

## The Situation of Human Rights in Iran Based on Documents of Human Rights Council

Page | 73

Majid Bozorgmehri\*

### A b s t r a c t

In an inclusive examination of documents and basic principles of international cooperation, one might find that the improvement of human rights in a given country takes place as a result of several underlying measures such as: ratification of basic international human rights instruments, cooperation with the UN human rights mechanisms, legislative reforms and capacity building in the country and finally structural reforms to the benefit of human rights.

Since the Islamic Revolution in 1979, Iran has been the target of extensive criticism by international human rights NGOs and U.N. human rights. The purpose of the analysis that follows is two-fold: first, this article seeks to provide a brief overview of positions taken by Human Right Council (HRC) and Commission of Human Rights (CHR) in UN. Second it aims to elaborate the Iran's positions towards them. Finally the article tries to analyze that how much human rights bodies of UN have been successful in progress of Human Rights Standards in the Iranian legislations and policies. The Iranian Perspective, based on HRC's documents, is elaborated too.

The contextual analysis is selected as the methodology and to be documented is one of the main priorities of the work.

For presenting an undisputable analysis, the official sites and documents are consulted.

**Keywords:** Human Rights. Iran. Human Rights Council. United Nations. Islamic World

### A. Introduction

#### *I. Statement of Problem*

Every human being, regardless of race, sex, nationality, ethnicity, language, religion, or any other status, is entitled to be treated with dignity, simply because of their humanity. Human rights deal with relationships between individuals, groups and the State.

These rights establish a basis for the relationship between the individual and the State, between the governed and those who govern, at each level of society.

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations.

In a comprehensive analysis of documents and basic principles of international cooperation, one might find that the improvement of human rights in a given country is shaped as a result of several major measures such as: ratification of basic international human rights instruments, cooperation with the UN human rights mechanisms, legislative reforms and capacity building in the country and finally structural reforms leading to the development of human rights.

Since the Islamic Revolution in 1979, Iran has sometimes been the target of criticism by international human rights NGOs and U.N. human rights sectors.

---

\* Associate Professor. Imam Khomeini International University  
[bozorgmehri@SOC.ikiu.ac.ir](mailto:bozorgmehri@SOC.ikiu.ac.ir)

The purpose of the analysis that follows is two-fold: first, this article seeks to provide a brief overview of positions taken by Human Right Council and Commission of Human Rights in UN. Second it aims to elaborate the Iranian government's positions relating to them. Finally the article tries to analyze that how much human rights bodies of UN have been successful in progress of Human Rights Standards in the Iranian legislations and policies. The Iranian Perspective, based on HRC's documents, is elaborated too.

The contextual analysis is selected as the methodology and to be documented is one of the main priorities of the work.

For presenting an undisputable analysis, the official sites and documents are consulted.

## II. Previous Literature

The statue of Human Rights in Iran is a topic which has been frequently discussed, mainly by the INGs reports and the institutions advocating the victims through the right or false accusations.

*Elliot Friedland* under *Clarion Project Research*<sup>1</sup> in 2014 has accomplished one analysis regarding situation of human rights in Iran. The report claims that Iran's unique system results in two forms of institutionalized human rights abuses. The first set results from the integration of hardline sharia law into the justice system, which incorporates extreme and brutal punishments. The second set results from the concentration of power in the hands of a small cadre of individuals with little to no oversight, which leads to systematic abuses of that power.<sup>2</sup>

*Friedland* has based his findings according to sources issued by INGs and other individuals and groups outside of Iran. He has seen the issue with a very destructive and unilateral approach.

The House of Commons Library in UK has organized in 2017 a debate on Human Rights in Iran. The final report summarized the issue by focusing on three topics: judicial process and the death penalty, freedom of speech and women. The reports and statements of NGOs make the principal sources and references as proofs for discussing the violations of human rights in Iran.<sup>3</sup>

League for the Defense of Human Rights in Iran (LDDHI)<sup>4</sup> has published a brief paper regarding our issue. Paper claims that the gravest human rights violations in Iran continue to occur in the following areas:

1. Death penalty,
2. Arbitrary detention and torture of dissidents,
3. Discrimination against women, religious minorities, and ethnic communities,
4. Labor rights

LDDHI is a NGO and its report relies for the sources generally on its own published statements or the literatures of other NGOs.<sup>5</sup>

*Shadi Mokhtari*<sup>6</sup> sees the issue within a new perspective by illustrating the optimistic discourse through the reformists activities during and after the Khatami's presidency. She believes that the West

