the protection of their rights. The Special Rapporteur visited Evin prison and interviewed a number of detainees. She also visited the family court where she observed an ongoing trial. In Tehran she also met with representatives of the United Nations system and members of various embassies.

3. The Special Rapporteur travelled to Ilam in the west of Iran to investigate reports concerning the high rate of female self-immolations. During the two-day visit, meetings were held with diverse civil society groups, including human rights activists and families of suicide victims, as well as with the local authorities.

4. During meetings with officials the Special Rapporteur also followed up on a number of allegation letters that she had sent to the Government and, where possible, met with the victims concerned to hear their account of the situation. Since the mission, she has sent a number of communications to the Government to follow up on cases she learned about during the mission, including a number of cases of female detainees in Evin prison.<sup>2</sup>

5. The Special Rapporteur wishes to commend the Government of the Islamic Republic of Iran for issuing a standing invitation to all thematic mechanisms of the Commission on Human Rights (2002) and to thank it for facilitating her visit. She would also like to extend her gratitude to the organizations and individuals who provided valuable information and to the victims of violence who courageously shared their experiences with her. Finally, she would like to thank the United Nations resident coordinator and his staff for their logistical support as well as the United Nations Country Team for organizing a meeting which allowed for a fruitful dialogue.

6. In order to contextualize the current state of women's rights in Iran, at the outset, a brief overview of the recent history of the country, the governance structure, human rights obligations of the State and the status of women is provided. The report then examines incidents of violence against women and highlights the discriminatory laws and flaws in the administration of justice that perpetuate violence against women and hinder women's access to justice. The conclusion reflects on measures taken to protect women's rights and considers the prospects for a more comprehensive judicial reform. In the light of the major findings, the report ends with recommendations for enhancing women's rights and ending violence against women in the Islamic Republic of Iran.

## II. THE CONTEXTUAL FRAMEWORK OF IRAN'S GENDER AGENDA

### A. Historical background

7. Prior to the 1979 Revolution, the modernization process, initiated under the Pehlevi rule, led to certain legal reforms intended to benefit women in Iran. Particularly noteworthy are: the 1932 Civil Code that increased the minimum age of marriage to 15 for girls and 18 for boys; the introduction of co-education in Tehran University in 1936; the 1937 decree for compulsory unveiling; the 1940 Criminal Code (although it retained a man's right to murder an adulterous spouse and other female relatives); the right to vote instituted in 1963; and the 1967 and 1975 Family Protection Law that curtailed polygamy and the unilateral right to divorce for men. These reforms, however, impacted only a small minority of elite women, remaining irrelevant for masses of rural and working-class women. On the other hand, the encroachment of central policies eroded the power of the clergy, threatened the autonomy of tribal groups and undermined the interests of the provincial merchants. While curtailing the power of the traditional entities, it also failed to open democratic space for new and progressive voices to flourish.

8. The westernized and oppressive nature of the Shah's regime, and the concern of women as well as men that the country as a whole was losing its moral standards,<sup>3</sup> provoked a backlash in the country. In this context, while a loose coalition of opposition from diverse ideological groups did emerge, it was the clerical opposition, symbolized in the person of Ayatollah Ruhollah Khomeini - who was in exile from 1964 to 1979 - that commanded the loyalty of the masses. This process eventually led to the 1979 Revolution.<sup>4</sup>

9. Women were at the forefront of the uprising against the Shah. Millions of women, from all walks of life, took to the streets wearing the chador as a symbol of solidarity with the revolution and opposition to the Shah. However, for many within and outside Iran, the enthusiasm was short-lived. Two days before the commemoration of the International Women's Day (8 March 1979), Khomeini started announcing measures which were indicative of a rollback in women's rights, including a decree dismissing all women judges and barring female students from attending law schools and the imposition of the veil (*hejab*), among others.<sup>5</sup>

10. Human rights in general became a point of divergence between the regime and the international community, on the one hand, and the more liberal-minded Iranians on the other. The new rulers of the Islamic Republic of Iran adhered to a cultural relativist position and distanced themselves from universal human rights standards as Western in nature. The following editorial from the *Tehran Times* (6 February 1996), in connection with the visit of the Special Representative on the situation of human rights in the Islamic Republic of Iran, is representative of the general sentiments of the time: "Criteria for human rights are respected by everyone; however any judgment on the situation of human rights in a country should be harmonious with the nation's culture, religion and traditions. The special envoy should not surrender to direct and indirect pressures from the United States and other Western powers whose aims are to use human rights as leverage against Iran."<sup>6</sup>

11. The political paradigm of the 1979 Revolution was primarily a reaction to Western imperialism, which was seen as advancing not only militaristically, but also through religion and culture. In this context, women, perceived as bearers of culture, became central to the political discourse that was to shape the society. A 1984 weekly women's journal published in Tehran argued that colonialism considers women as the best tool for subjugation of the nations: "women serve as the unconscious accomplices of the powers-to-be in the destruction of indigenous culture ... woman is the best means of destroying the indigenous culture to the benefit of imperialists".<sup>7</sup> Consequently, while the revolutionary purification process discarded secular women as remnants of the old regime, women in sympathy with and supporters of the Republic were placed in key positions<sup>8</sup> where they could promote the new gender agenda and prove to the critics of the regime that the new system has in fact accorded women a prominent place in society and that the Islamic revolution has delivered women from the corruption and exploitation of capitalist imperialism. In this regard, while strict control over women was being instituted, women's public participation was being promoted as a safeguard of the regime.<sup>9</sup>

### **B. The structure of governance<sup>10</sup>**

12. The 1979 Constitution defines the structure of power that governs the Islamic Republic of Iran, which combines both popular sovereignty (art. 6) and the rule of the Supreme Jurisconsultate (art. 15). Within this context, the highest State authority is vested in the Supreme Leader, who is elected by the Assembly of Experts.<sup>11</sup> As the head of the State, the Supreme Leader dominates the division of power among the legislative, executive and judicial branches. His powers and responsibilities range from the delineation of the general policies of the Islamic Republic of Iran and supervision over their "proper execution" to appointing and dismissing members of the Guardian Council, exercising direct or indirect control over key institutions, including the armed forces, the Revolutionary Guard, the judiciary and confirming candidates for the presidency, among others.