<sup>1</sup> Clarion Project, founded in 2006, is a non-profit, educational organization providing a platform for human rights activists and for challenging Islamic extremism through facts. Elliot Friedland is Major Gifts Director at Jewish Free Loan Association. Greater Los Angeles Area. [www.clarionproject.org](http://www.clarionproject.org) and <https://www.linkedin.com/in/elliott-friedland-8031269/>

<sup>2</sup> Friedland, Elliot "Fact sheet. Human Rights in Iran". Clarion Project Research. 2014. Website: [www.clarionproject.org](http://www.clarionproject.org). Last visited Oct 03, 2019

<sup>3</sup> Villiers, Theresa. Number CDP-2017-0175 |. Human Rights in Iran. t2016 Human Rights and Democracy report: 5 October 2017 [www.parliament.uk/commons-library](http://www.parliament.uk/commons-library) | [intranet.parliament.uk/commons-library](http://intranet.parliament.uk/commons-library) | [papers@parliament.uk](mailto:papers@parliament.uk) | @commonslibrary. Last visited: Jan 03, 2018.

<sup>4</sup> League for the Defense of Human Rights in Iran - LDDHI- FIDH Member - was founded in Paris in March 1983, following the closure of the Iranian Association for the Defense of Human Rights and Liberties in 1981, which had been established in 1977, and the exiling of its leaders. ([https://www.facebook.com/pg/lddhi.fidh/about/?ref=page\\_internal](https://www.facebook.com/pg/lddhi.fidh/about/?ref=page_internal)) Last visited Jul 04, 2019.

The opponents of the Iranian Government are listed as the main members of League and it is a group who tries to confront the Iranian regime by criticizing the Human Rights Situations in Iran.

<sup>5</sup> LDDHI. League for the Defense of Human Rights in Iran .Briefing paper for the EU-Iran human rights dialogue. 20 November 2017.

should accept the cultural diversity and beliefs relating to human rights conceptions. She tries to elaborate pillars of the Human Rights discourse of Iran's Reformists.<sup>7</sup>

Moinipour<sup>8</sup> with her work on "UN treaty-based bodies and the Islamic Republic of Iran" has discussed the attitude of Tehran regarding the Human Rights standards. She claims that the analysis demonstrates resistances, ambiguities and dichotomies in the responses of the Iranian delegation to accusations of human rights violations, but also an adaptation of a human rights language over the years. Although her work is likely documented, most of the data rely on NGOs reports. Maybe a glance to the Iranian official positions accomplished her documented analysis.<sup>9</sup>

Since a researcher is supposed to be relied on facts without bias, we try here to carry out a documented, impartial, and comprehensive research. Therefore this work deserves a distinct label in comparison with previous manuscripts.

### III. Various Perspectives on Human Rights and Iranian Perspective

There are three main perspectives on human rights; Universality of human rights, Cultural Relativism's view of human rights, and Islamic Perspective of human rights. These three perspectives have differently introduced the debate of human rights values.<sup>10</sup>

Although nowadays the advocating of universality approach enjoys the leading discourse, one can strongly declare that the majority of legal and judicial systems in the world, even in the western societies, follow the relativism's view of human rights. The relativism leads us to accept and tolerate the various definitions of human values. Each society has its own history, its own culture and its own human conceptions.

Looking from a historical point of view, the concept of cultural relativism has its roots in the researches made by anthropologists at the beginning of 20th century.<sup>11</sup> Anthropologists' intention was to demonstrate that whatever we understand as national and international values can be different from one culture to another. Cultural Relativism developed as a reaction to "school of cultural

<sup>6</sup> Shadi Mokhtari specializes in human rights, Middle East Politics and Political Islam. She has an extensive background in human rights and women's rights issues in the Middle East and Muslim World. She is the author of *After Abu Ghraib: Exploring Human Rights in America and the Middle East* (Cambridge, 2009), which was selected as the co-winner of the 2010 American Political Science Association Human Rights Section Best Book Award. From 2003 to 2013, she served as the Editor in Chief of the *Muslim World Journal of Human Rights*.

(2019 American University. <https://www.american.edu/sis/faculty/mokhtari.cfm>)

She has tried to take the impartial position towards the Human Rights Situations in the Islamic World. It should be added that in 2012, she concluded a study assessing Green Movement, clerical and popular responses to heightened repression following the 2009 elections in Iran. Since 2011, she has been looking at how human rights dynamics and discourses have changed in and vis-a-vis the Middle East in the wake of unfolding popular protests and political transitions.

<sup>7</sup> Mokhtari, Shadi. "The Search for Human Rights within an Islamic Framework in Iran". *The Search for Human Rights. The Muslim World*. Volume 94. October 2004

<sup>8</sup> Shabnam Moinipour is a Visiting Lecturer at the University of Westminster. She received her MA degree in Theory and Practice of Human Rights from the Human Rights Centre at the University of Essex and her PhD in Human Rights and Media in Iran from the University of Westminster. Her research interests are multidisciplinary in nature with a focus on human rights issues and human rights law.

(<https://www.tandfonline.com/doi/full/10.1080/23311886.2018.1440910>)

Educated in Law from the western universities, she does not enjoy enough proficiency about the various aspects of Iranian legal regulations.

<sup>9</sup> Moinipour, Shabnam. "UN treaty-based bodies and the Islamic Republic of Iran: Human rights dialogue (1990–2016)". *Politics & International Relations | Research article. Cogent Social Sciences* (2018), 4: 1440910. Moinipour, Cogent Social Sciences (2018), 4: 1440910.

<https://doi.org/10.1080/23311886.2018.1440910>

<sup>10</sup> Davoodifar, Hassan and Jayum Anak Jawan, "Change of Human Rights Perspective in Iran. *International Journal of Business and Social Science*, Vol. 2 No. 7; [Special Issue –April 2011]

<sup>11</sup> Afshari, R. *Human Rights in Iran; The Abuse of Cultural Relativism*. Philadelphia: University of Pennsylvania Press. (2001).



evolutionism”, according to which each culture, along a linear direction, accepts characteristics and features of western culture to culminate its highest point<sup>12</sup>. Advocates of relativism believe that the universality of human rights is an idea to impose western values on the whole world. From Cultural Relativist’s viewpoint, cultural traditions and religious beliefs should be considered when human rights are defined and introduced.

Skepticism about universality is also a feature of certain currents of political and philosophical thought which are currently popular, at least in academic circles. The postmodernists, for example, criticize the notion of universal moral principles and instead advocate far-reaching relativism. The communitarians, for their part, assert that norms and values are determined by the communities to which individuals belong and, with their predilection for what is local and particularistic, are wary of normative claims to universality.

The same is true of the proponents of multiculturalism, another current of political and philosophical thought which appears to be gaining popularity.<sup>13</sup>

Based on the cultural relativism approach, the Iranian legal system, like many other legal systems in the world, enjoys its sovereign right for selecting its own definitions and conceptions regarding the human right principles. In codifying their own human rights norms, Egypt and Turkey, the secular republics with an overwhelmingly Muslim population have developed legislation, at least in part, from Islamic criteria and taken steps to either promote human rights within their borders,<sup>14</sup> since they believe in relativism.

Considering the way that human rights are understood in terms of moralities and their worldly nature, many differences can be identified between the perspective that holds human rights as universal and the Islamic perspective that has its roots in religion. In general, Islam promises a society of believers in which peace and correlation is possible. An individual is just one, among many believers, who can achieve his entitled rights through Islamic laws and values.<sup>15</sup>

Iran’s Revolution that occurred in 1979 was followed by a new government that put emphasis more on its Islamic criteria and cultural relativism’s perspective of human rights. The forth Principle of Iran’s Constitution states “all civil, penal, financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria.” This principle implements completely all provisions of the Constitution as well as to all other laws and regulations.

According to Principle twenty, “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 accordance with Islamic criteria.”

Although IRI’s perspective for human rights principles is subordinate to Islamic criteria today, its human rights language and practice shows that this government avoids a direct challenge to universality of human rights via the endorsement of some international human rights covenant and declarations, or participation in international human rights conferences and meetings. Thus, we could argue that IRI has gradually positioned itself within a universality stance in regards to human rights principles.

Although Iran has the world’s only Shi’ite government, the marriage of religion and political power is far from exclusive to Islam or Iran: India’s *Bharatiya Janata Party* use Hinduism as part of their nationalist creed of *Hindutva* that has led at various points to ethnic violence against sections of India’s Muslim community.<sup>16</sup>

<sup>12</sup> Healy, P. Human Rights and Intercultural Relations: a Hermeneutic-Dialogical Approach. *Philosophy & Social Criticism*. (2006), 32(4), 513-541.

<sup>13</sup> Advisory Council on International Affairs. Universality of Human Rights and Cultural Diversity. Hague. Netherlands. No. 4, June 1998.

<sup>14</sup> Harris. Molly I. “Human Rights Legislation in Egypt and Iran. A Comparative Historical Analysis”, *Senior Honors Thesis*. Paper 89. 2004.