13. The executive branch is headed by the President, who is elected for a four-year term by universal suffrage. The legislative branch is composed of a popularly elected 290-seat Islamic Consultative Assembly (Majlis Shura e Islami), an unelected 12-member Council of Guardians. The Majlis develops and passes legislation and reviews and ratifies treaties. In accordance with article 90 of the Constitution, it also examines and investigates written complaints by the public against its own work and the work of the executive and the judiciary. The Council of Guardians, half of whose members are appointed by the Supreme Leader from among the *fuqaha* (clerical elite) and the remaining half by the Majlis from a list of non-clerical jurists recommended by the head of the judiciary (who is appointed by the Leader), reviews all legislation passed by the Majlis to assess compliance with Islamic and constitutional principles and endorses Majlis candidates for their eligibility.<sup>12</sup> The Council for the Discernment of Expediency for the Interest of the System (or Expediency Council), which is composed of 31 members appointed by the Supreme Leader, is empowered to resolve legislative deadlocks between the Majlis and the Council of Guardians. Although the Council of Guardians and the Expediency Council are not elected bodies, they are entrusted with extremely wide competences and powers over the popularly elected Majlis. While authorities have asserted that such situations exist in other countries, other observers identify this as a source of potential friction in governance and a constraint on democratic processes.

14. While the judicial branch, according to the Constitution, is an independent body, the head of the judiciary is appointed from among the *Mojtaheds* (doctors in religious law) directly by, and is answerable to, the Supreme Leader. This provides the Leader with power over matters related to the administration of justice. The head of the judiciary is mandated to institute the necessary organizational structure for the administration of justice, draw up bills related to the judiciary, and appoint, dismiss and transfer judges. In particular, the head of the judiciary appoints the President of the Supreme Court and the Prosecutor General from among the *Mojtaheds*, among other tasks.

15. The Constitution provides for the establishment of the Common Judicial Authorities, the Special Judicial Authorities and the Administrative Court of Justice. Aside from these, there are also the following courts: Revolutionary Courts, and the Special Clerical Court, which handles cases involving clerics and is under the authority of the Supreme Leader.

16. While government officials argue that men and women have the same opportunities and that access to positions is based on merit or votes, the top decision-making posts at all levels of the governance structure are currently held by men with the Supreme Leader commanding the highest authority. According to article 115 of the Constitution, no woman may serve as president of the country and although not specified in the constitution a woman cannot serve as Supreme Leader. Also, no woman has ever been appointed to the Council of Guardians or the top decision-making positions of the Expediency Council.

17. The only female member of the new cabinet that was formed after the June 2005 elections, when Mahmoud Ahmadinejad was elected President, is the head of the Environmental Protection Agency, who serves as the cabinet's Vice-President.

18. Women can become judges, but they are qualified to occupy only certain judicial positions. These include, inter alia, Assistant Prosecutor General, advisor to the Court of Appeal, examining judge, advisor to the legal offices, advisor to the Family Courts, judge of the Office of Guardianship for Minors and the Interdicted Persons' Affairs. The Special Rapporteur was informed at a meeting with prominent judges (male and female) that granting women full authority as judges is an issue which is currently being debated by the authorities.

19. In short, the governance structure of Iran is male-dominated with a strong conservative inclination. While this is in conformity with the general trend in the world, in Iran it has not been identified by the authorities as a problem on their agenda. On the other hand, the channels for women's agency for change seem to be limited. Popular accountability and women's participation are features of governance only at the lower levels of the State hierarchy.

### **C. International human rights obligations**

20. Iran ratified three of the main international human rights instruments prior to 1979, namely: the International Convention on the Elimination of All Forms of Racial Discrimination (in 1968),<sup>13</sup> the International Covenant on Economic, Social and Cultural Rights (ICESCR, in 1975), and the International Covenant on Civil and Political Rights (ICCPR, in 1975). In 1994, the new regime also ratified the Convention on the Rights of the Child (CRC), reserving

the right not to apply any provisions or articles of the Convention that are incompatible with Islamic laws.<sup>14</sup> More recently, in 2002, Iran ratified ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1999. In the domestic application of this Convention it is important to ensure that it covers tasks that are principally assigned to girls.

21. Iran has not signed or ratified the Optional Protocols to ICCPR, the Optional Protocols to CRC on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol thereto or the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto.

22. With regard to the Convention on the Elimination of All Forms of Discrimination against Women, in January of 2002 the cabinet presented a bill to the Majlis, proposing accession to the Convention. The bill was adopted by the Majlis, but rejected by the Council of Guardians. It is currently before the Expediency Council for review. During meetings with the female parliamentarians of the Seventh Majlis and various government officials, including the head of the Committee on Women, Youth and Family of the Expediency Council, concerns were voiced about the incompatibility of the Convention on the Elimination of All Forms of Discrimination against Women with Islamic norms and that the equality provisions of the Convention may in fact take away some of the privileges women currently enjoy, such as not having to contribute to family sustenance as this is currently the responsibility of the husband.

23. At the national level, article 20 of the Constitution states that “all citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria”. Article 3, paragraph 14, states that the Government is obliged to secure “the multifarious rights of all citizens, both women and men” and to provide “legal protection for all, as well as the equality of all before the law”.

24. While the Constitution includes the principle of equality and Iran is party to the main international human rights instruments, there are worrisome gaps in guaranteeing equality. Women and all religious minorities are not included in article 19 of the Constitution (prohibiting discrimination based on colour, race or language) and it has been argued that the reservation in article 20 requiring “conformity with Islamic criteria” have been used as a legal basis of discrimination against women.<sup>15</sup> Furthermore, the domestic application of the standards in place falls short of ensuring that women in Iran enjoy de jure and de facto equality. This situation sustains unequal power relations between women and men, thus rendering women vulnerable to violence.

#### **D. Status of women**

25. The status of women in Iran since the Islamic revolution is paradoxical. Women in Iran - compared to other developing and neighbouring countries - have access to health and education and to some extent employment and political participation. However, women's



advancement in these spheres takes place under strict surveillance and within well-defined boundaries, transgression of which could be “fatal”. By universal standards women are confronted with economic, social and legal barriers to the full enjoyment of their human rights and are excluded from equal partnership in determining the parameters of social relationships in the public as well as private spheres of life. Conformity with such a gender order is ensured through the ideological and legal foundations of the Iranian State, as well as through the use of diverse forms of violence against women within the family, community and State institutions.

26. Despite the continuing reports of violations of women’s human rights,<sup>16</sup> there have been some positive developments during the past decade. In this regard, the most remarkable of these developments has been in the area of the right to education. The ratio of girls attending primary school is almost equal to that of boys. The literacy rate for women is improving, although 31 per cent of them are still illiterate, compared to 17 per cent for men.<sup>17</sup> The most significant progress has occurred in higher education, where 62 per cent of the students are women.