<sup>15</sup> Dwyer, K. *Arab Voices: The Human Rights Debate in the Middle East*. London: University of California Press. 1991, pp.182-3.

<sup>16</sup> Religious interpretations lie at the heart of some strands of more expansionist or exclusionist Zionism in Israel while a Buddhist clerical elite played a major role in pre-Chinese Communist controlled Tibet. The historical relationship between Christianity and political power contains the well-known mix of crusades and cathedrals, the Inquisition and innumerable works of art, literature and the foundations of the modern state.

Based on “Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States” approved in 1970,<sup>17</sup> each state enjoys full power to determine its own political, social economic and cultural systems. Therefore, there is not any legal base to criticize Iran in adapting the Islamic principles and regulations.

All aspects of the position of Islamic States, both positive and negative, regarding the UDHR in particular and the protection of human rights in general, should be understood in light of the domestic, regional and international context of those States.

In other words, we should try to understand and respond to the position of each State, Islamic or non-Islamic, in terms of its context and in light of its own contextualized understanding.<sup>18</sup>

For instance, China continues to view human rights in strongly aspirational rather than legal terms. It argues for priority to be placed on socio-economic rights and the right to development, and continues to insist that Human Rights should be implemented according to a country’s national conditions.<sup>19</sup>

It is the view of the Islamic Republic of Iran that the concepts, values, objectives and norms which constitute human rights represent the noblest concerns of humanity in its totality, and should not have been the monopoly of a single segment of the international community in the codification, implementation and international promotion and protection processes.

It should be emphasized that a genuine discourse on these fundamental and basic concepts is by no means a license for violations of fundamental rights and freedoms. Rather, a multi- dimensional approach to human rights, which emanates from a sound appreciation of the nature of human beings, coupled with the need to preserve the identity, health and safety of the social environment within which such rights are to be exercised, can provide a better background for the full realization of human rights.

In light of Iranian perspective, human rights reflect the highest aspirations of humanity and cannot be the monopolized domain of a few. By the same token, they cannot be subject to selectivity, politicization and application of double standards, which are the exact opposite of the universality of these rights. The universality of human rights does not only require a truly universal theoretical base but also a universal method of application outside the control of a few. The abuse of the available international machinery for protection of human rights for short-sighted political expediencies of a dominant minority connotes that human rights rather than being universal aspirations and instead of being above foreign policy, have indeed become tools of foreign policy.<sup>20</sup>



In a current European context, it manifests itself as moderate conservative Christian democracy with smaller, more devout and hardline, parties springing up, particularly in the east.

In Saudi Arabia and parts of the Gulf, Wahhabi Islam forms an important component of the political settlement of the state.

Danesh. Tahiri and Adam Hug, *Iran Human Rights Review: Religion. Preface by Cherie Blair*, The Foreign Policy Centre. London N1 5DL. United Kingdom. Foreign Policy Centre 2010. p.3.

<sup>17</sup> UN Treaties. 1970. Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. New York, 24 October 1970. <http://legal.un.org/avl/ha/dpilfrscun/dpilfrscun.html>

<sup>18</sup> Abdullahi A. An-Na'im. "The Position of Islamic States Regarding the Universal Declaration of Human Rights" in Peter Baehr, Cees Flinterman and Mignon Senders, editors, *Innovation and Inspiration: Fifty Years of the Universal Declaration of Human Rights*, Amsterdam: Royal Netherlands Academy of Arts and Sciences, 1999, pp. 177-192.

<http://www.dwc.knaw.nl/DL/publications/PU00010805.pdf>

<sup>19</sup> Sceats. Sonya and Shaun Breslin "China and the International Human Rights System. October 2012. Chatham House (The Royal Institute of International Affairs).

<sup>20</sup> OHCHR. [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92). 2010. United Nations Human Rights. Office of High Commissioner for Human Rights. Human Rights in the Islamic Republic of Iran. [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92). Last visited: Oct 03, 2019.

## B. Data and Analysis

### I. Record of the Approved Treaties by Iran.

Following the 1979 Islamic Revolution, the Islamic Republic of Iran remained a member of the United Nations and except for three core instruments, i.e. ICERD<sup>21</sup>, ICCPR<sup>22</sup> and ICESCR<sup>23</sup>, that had already been signed during the time of the previous regime, the Iranian government signed two further instruments, i.e. CRC<sup>24</sup> and CRPD<sup>25</sup>, though this time with reservations. Throughout the years, the Iranian delegation has met with relevant UN mechanisms to discuss human rights issues in Iran in relation to each instrument. What has transpired from the dialogues, however, is a change of the use of language and position by the delegation in defense of the Iranian comments.<sup>26</sup>

Page | 78

Table 1. International human rights instruments signed and ratified during previous regime.<sup>27</sup>

Convention or instrument signed or ratified by Iran before 1979 Islamic revolution	Date signed or ratified by Iran
ICERD: International convention on the elimination of all forms of racial discrimination	Signed on 8 March 1967 and ratified on 29 August 1968
ICCPR: International covenant on civil and political rights	Signed on 4 April 1968 and ratified on 24 June 1975
ICESCR: International covenant on economic, social and cultural rights	Signed on 4 April 1968 and Ratified on 24 June 1975

After the 1979 revolution, not only did Iran not withdraw from the aforementioned conventions, it also adopted two further ones. The Islamic Republic of Iran signed CRC in 1991 and ratified it in 1994. The circumstances around the adoption of this convention could have been due to reports that began to emerge highlighting the sharp increase in juvenile executions in Iran since the 1990s. However, upon signature and ratification of this convention, the Islamic Republic of Iran made some reservations.

Iran registered this reservation upon signature: "The Islamic Republic of Iran is making reservation to the articles and provisions which may be contrary to the Islamic *Shari'ah*, and preserves the right to make such particular declaration, upon its ratification".

It registered also its reservation upon ratification. "The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the international legislation in effect."<sup>28</sup>

The fifth Convention, CRPD, was acceded in 2009 and Iran also made a declaration to this Convention more specifically to its Article 46. The accession of this Convention without a signature took place in 2009. The text of declaration is registered so "... with regard to Article 46, the Islamic Republic of Iran declares that it does not consider itself bound by any provisions of the Convention, which may be incompatible with its applicable rules."<sup>29</sup>

<sup>21</sup> International Convention on the Elimination of All Forms of Racial Discrimination

<sup>22</sup> International Covenant on Civil and Political Rights

<sup>23</sup> International Covenant on Economic, Social and Cultural Rights

<sup>24</sup> Convention on the Rights of the Child

<sup>25</sup> Convention on the Rights of Persons with Disabilities

<sup>26</sup> Moinipour, *op. cit.*, 2018, p. 22.

<sup>27</sup> Ratification Status for Iran (Islamic Republic of) The Office of the High Commissioner for Human Rights (UN Human Rights).2018.

[https://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=81&Lang=EN](https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=81&Lang=EN). Last visited: August 29,2019

<sup>28</sup> United Nations Treaty Collection (2019)

[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=IV-11&chapter=4&clang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-11&chapter=4&clang=en#EndDec). Last visited on August.29.2019

<sup>29</sup> CRPD. Convention on the Rights of Persons with Disabilities. New York, 13 December 2006. Entry into force. 3 May 2008, in accordance with article 45(1).



Table 2. International human rights instruments signed and ratified after the 1979 Islamic revolution.<sup>30</sup>

Convention or instrument signed or ratified by Iran after 1979 Islamic	Date signed or ratified by Iran
CRC: Convention on the rights of the child	Signed on 5 September 1991 and Ratified on 13 July 1994)
CRPD: Convention on the rights of persons with disabilities	Acceded on 23 October 2009

Reporting about article 44 of RCR, the Iranian Delegation refers to the measures taken to promote the education of girls, narrow the gender gap, provide legal support for children born out of wedlock, revise or amend certain laws related to children, expand pre-school education, ensure pre and post-natal support, enhance children's participation in the decision-making process and respect their opinions.

Unlike the records registered in UN system's data, Iran reports a package more enriched of its committed instruments. Relying on Iran's official statement, they cover:

- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;
- International Convention on the Elimination of All Forms of Racial Discrimination;
- International Convention on the Rights of the Child;
- Convention on the Prevention and Punishment of the Crime of Genocide
- International Convention on the; Suppression and Punishment of the Crime of Apartheid;
- International Convention against Apartheid in Sport;
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery;
- Convention relating to the Status of Refugees;
- Protocol to the Convention relating to the Status of Refugees;
- ILO No 182 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor,
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

On 6 July 2018, *Javaid Rehman* was appointed as the third Special Rapporteur on the situation of human rights in the Islamic Republic of Iran since the mandate had been re-established in 2011.

Relying on his report, the Islamic Republic of Iran has not ratified a number of international human rights treaties. These include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and all of the individual complaint procedures and inquiry procedures, the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Special Rapporteur will encourage the Islamic Republic of Iran to ratify the aforementioned treaties, which he believes will enhance the efficacy of human rights implementation in the country.<sup>31</sup>

But about "the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", just only 83 out of 186 countries have ratified the treaty,<sup>32</sup> it means that 104 countries in

[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15&chapter=4&clang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=en#EndDec). Last visited: August 29, 2019

<sup>30</sup> Ratification Status for Iran (Islamic Republic of), *op. cit.*, 2018.