27. However, the progress in women’s education has not been matched with an increase in female employment. Women are over-represented among the unemployed and in 2003 they constituted only 14.2 per cent of the formal labour force,<sup>18</sup> concentrated in low-paid, sex-stereotyped sectors. Reportedly, women are more active in the urban and rural informal sector. Women’s low representation in the formal labour force is said to be associated with discriminatory and patriarchal legislative provisions. For example, article 75 of the Labour Act bars females from work that is “dangerous, difficult or harmful”, including military service, and article 1117 of the Civil Code grants the husband the right to forbid his wife from accepting a job that is incompatible with the interests of the family or her dignity.

28. Women’s representation in the political sphere is also extremely low. Although women can be elected to the Majlis, only 12 of the 290 seats, or 4.5 per cent, in the Seventh Majlis elected in 2004, are held by female deputies.<sup>19</sup> The female deputies of the Sixth Majlis, elected in 2000, were active in the battle for reform in the country despite their low representation. According to researchers, these deputies challenged the unwritten rules that had defined the gender relations and politics in the previous five parliaments.<sup>20</sup> For example, some did not wear the chador, but appeared in a more informal headscarf and coat.

29. They also pushed for reform of discriminatory laws and introduced 33 bills most of which were rejected by the Council of Guardians on the grounds that they were incompatible with the sharia. With the intervention of the Expediency Council 16 of the proposed bills eventually became law, but only after being amended to lose their progressive elements. These bills, for example, allowed unmarried women to study abroad, raised the minimum age of marriage for girls from 9 to 13, granted women custody rights for sons up to the age of 7, and improved the rights to divorce for women. Among the bills that were rejected by the Council of Guardians are the proposals to ratify the Convention on the Elimination of All Forms of Discrimination against Women and to give the right of residence and nationality to non-Iranian spouses of Iranian citizens. The female deputies in the current Majlis have so far not been willing to challenge the numerous discriminatory laws on the books.

30. The Special Rapporteur also received information concerning women from minority groups, such as the Azeri, Baha'i, Kurdish and Ahwazi, who allegedly experience multiple forms of discrimination, including in their right to education and employment, and who are subject to discriminatory laws. Government officials denied any such discrimination.

31. Although women in Iran do not enjoy equal rights, their intellectual articulations and activism have not been totally cleansed from public discourse. On the contrary, women have continued to make an active contribution in many fields ranging from arts to sports, demonstrating their determination to challenge and negotiate the boundaries of the imposed gender order. A number of women's organizations have engaged in reinterpreting the Koran from a women's perspective. "Instead of beginning with creation as a narrative of origins from women's rights and responsibilities", many of these sources place "individual woman, in her contemporary social concreteness, at the centre of their arguments".<sup>21</sup> Focusing on women's lived realities not only paves the way for the alternative interpretations of Islamic jurisprudence, it also demystifies values that justify dichotomies such as Muslim/secular; Iranian/Western by revealing the universal elements of women's subordination in diverse patriarchal arrangements. In this regard, violence against women emerges as a common point of reference for women worldwide.

### III. VIOLENCE AGAINST WOMEN

32. Violence against women in Iran is ingrained in gender inequality, which is upheld and perpetuated by two factors: (a) patriarchal values and attitudes based on notions of male supremacy, and (b) a State-promoted institutional structure based on gender-biased, hard-line interpretations of Islamic principles. While the former is a universal and historically rooted phenomenon, the latter is particular to Iran and is rooted in gender politics and policies prevalent in the country. Both factors, however, represent a male-dominated society with male-empowering laws and practices. While the official ideological underpinning of the State gender discourse rests on the premise that women in the Islamic Republic have been attributed with honour and due dignity, this very ideology has served to rationalize subordinating women, discriminating against them and subjecting them to violence. Furthermore, it is instrumental in silencing defiance and enforcing compliance.

33. The ruling clergy, in their reading of the sharia that shapes both the attitudinal as well as the institutional structures, have tended towards conservative, gender-biased interpretations.<sup>22</sup> This has been the source of divisive debates in the political arena between the hardliners and the reformists. The Sixth Majlis was reportedly a turning point for the articulation of reformist politics of gender in Iran.<sup>23</sup> Within this process, as mentioned above, some positive change has occurred in the laws and the administration of justice. However, gender-biased provisions and practices that prompt women's vulnerability to violence in the private as well as public spheres are still the norm.

#### A. Manifestations of violence against women

34. Given the ideological framework referred to above, violence against women in Iran is rarely acknowledged as a serious problem by the authorities and rarely reported by the victims. The 1999 *Human Development Report of Iran* indicates that domestic violence, in particular, is a

hidden social phenomenon which is not discussed openly. The report concludes that no action has been taken to change prevailing attitudes or reform the pertinent laws and regulations.<sup>24</sup> Although the report is outdated, the Special Rapporteur's interviews did not indicate fundamental changes. It was particularly clear in Ilam that women feel compelled to tolerate violence, inflicted not only by their husbands but also by other family members, for fear of shame, of being ostracized, or of being divorced and for lack of alternatives to the abusive environment. The Special Rapporteur found that some of the cases of self-immolation in the city<sup>25</sup> are linked to the lack of legal protection for women victims of violence, lack of shelters, difficulty in obtaining a divorce, child custody laws that favour the father and pervasive gender discrimination throughout society.<sup>26</sup>

35. The self-immolation incidents are also said to be related, in some cases, to honour crimes, which are particularly common in Ilam and Khouzistan province. According to statistics provided by a consultant to the governor of Khouzistan in 2003, there have been 45 cases of honour killings of women under the age of 20 in one tribe alone. In 2001, a total of 565 women lost their lives in honour-related crimes, of which reportedly 375 were staged as self-immolation cases of women who were forced to set themselves on fire.<sup>27</sup>

36. Reports also indicate that there is a worrying increase in the trafficking of girls and women. Most of the trafficking is said to occur in the eastern provinces and mainly in border towns with Pakistan and Afghanistan where women are kidnapped, bought or entered into temporary marriage in order to be sold into sexual slavery in other countries.<sup>28</sup> The officials with whom the Special Rapporteur spoke informed her that measures were being taken to combat trafficking. Since 1999 about 28 "health houses" have been set up by the State-run Welfare Association to provide assistance to unmarried girls who have run away from their homes and are at risk of being trafficked. These institutions provide temporary housing, professional counselling and skills development for runaway girls. However, reports indicate that girls may be trapped in abusive situations even in these shelters. For instance, in February 2001, senior State officials were charged with trafficking girls living at the Jasmine Centre. A judge of the Revolutionary Court was among those accused.<sup>29</sup>

37. The Law on Combating Human Trafficking, enacted in August 2004, specifically criminalizes trafficking in persons in Iran. The Government has also taken some action against human trafficking, by arresting, convicting and executing a number of persons for the crime. This may be an issue for further exploration by the Special Rapporteur on trafficking in persons, especially women and children.