<sup>31</sup> A/73/398. Seventy-third session Agenda item 74 (c). Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives. Situation of human rights in the Islamic Republic of Iran. Note by the Secretary-General. Distr.: General 27 September 2018.

<sup>32</sup> Treaty Series, vol. 1465. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. United Nations, Treaty Series, vol. 1465, p. 85.  
[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV9&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV9&chapter=4&clang=en)

the world are not parties of the convention. So why Iran should be blamed or requested for the urgent approval?

“The Convention on the Elimination of All Forms of Discrimination against Women and all of the individual complaint procedures and inquiry procedures” has nearly the same situation of ratification in the world. Only 99 out of 189 countries in the world have enjoined the parties’ countries.<sup>33</sup>

“The International Convention for the Protection of All Persons from Enforced Disappearance” has merely passed the ratification of 98 countries in the world.<sup>34</sup>

“The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families” has experienced the same destiny. It has just passed ratification of 39 countries.<sup>35</sup>

Therefore, it is absolutely meaningless to criticize the Iranian regime for non-ratification of these kinds of conventions which are very far to occupy a world approved place in the International Public Law.

## *II. Reports and Resolutions*

### **a. General Review**

In 1982, the Commission on Human Rights issued its first resolution against the Islamic Republic of Iran.<sup>36</sup> Following this, in March 1984, the Human Rights Commission set up a Special Representative to review the situation of human rights in Iran in July and so Mr. Andres Aguilar, a Venezuelan diplomat and lawyer, was appointed to investigate the human rights situation in the Islamic Republic of Iran.

There have been many reports issued by the Special Rapporteurs of the Commission and the Human Rights Council on the situation of human rights in the Islamic Republic of Iran between 1993 and 2017.

The most important missions of Special Rapporteurs have been as follows:

- Monitoring and investigating human rights violations, forwarding letters and petitions against Iran on human rights abuses;

- Visiting Iran and meeting relevant beneficiaries;

- Report to the General Assembly and Human Rights Council the situation of human rights in the Islamic Republic of Iran.

- Publication of the human rights situation in Iran in the press and for the public opinion.

On the other hand, the Commission and the Human Rights Council issued more than 15 resolutions, entitled "The Situation of Human Rights in the Islamic Republic of Iran" from 1993 to 2017.

Following the launch of the new mechanism of the Human Rights Council, the Universal Periodic Review of Human Rights (UPR), the human rights record of the Islamic Republic of Iran has been reviewed and discussed several times.

### **b. Major Issues Consistently Reported.**

Among the issues, which have been reported in various documents, there are some topics, which are highlighted and repeated more. They include the following.

<sup>33</sup> Treaty Series, vol. 1249, Convention on the Elimination of All Forms of Discrimination against Women. Treaty Series, vol. 1249, p. 13.

[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en)

<sup>34</sup> Treaty Series, vol. 2716 International Convention for the Protection of All Persons from Enforced Disappearance. United Nations, Treaty Series, vol. 2716, p. 3; Doc.A/61/448; C.N.737. 2008.

[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-16&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&clang=en)

<sup>35</sup> Treaty Series, vol. 2220 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families United Nations, Treaty Series, vol. 2220, p. 3; Doc. A/RES/45/158.

[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-13&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&clang=en). Last visited: August 29, 2019.

<sup>36</sup> “E/CN.4/RES/1993/62”, Resolution adopted by Commission on Human Rights United Nation



### *b(1). Right to Life and the Death Penalty*

The violation of the right to life and concerns related to a lack of adherence to due process have been consistent themes in the reports of the Secretary-General and the predecessors of the Special Rapporteur.<sup>37</sup> The Iranian government received 41 recommendations related to its use of capital punishment during the second cycle of the universal periodic review, in 2014.<sup>38</sup>

Recommendations to the Iranian government included abolishing the death penalty for juvenile offenders; establishing a moratorium on the death penalty for crimes not considered “most serious” by international standards; establishing a moratorium on the use of capital punishment; and banning public executions.

The Special Rapporteur of HRC has reiterated his grave concerns with respect to the continuing execution of juvenile offenders in Iran.<sup>39</sup>

Before considering the Iranian argument, we need to emphasize that many of the major world religions such as Christianity, Judaism and Hinduism, have taken varied positions on the morality of capital punishment<sup>40</sup> in their religious orders and comments and they do not try to eliminate or blame it as an unhuman behavior.

In the Islamic perception, the Quran establishes that killing in its general dimension is forbidden, but it clearly establishes conditions under which capital punishment may be enacted:

*... If anyone kills a person—unless it is for murder or for spreading mischief in the land—it would be as if he killed all people. And if anyone saves a life, it would be as if he saved the life of all people (Quran 5:32).*

The spirit of the Islamic penal code is to save lives, promote justice, and prevent corruption and tyranny. Islamic philosophy holds that a harsh punishment serves as a deterrent to serious crimes that harm individual victims or those that threaten to destabilize the foundation of society.

The critical point is that one may take life only “by way of justice and law.” In Islam, therefore, the death penalty can be applied by a court as punishment for the most serious of crimes. Ultimately, one’s eternal punishment is in God’s hands, but there is a place for punishment enacted by society as well.

According to Islamic law, the following crime can be punishable by death: “Spreading mischief in the land” (*Fasaad Fi al- Ardh*).<sup>41</sup> This crime can mean many different issues, but it is generally interpreted to refer to those crimes that affect the community as a whole and destabilize society. The Islamic practice does serve as a deterrent and Muslim countries as a result of their legal strictness are less troubled by the routine social violence that plagues some other societies.

Returning to the Iranian argument, it should be notified that the capital offences in Iran are adjudicated in the presence of the prosecutor’s representative, the accused and his/her lawyer, and that the final verdict is issued after convening hearings in the course of a fair trial and upon completion of the required proceedings. Iran had established a new task force on the prevention of deprivation of life, made up of a subcommittee of the Executive Committee on the Protection of the Rights of Children and Adolescents in the General Justice Department of the Province of Tehran, which has now been extended to all provinces of the country.

Death penalty is yet known and accepted in a great number of countries around the world.

<sup>37</sup> A/HRC/37/24. Human Rights Council. Thirty- seventh session. 26 February – 23 March 2018. Agenda item 2. Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General. Situation of human rights in the Islamic Republic of Iran. Report of the Secretary-General.

<sup>38</sup> A/HRC/28/12/Add.1. Human Rights Council. Twenty-eighth session. Agenda item 6. Universal Periodic Review. Report of the Working Group on the Universal. Periodic Review Islamic Republic of Iran.

<sup>39</sup> A/73/398. Seventy-third session. Agenda item 74 (c). Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives. Situation of human rights in the Islamic Republic of Iran Note by the Secretary-General. Distr.: General 27 September 2018.

<sup>40</sup> Greenberg, David F (May 2, 2008). “Siting the Death Penalty Internationally”, *Journal of the American Bar Association* 33 (2): 295–343. doi: 10.1111/j.1747-4469.2008.00105.x

<sup>41</sup> Also refer to the Art. 286 Of Chapter 9 of Iran’s Penal Code

Of the 58 sovereign states categorized as 'very high' on the 2018 issue of the Human Development Index,<sup>42</sup> 11 perform capital punishment: the United States, Japan, Singapore, Saudi Arabia, United Arab Emirates, Kuwait, Bahrain, Belarus, Oman, Malaysia, and Taiwan. In South Korea, Russia, Qatar, the Bahamas, Barbados, and Brunei, a moratorium is in practice. At least 21 countries performed executions in 2018.<sup>43</sup>

*b (2). Torture and Other cruel, Inhuman or Degrading Treatment or Punishment*

The HRC has repeated continuously its concerns by received reports on the commission of torture or other cruel, inhuman or degrading treatment or punishment, including floggings and amputations.<sup>44</sup> For HRC, such conduct is in violation of articles 7 and 10 of the International Covenant on Civil and Political Rights<sup>45</sup> and disagrees with the contention of the Iranian government that “the physical punishments which are anticipated in the laws of the Islamic Republic of Iran are legislated and legalized, and therefore they are not in contradiction with the State’s obligation under paragraph 7” of the Covenant.<sup>46</sup>

For discussing the Iranian argument on issue, firstly we need to seek more scrutiny on the Islamic law relating the question.

According to the approximately all of Islamic jurists in Iran, torture in Islam is considered as a major violation to the fundamental rights of someone or of some living being and it is absolutely forbidden. It occurs when unduly pain or suffering is inflicted upon a living creature; a creation of Allah Almighty.