38. While the various forms of violence observed in intimate relations and in the community at large are a concern, the bulk of complaints received with regard to violence against women are related to incidents condoned by State agents. During the Special Rapporteur's mission, she interviewed a number of defenders of women's human rights, including lawyers and journalists who relayed similar experiences of being arrested without charge by plain-clothes agents allegedly from the Ministry of Intelligence and Security, detained incommunicado in secret detention centres for periods of one month or more, tortured or maltreated under detention and their house being searched periodically without a warrant. The Constitution of Iran forbids the

use of all forms of torture “for the purpose of extracting confession or acquiring information”. However, human rights organizations continue to report that torture and other inhuman treatment take place in various detention facilities in Iran.<sup>30</sup> In this regard, the case of Zahra Kazemi, an Iranian-Canadian photojournalist, who died in custody in Iran on 10 July 2003, is of concern. The authorities initially claimed that Ms. Kazemi died of a digestive disorder and then claimed that she died of a stroke, but reports indicate that she had been subjected to torture and ill-treatment while in detention. It is reported that the Government has denied requests from Ms. Kazemi’s family and the Government of Canada to examine the body. There has been no comprehensive public investigation into Ms. Kazemi’s death and the parts of the initial inquiries that have been carried out were reportedly censored.

39. According to reports, some persons who were detained, even after being released, continue to receive summonses to go to the office of police intelligence for questioning. Allegedly, interrogations served as the principal means to fabricate criminal charges, coerce confessions and make threats against prisoners’ family, colleagues or political associates. Two recent cases concern Ms. Mahbubeh Abasgholizadeh, the editor of *Farzaneh* and a women’s rights and NGO activist, arrested at her home on 2 November 2004 and Ms. Fereshteh Ghazi of the daily *Etemad* and an online journalist, arrested in her office on 28 October 2004. The story of the latter is particularly telling of how violations are committed.

40. In 2001, Ms. Ghazi wrote a letter to the Iranian authorities in which she criticized the violation of women’s rights in the country and called for the release of Afsaneh Noroozi, a woman who had been sentenced to death, now released. She also regularly writes about women’s issues in the daily *Etemad*. Reportedly, she was arrested on 28 October 2004 by the Tehran morality squad (*Edareh Amaken*) when she answered a summons to appear before the ninth chamber of the Tehran Prosecutor General’s office. She was not provided with any information about why she was arrested or where she was being held. She reported that she was kept in solitary confinement for 38 days, pressured to confess on television to relationships with reformist parliamentarians and subjected to beatings, resulting in a broken nose. Ms. Ghazi was hospitalized following her release on bail in December 2004. Since her release she was summoned 15 times by phone and 3 times in writing to appear in court. She was initially charged with acting against the State and being a member of an anti-State organization. Since her case remains open she fears she will be subjected to constant harassment. Ms. Gazi took her case to the chief of the judiciary, who told her to disregard future summonses.

41. The death penalty, particularly by stoning, has been a major area of concern. The Special Rapporteur received numerous reports of women on the death row, sentenced mainly for sexually or morally oriented offences such as adultery. At the time of her visit there were 397 women in Evin Prison, 200 of whom were sentenced for “moral crimes”, some awaiting execution. The Special Rapporteur spoke to some of these women. Their stories reflect gender biases in the attitudinal and institutional structure of the country within which they, some still children, have become labelled criminals.

42. Leyla Mafi, aged 19, was sentenced to death in May 2004 on charges of acts contrary to chastity for operating a brothel, having intercourse with blood relatives and giving birth to an illegitimate child. According to the Government, Ms. Mafi has confessed to these

charges, and the information received indicates that she is to be flogged before being executed. However, social workers working on this case report that Ms. Mafi has the mental capacity of an 8-year old. It is also reported that Ms. Mafi was forced into prostitution by her mother and that she gave birth to her first child when she was 9. She had been previously sentenced to 100 lashes on two occasions. In response to a communication the Special Rapporteur sent to the Government on 13 December 2004 jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning this case, she received a response indicating that Ms. Mafi's case was currently under review.<sup>31</sup> Subsequent to the Government's reply, the Special Rapporteur received information that Ms. Mafi no longer faced execution, but that she still faced a punishment of flogging. While the Special Rapporteur welcomes the commutation of the death sentence, the Special Rapporteur remains concerned that she may be subjected to flogging.

43. Leyla's case seriously challenges the moral basis of the conditions that shaped her life as well as her conviction. The contradictions surrounding the cases of many young women sentenced to death on moral grounds warrant a serious re-examination of such practices. While the Special Rapporteur welcomes the directive of the chief of the judiciary, issued in December 2002, ordering a moratorium on execution by stoning, she is concerned that the legal provision for stoning remains. Furthermore, she continues to receive information that despite this directive, stoning is still handed down as a punishment by some courts, although none were carried out.

## **B. The institutional basis of violence against women**

### **1. Discriminatory laws**

44. Discriminatory laws in both the Civil and Penal Codes in Iran play a major role in empowering men and aggravating women's vulnerability to violence. In particular, discriminatory provisions in the Civil Code relating to the areas of marriage, child custody, freedom of movement and inheritance may lead to, perpetuate or legitimize violence against women perpetrated by private actors. The provisions of the Penal Code relating to crimes specified in the sharia, namely, *hudud*, *qisas and diyah*, are of particular relevance in terms of gender justice.

#### **(a) The Civil Code**

##### **Marriage and divorce**

45. Early marriage is sanctioned by law as girls can be married as young as 13 and boys as young as 15. For girls, the age was only recently raised to 13 from the age of 9. Marriages may still be contracted for children under these ages with the consent of the parents. All girls and women must have the consent of the father (in his absence other male relatives) in order to enter into a marriage contract (art. 1041). Article 1105 of the Civil Code provides that the husband is the "head of the family". A husband is also permitted to take multiple wives, which is said to be a source of friction in the family and vulnerability for women. Thus, laws disempowering women in the area of marriage legitimize power imbalances in the marriage relationship, make women vulnerable to violence and make it difficult for them to escape violence.

46. Article 1133 of the Civil Code provides that a man may divorce his wife whenever he wishes. Although technically a court may require a man to produce evidence justifying the divorce, this is reportedly a formality. For women to obtain a divorce, they must prove that staying in the marriage will cause them physical and emotional harm (art. 1140). The Civil Code was recently amended to clarify the specific circumstances under which a woman may seek a divorce. These included incurable diseases, abandonment of family life, spousal abuse and battery.<sup>32</sup>

### **Child custody**

47. Child custody laws also favour men over women. In principle, both the physical custody (*hezanat*) and the legal guardianship (*velayat*) of the child belong to the father. While, under certain circumstances, women are granted physical custody, legal guardianship, which includes the authority over decisions regarding the child's well-being, is almost exclusively given to the father. Following a divorce, physical custody was until recently granted to the mother until age 7 for girls and age 2 for boys. In 2003, the law was changed to allow both children to remain with the mother till age 7, custody is then automatically transferred to the father, or if he is absent or incapable, to another male in his family. If the mother remarries, the physical custody then shifts to the father. Women who have been subjected to violence frequently do not want to risk losing their children and, when faced with such a possibility, they often feel they have no choice but to remain in a relationship with a violent partner.

### **Freedom of movement**

48. The Civil Code also restricts women's freedom of movement. For example, according to article 1005, as the exclusive head of the family the man has the right to control his wife's freedom of movement and behaviour in many situations. She must show the written and notarized approval of her husband in order to obtain a passport and to be allowed to travel abroad. A woman's freedom of movement is also seriously curtailed by the numerous rules upholding sex segregation in public space. Additionally, an unaccompanied woman must obtain permission from her husband or the local authorities in order to stay at a hotel. To be able to leave the house, women and girls must dress according to the mandatory dress code (*hejab*). Although the Deputy Minister of the Interior explained that there was no mandatory dress code, others the Special Rapporteur spoke to claimed the contrary and argued that failing to obey this rule may result in punishment of 10 days to 2 months' imprisonment and a fine. Such legal provisions empower men to use force on women, including diverse forms of violence, in order to ensure compliance.

### **Inheritance**

49. The law provides that women inherit only half of the share of property of their male counterparts. For example, daughters inherit only half of the share of sons. If a woman in a permanent marriage dies, her husband inherits all of her property if she has no other heirs and a fourth of the property if she has children. If a husband dies, his wife only inherits a fourth of his property if she is his sole relative and an eighth if he has children. A woman has no right to

inherit land. Even if there is a written will contesting these rules, it is not legally binding. The links between the denial of women's property rights and the risk of violence have been well documented, in particular by the Special Rapporteur on adequate housing.<sup>33</sup> In this regard, it should be noted that the Special Rapporteur on adequate housing visited the Islamic Republic of Iran from 19 to 30 July 2005 and we expect that his analysis and recommendations will guide the Government in addressing these problems, particularly in view of contemporary realities regarding women's status.

**(b) The Penal Code**

50. The age of majority in the Islamic Republic of Iran is 9 for girls and 15 for boys. This is not only discriminatory, by setting the age lower for girls than boys, but it also subjects both girls and boys to the possibility of being tried as adults for criminal offences and is contrary to the definition of the child as contained in CRC. The Committee on the Rights of the Child expressed concern about this low age of criminal responsibility and in particular about reports that juveniles have been subjected to the death penalty and other punishments amounting to torture and ill-treatment such as amputation, flogging and stoning.<sup>34</sup>

51. The Penal Code in Iran divides crimes based on the punishment prescribed for each type of offence. *Hudud* crimes refer to crimes which are considered sins and which have mandatory punishments provided for in the Koran. Applicable punishments are: the death penalty; crucifixion; stoning; amputation of the right hand and, for repeat offences, the left foot; flogging; imprisonment and exile. For example, the following crimes are punishable by death: fornication involving a non-Muslim man and a Muslim woman (art. 82) and fornication by a single person involving a fourth act (art. 90), the three previous offences being punishable by 100 lashes of the whip (art. 110); homosexuality (art. 179); and consumption of alcohol as a third offence, the punishment for the earlier offences being 80 lashes of the whip. Because the punishments for *hudud* crimes are predetermined, judges exercise little discretion in deciding on punishments in these cases. Women are disproportionately charged with *hudud* crimes related to sexual and moral conduct, such as adultery, and suffer serious consequences in this regard. As will be detailed below, when women are charged with these crimes, they are often unable to refute the charge because of additional discriminatory laws and procedures governing the administration of justice.

52. *Qisas* crimes refer to crimes such as murder, manslaughter, assault or mutilation. Proceedings against a perpetrator of crimes against bodily integrity are subject to the decision of the victim or the victim's family. They may request that the perpetrator suffer the same treatment as the victim or they may accept financial compensation as blood money (*diyah*) in cases of murder or physical injury. The system of *diyah* is a discriminatory practice both against the poor and women. For example, in the case of murder, the family of the victim may choose to be compensated through *diyah* or seek the death penalty for the perpetrator. If they choose the payment of *diyah*, they can agree with the perpetrator on a sum to be paid. In the absence of agreement, the sum is calculated on a predetermined scale, where the *diyah* for a woman is assessed at half that for a man. The poor, who lack the required resources, may not be able to buy justice and women suffer as their life is valued at half that of a man.

53. Scholars have argued that there is no verse in the Koran prescribing that a woman's life is half that of a man. Rather, the gender differential in *diyyah* is said to be based on the understanding that women's social value - due to their lower levels of contributions to socio-economic and political life - is not equal to that of men. Furthermore, the practice in its initial form is rooted in the pre-Islamic tribal norm of "just revenge", which for nomadic tribes in the Arabian desert aimed at protecting the group against violence from outsiders.<sup>35</sup> Some of the authorities the Special Rapporteur spoke to in the Islamic Republic of Iran were in agreement that *diyyah* needs to be revisited in view of Iran's current commitment and women's enhanced status in education and the political and economic spheres. Reconsideration of *diyyah* is particularly essential given the contemporary conceptions of justice and law.

## 2. Flaws in the administration of justice

### Fair public trial and rules of evidence

54. Discriminatory provisions in the Penal Code coupled with flaws in the administration of justice deny women effective access to justice and the ability to escape violence.

55. First, criminal proceedings are concentrated in the hands of a single person since the judge prosecutes, investigates and decides the case. As for the choice of counsel by political prisoners, this is increasingly difficult owing to the serious risk of harassment. Lawyers informed the Special Rapporteur that there have been situations where lawyers have been prosecuted or reprimanded by the judge for drawing the attention of the court to the ill-treatment suffered by their clients or malfunctions in the system of justice. Such pressures on counsel will undermine due process for women and men alike.

56. Second, the rules of evidence discriminate against women. For example, the value of a woman's testimony is worth less than that of a man. In criminal offences such as murder or "illicit sexual relations" (*zina*) the woman's testimony is worth only half that of a man and must be corroborated by the joint testimony of a man in order to be accepted. A woman also faces serious obstacles to proving that she has been subjected to violence. Where a woman has been subjected to violence, she can only prove her claim by presenting several male witnesses. For example, while rape is illegal, a rape victim must present four male eyewitnesses or three male and two female witnesses in order to prove the crime. Given that most violence against women takes place in the private sphere, it is extremely difficult for women to provide such eyewitnesses to acts of violence. If the defendant is acquitted, the victim runs the risk of being charged and convicted for false accusation (*qazf*) or illicit sexual relations (*zina*). During the Special Rapporteur's visit to Iran, she was informed of a case of a rape victim who was charged with adultery due to these evidentiary requirements. She also learned of cases where women who had acted to defend themselves against sexual assault, rape and other forms of violence had received severe sentences and where the argument of self-defence was ignored.

57. Furthermore, the Special Rapporteur noted that in many cases the punishments imposed were disproportionate to the seriousness of the offences committed. These arbitrary punishments frequently discriminate against women, punishing them more harshly than men who commit the



same crimes. For example, if a woman kills her child she will be punished with the death penalty. The father or paternal grandfather committing the same crime will only be required to pay *diyah* to the child's relatives and possibly also be sentenced to imprisonment, flogging or a fine. Furthermore, a husband has the right to kill his wife if he witnesses her in an act of adultery, but if a wife commits the same crime, she would face the death penalty or a long prison sentence.

58. Additionally, the bails set in connection with release are too often out of proportion to low family incomes. This problem is particularly grave concerning many women who have been detained on the basis of "moral crimes", including prostitution. These women reported that they could not afford to pay for counsel and bail.

59. Women prisoners are penalized by the system, since they are generally from the most disadvantaged sectors, but also because female criminality is often domestic in nature. The vulnerability of women in prison is all the greater since they are frequently imprisoned for violating legal norms or social rules that regulate their sexuality or relationships with men on a discriminatory basis.

### **Multiple and parallel law enforcement systems**

60. The administration of justice is further hampered by the existence of multiple law enforcement agencies. The responsibility of law and order is shared between several agencies in Iran, some of which allegedly operate without supervision and accountability. These agencies are the law enforcement agencies under the Ministry of the Interior, the Ministry of Intelligence and Security, the Islamic Revolutionary Guards corps (a military force established after the revolution) and a number of quasi-official organs known as "parallel institutions", *nahad-e movazi*. The latter include the paramilitary volunteer force known as the *Basij* and groups of *Ansar-e Hizbollah*, who work as plain-clothes agents under the direct control of the Supreme Leader. These parallel institutions are reportedly responsible for serious human rights abuses in countering peaceful protests and beating, harassing, threatening and arresting a number of human rights defenders and others who publicly acted for reform. The parallel institutions allegedly act independently of government authority and the regular uniformed police are often reluctant to directly confront these agents.<sup>36</sup> These are no doubt serious allegations that should be investigated and corrected if found to be valid.

61. During the Special Rapporteur's visit, the creation of a headquarters to prevent social offences, with social protection officers, was addressed. She was informed that this body would be composed of private people watching dress code and other issues in their neighbourhood. Candidates would be proposed to the judiciary; those approved would be given an identity card entitling them to certain powers to encourage virtue and discourage vice. Although the executive branch was reportedly not in favour of the creation of this institution as it believed it would be too open to subjectivity, the judiciary was reportedly very supportive of the idea. The Special Rapporteur conveyed her concerns to the Government that such an initiative is inherently abusive and can result in violations of human rights and fundamental freedoms. The Special Rapporteur was informed that this entity was not established.

#### IV. CONCLUSIONS AND RECOMMENDATIONS

62. The parameters of women's status in the Islamic Republic of Iran are intimately linked to the basic principles underlying the formation of the State, which aimed to deliver women from corruption and restore their dignity. This has led to a paradoxical situation whereby, on the one hand, women's participation in public life is encouraged to legitimize the State gender policy and on the other this is done under strictly observed rules imposed on women. Consequently, compared to other developing and neighbouring countries, Iranian women have access to health, education and to some extent employment and political participation. However, the ground for their autonomous self-expression is precarious. Women are praised as mothers but they may not exercise authority in decisions regarding their children; they may become judges but not preside over a legal case; they may vote and be elected to office but not hold leadership positions, etc. This paradoxical situation is a source of tension as well as a barrier to women's enjoyment of their rights as full persons, including the right to freedom from violence.

63. It has been argued in the present report that violence against women in Iran is ingrained in gender inequality, which is upheld and perpetuated by two factors: (a) patriarchal values and attitudes based on male supremacy; and (b) State-promoted institutional structure based on gender-biased, hard-line interpretations of Islamic principles. While the former is a universal and historically rooted phenomenon, the latter is particular to contemporary Iran and is rooted in gender politics and policies. Both factors, however, represent a male-dominant society with male-empowering laws and practices, making it difficult for women to escape public and private violence.

64. In recent years the Government has taken some steps to address violence against women. For example, in its Fourth Development Plan the Government of the Islamic Republic of Iran devoted section G of article 111 to addressing violence against women. It has also reportedly set up special female police centres and made efforts to employ female police officers in order to address the issue of violence against women. It is also reported that the Welfare Organization has established health houses and crisis intervention centres to respond to the needs of women victims of violence. With regard to trafficking, the Special Rapporteur notes that a bill to combat trafficking has been approved by the legislature.

65. These steps, while significant, have not been enough to fully address the wide spectrum of violence suffered by women. If the Iranian regime is sincere about restoring women's dignity then it must embark on a re-interpretation of its fundamental norms, including Islamic principles in line with the current needs and societal contributions of women as well as with universal human rights standards. Some recent amendments to the law concerning child custody and the minimum age of marriage as well as the moratorium on stoning are significant steps in this direction and show that it can be done. It is important to acknowledge that the majority of the female population in Iran is young and well educated. The current practices do not allow them to reach their full potential and aspirations.

66. The Special Rapporteur was happy to learn, during her visit, that many members of the judiciary recognize the need for reform as a priority issue. Those she spoke to affirmed that a judicial reform is under way to amend some of the discriminatory provisions of the law with a view to enhancing the protection of women's rights. For example, they mentioned that they were in the process of developing a bill for the protection of the defendant; a bill to amend family law; and a bill on juvenile courts which incorporates the legal ban on under-age capital punishment. The members of the judiciary also stated that there has been an increase in the recruitment of women in the judicial sector, 33 per cent of which is currently composed of women. They also reported that offices for the protection of female victims' rights were created and that there was a plan to establish special courts for women.

67. In 2003 a directive entitled "Respect for the legitimate freedoms and protection of the rights of citizens" was also adopted. It consists of 15 points related to safeguarding human dignity in the administration of justice. More recently, the chief of the judiciary was quoted as saying that police and prosecutors should not put suspects under psychological or physical pressure to obtain confessions.

68. These important judicial initiatives are encouraging, but ensuring the protection of women's rights, including protection against violence, will require a comprehensive review of discriminatory laws and procedures as well as a reorientation in the manner in which religious laws are interpreted.

69. The national machinery for women, the Centre for Women's Participation (CWP),<sup>37</sup> sponsors national research on violence against women and has developed a national plan of action to address the problem. In this regard, it has commissioned research into domestic violence and high suicide rates among women. In 2002, CWP decided to set up a women's information dissemination centre, which aims to raise awareness of women's legal and civil rights, undertake research, establish a hotline unit and a databank, and conduct training. While these initiatives to address violence against women and support the ratification of the Convention on the Elimination of All Forms of Discrimination against Women are commendable, CWS lacks power to be effective in State affairs. Furthermore, the "lack of defined mechanisms in governmental bodies to organize and plan for national campaigns to combat violence against women in the country" is an obstacle to effectively addressing violence against women in Iran.<sup>38</sup>

70. By and large, despite some positive developments, the gender policy in Iran is hampered by serious obstacles and setbacks. This situation has disillusioned many Iranian women who supported the Islamic Revolution. They commonly feel that, while the new regime brought to the public arena categories of women who had not been touched by the monarchy's modernization project, it has failed to deliver on promises of equal citizenship to women. Women's initiatives to resist encroachment on their rights remain strongly contested.

71. In view of the above challenges, the Special Rapporteur would like to make some recommendations to the Government of the Islamic Republic of Iran.

72. With a view to the adoption and observation of international human rights standards the Special Rapporteur recommends that the Government:

(a) Implement the provisions of the Declaration on the Elimination of Violence against Women;

(b) Ratify the Convention on the Elimination of All Forms of Discrimination against Women without reservations as soon as possible, and bring national laws into conformity with the Convention;

(c) Ensure full respect for all human rights, as guaranteed in international human rights treaties ratified by Iran, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which, inter alia, guarantee the right to non-discrimination based on sex;

(d) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and protect women victims of trafficking, ensure accountability of the traffickers and provide compensation to the victims;

(e) Fully implement the recommendations of the Committee on the Rights of the Child (CRC/C/15/Add.254) and of the Special Rapporteur on adequate housing, contained in the report on his mission to Iran (E/CN.4/2006/41/Add.2);

(f) Implement the provisions of the Declaration on Human Rights Defenders in order to ensure that women human rights defenders are able to carry out their work with full autonomy and without being subjected to retaliation by the State or other actors.

73. In order to enhance women's access to justice through a transparent legal and judiciary reform it is recommended that the Government:

Prevent early and forced marriages;

Remove obstacles to women's rights with regard to child custody, divorce, inheritance and freedom of movement;

Raise the age of majority for girls and boys to 18 in conformity with the Convention on the Rights of the Child;

Eliminate all obstruction to justice on the grounds of sex, class and religion emanating from the practice of *diyah*;

Prohibit by law cruel corporal punishments such as stoning and flogging;

Ensure that the right to a fair trial is fully respected and that all women detainees are brought to trial, with access to a lawyer and legal aid where necessary, without undue delay;

**Ensure that punishments do not discriminate against women, that they are proportionate to the offence, and that they are determined by a court of law in accordance with the principles of equality and non-discrimination;**

**Institute proper investigation procedures for rape cases and ensure that rape victims are not subject to prosecution under adultery provisions where they are unable to prove rape;**

**Abolish requirements that women present eyewitnesses in order to prove that they have been subjected to violence and allow women to prove violence through medical or police reports and other credible evidence;**

**Establish procedures whereby custody rights are determined by a judicial process in accordance with the principle of the best interests of the child;**

**Review all cases of women currently being detained for crimes related to sexual and moral conduct who did not have a fair trial or enjoy guarantees of due process with a view to retrying the case or releasing the accused woman.**

74. **To prioritize the elimination of violence against women as a public policy issue and to prevent, investigate and punish all acts of violence against women, whether perpetrated by private or State actors, it is recommended that the Government:**

**Provide effective protection to women who have experienced violence by ensuring that they are able to approach the police, to secure alternative housing and to access medical care;**

**Establish and support more shelters for women who have been subjected to violence and to ensure that women are able to access information about these shelters through the police, judicial personnel and medical staff as well as women's non-governmental organizations;**

**Conduct research on violence against women and to collect data concerning its prevalence;**

**Conduct a full investigation into suicides of young women and their relationship to diverse forms of violence against women, to design preventive and protective measures to address these suicides, and to prevent the development of prejudice in public opinion that would revictimize survivors of suicide attempts and/or their families;**

**Ensure that all institutions and individuals engaged in law enforcement activities are accountable to the Government and that they respect all human rights and fundamental freedoms as laid out in international human rights instruments;**

**Vigorously enforce the prohibition on torture, to investigate fully and publicly all allegations of torture, including the case of Zahra Kazemi, to hold perpetrators**

**accountable and to ensure that victims of torture receive compensation and rehabilitation;**

**Investigate publicly all allegations of arbitrary detention and to ensure that victims of arbitrary detention receive compensation;**

**Strengthen the capacity of the Centre for Women's Participation (financially and politically) to develop policies and projects to address violence against women, to support research on the causes and consequences of violence against women, including suicides, and to effectively undertake its important advisory role in directing State policy and action concerning violence against women.**

75. **In order to promote and support the empowerment of women in all spheres of life, it is recommended that the Government:**

**Promote women's participation in the formal labour market by ensuring equality of opportunity and eliminating discriminatory laws and practices related to women's work;**

**Institute special measures to increase women's political participation and appoint more women to high-level government positions;**

**Provide special programmes for women from minority groups who suffer multiple forms of discrimination;**

**Ensure that women have equal rights to enter into marriage and during the marriage relationship, as well as at its dissolution;**

**Ensure that women enjoy full freedom and rights to become equal partners in decision-making in the home, at work and in society at large;**

**Support research on the linkages between discrimination and violence against women and family and societal well-being;**

**Listen to the voices of women.**

## Notes

<sup>1</sup> For example, the cases of journalists and women's rights activist, who were arbitrarily arrested, detained and mistreated; a number of death row cases; and the death in custody of Ms. Zahra Kazemi, the Canadian-Iranian journalist on 10 July 2003, were among the main concerns.

<sup>2</sup> See details in E/CN.4/2006/61/Add.1.

<sup>3</sup> Afshar, Haleh. 1989. "Women and Reproduction in Iran", in N. Yuval-Davis and F. Anthias (Eds.). *Woman-Nation-State*, London, The Macmillan Press Ltd., pp. 110-125.

<sup>4</sup> See Karabell, Zachary, "Iran and Human Rights", in D.P. Forsythe (Ed.). *Human Rights and Comparative Foreign Policy*, Tokyo, United Nations University Press, 2000, pp. 206-223.

<sup>5</sup> Tohidi Nayereh. "Gender and Islamic Fundamentalism: Feminist Politics in Iran". In Mohanty, Russo, Torres (Eds.). *Third World Women and the Politics of Feminism*. Bloomington: Indiana University Press 1991, pp. 251-267.

<sup>6</sup> Quoted in Karabell, p. 212.

<sup>7</sup> Quoted in Najmabadi, Afsaneh, "Feminism in an Islamic Republic", Y.Y. Haddad, J.L. Esposito (Eds.). *Islam, Gender and Social Change*. Oxford, 1998. Oxford University Press, p. 60.

<sup>8</sup> Ibid.

<sup>9</sup> Paidar, Parvin, "Encounters between Feminism, Democracy and Reformism in Contemporary Iran", Molyneux and Razavi (Eds.). *Gender, Justice, Development and Rights*. Oxford University Press, 2002, pp. 239-273.

<sup>10</sup> Iran was governed by a monarchy for centuries. For a brief period in the early 1950s, constitutional rule prevailed, which in 1953, with the support of outside powers, was ended and the monarchy restored.

<sup>11</sup> The Assembly is composed of 86 clerics elected by universal suffrage every eight years. The candidates for the Assembly are approved by the Council of Guardians.

<sup>12</sup> The Council of Guardians disqualified thousands of candidates from running for the Seventh Majlis. This created much public distress and international criticism.

<sup>13</sup> The CERD Committee, in considering Iran's report in 2003, noted that the status of the Convention is unclear and enquired if it has been endorsed by the Council of Guardians (CERD/C/63/CO/6).

<sup>14</sup> Shortly before the Special Rapporteur's visit on 20 January 2005, the CRC Committee considered Iran's second periodic report (CRC/C/15/Add.254). Many of the issues raised, particularly with regard to definition of the child, marriage and criminal responsibility, are of direct relevance to the objectives of this report.

<sup>15</sup> Kim, U., H. Sinding, S. Ebadi (Eds.), Undated. *Democracy, Human Rights and Islam in Modern Iran*, Bergen, Fagbokforlaget, p. 386.

<sup>16</sup> See examples in E/CN.4/2006/Add.1.

<sup>17</sup> UNICEF, Literacy Statistics ([www.unicef.org/infobycountry/iran\\_statistics.html](http://www.unicef.org/infobycountry/iran_statistics.html)).

<sup>18</sup> CWP. 2005. Beijing+ 10 National Report: 71. The report indicates a decrease from 16.2 per cent in 1998.

<sup>19</sup> See Inter-Parliamentary Union, Statistics on Women in Parliaments ([www.ipu.org/wmn-e/classif.htm](http://www.ipu.org/wmn-e/classif.htm)).

<sup>20</sup> Mir-Hosseini. "Fatemeh Haqiqatjoo and the Sixth Majlis: A Woman in Her own Right". *Middle East Reports (MERIP)*, Winter, 2004, No. 233, pp. 34-39.

<sup>21</sup> Najmabadi, p. 68.

<sup>22</sup> It is assumed here that Islamic law is open to interpretation which is particularly a salient aspect of the Shia school of Islam.

<sup>23</sup> Ziba Mir-Hosseine, 2004.

<sup>24</sup> 1999 Human Development Report of the Islamic Republic of Iran, p. 97.

<sup>25</sup> According to information provided by local authorities these cases are on the increase. For example, in 2002 there were 357 reported cases of which 163 were women, in 2003 it increased to 279 women out of 421 cases and in 2004 reported cases totalled 282 women out of 480.

<sup>26</sup> Other factors such as the impact of the eight years of war with Iraq and the high rate of unemployment in Ilam have exacerbated the situation underlying the self-immolation phenomenon.

<sup>27</sup> Reported by Sarvenaz Vafa, in "Situation analysis of women in Iran 10 Years After the Beijing Conference", Independent Researchers on Women's Issues ([apww.isiswomen.org/page/ngoreporton b10/Iran/](http://apww.isiswomen.org/page/ngoreporton%20b10/Iran/)).

<sup>28</sup> Ibid.

<sup>29</sup> Situation of human rights in the Islamic Republic of Iran, report to the General Assembly, submitted in 2001 by Maurice Copithorne, Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran (A/56/278), p. 6.

<sup>30</sup> See Human Rights Watch (HRW), 2005 World Report; also Amnesty International (AI), 2005 World Report. In response to increasing pressure mainly from outside, a draft anti-torture bill had been drafted, but it was first rejected by the Council of Guardians in June 2002 and then again in January 2003 even after the bill had been revised and approved by the legislature (in December 2002). It has also been reported that in April 2004, a judicial directive was issued prohibiting torture.

<sup>31</sup> See communications report E/CN.4/2006/61/Add.1.



<sup>32</sup> The Government reported that article 1133 is amended and that divorce may be granted to a woman upon her request.

<sup>33</sup> See E/CN.4/2005/43.

<sup>34</sup> The Government informed the Special Rapporteur in December 2005 that there is a moratorium on execution of minors and that in 2005, 110 sentences were put on hold.

<sup>35</sup> See Kim et al.

<sup>36</sup> See HRW World Report, 2004, pp. 461-462.

<sup>37</sup> CWP was founded in 1997 under the President's Office to plan, coordinate, supervise and monitor activities of the executive branch in the field of women's affairs. As such, it is responsible for identifying the challenges faced by women and finding solutions to address them.

<sup>38</sup> See Beijing +10 report of Communication Network of Women's NGOs of the Islamic Republic of Iran: 58 (citing estimates from joint projects between the CWP and the Social Department of the Ministry of the Interior in collaboration with the Ministry of Science).

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