Sadeghi, specialist on the Islamic jurisprudence emphasizes that based on the sources like holy Quran, holy Traditions (Narrations of Imams and Prophet), Reason (wisdom) and Consensus (i.e. prevalent opinion of Muslim jurists), torture as well as any annihilation of human dignity are not permitted by Islamic law.<sup>47</sup>

Muslims know that every act of aggression done to others, no matter how small or how large, will be questioned on the Day of Judgment. It is because of this thorough questioning in the court of justice of Allah Almighty that a Muslim should avoid harm and injury to others. No one has the right or permission to torture another individual; whether with traditional means such as whips, or with modern means such as electric shocks, etc.

The penalties prescribed by Islamic law are not torture, but rulings for punishment prescribed by Islam for specific cases, implemented only when the crime has been proven in accordance with the Islamic law. This is being for the protection of the purity of society, and safeguarding its health and security.

In the holy Quran, the harassment and torture of Muslims are judged as ugly lies and obvious sin. (*Ahzab*: 58) Based on one word attributed to Prophet: “Who tortures people, will be tortured on the day of final judgment”<sup>48</sup>

The HRC has recalled that, under article 39 of the Iranian constitution, “all forms of violation against the honor and dignity of any person who is legally arrested, detained, imprisoned, or sent into exile” are prohibited.<sup>49,50</sup>

<sup>42</sup> Human Development Report. *Human Development Indices and Indicators* (PDF). (Human Development Report Office) United Nations Development Program. pp. 22–25. Last visited: Sep. 14, 2018.

<sup>43</sup> From Africa (5 countries): Botswana Egypt Somalia, South Sudan, and Sudan.  
From Americas (1 country): United States.

From Asia-Pacific (14 countries): Afghanistan, China, Iran, Iraq, Japan, North Korea, Pakistan, Saudi Arabia, Singapore, Syria, Taiwan, Thailand, Vietnam and Yemen.

From Europe (1 country): Belarus. <http://www.capitalpunishmentuk.org/overview.html>.

<sup>44</sup> A/HRC/37/68, paras. 69–74.

<sup>45</sup> CCPR/C/79/Add.85, para. 9.

<sup>46</sup> A/HRC/37/68/Add.1, p. 13.

<sup>47</sup> Sadeghi. Mohammad Hadi, “Prohibition of Torture in Islamic Law” *Journal of Humanities and Social Sciences*. Shiraz University, 2001. No 33.Fall 2001. (Persian Article)

<sup>48</sup> Maleki. Yadollah. “Quranic principles and judicial analysis on prohibition torture and International instruments and Iranian Law” *Journal of Jurisprudence and History of Civilization*. No 31. 12<sup>th</sup> year. Spring 2016.

It is worthy to know that according to articles 570, 578, 579 and 587 of the Penal Code, perpetrators of torture or other ill-treatment are subject to severe penalties, and that any confession or information obtained from the accused by torture and ill-treatment is not considered credible.

It should be also notified that the Iranian legislation has passed one very important act which clarifies comprehensively the forms of physical as well as psychological tortures, completely forbidden. Article I determines 18 actions as torture and prohibits them. For instance, interrogation at night or use of drugs or decrease the required medication in jail, insulting the prisoners and etc... are forbidden.<sup>51</sup>

Article 176 of the Code of Practice and “the Regulations of the Executive of the Organization for Prisons and Security and Educative Measures”, which was approved by the head of the judiciary on January 7, 1991, also says: “irascibility, insulting, corporal punishment of prisoners and applying harsh punishments in prisons are strictly forbidden”.

There is one critical point regarding the reports or resolutions issued by the HCR. The sources of most of this kind of reports are the allegations claimed by the NGOs which operate outside of Iran and are categorized and known as opponents of the Iranian regime. There may be some false accusations or charged charges claimed without enough and acceptable evidences. The positions of HRC must be supported by the reports of impartial observers and by strong and authentic evidences.

### *b(3). Situation of Women and Girls*

There are some consistently raised concerns relating to discrimination against women in law and practice in the Islamic Republic of Iran.<sup>52,53</sup> The report of Special Rapporteur notes that the Iranian government accepted 27 out of 60 recommendations with respect to the rights of women during the universal periodic review in 2014.<sup>54</sup>

In this regard, the Special Rapporteur welcomed the opportunity to engage in a dialogue with the Iranian government on the implementation of the accepted recommendations, notably those addressing gender-based discrimination, child marriage, access to health and education, political and economic participation and protection against domestic violence.

The HRC is encouraged by reports of progress in the promotion and protection of women’s rights since President Rouhani was re-elected, in particular the introduction of the comprehensive bill on ensuring the protection of women against violence and the establishment of the post of Deputy President for Women and Family Affairs.<sup>55</sup>

Actually in Iran, maternity leave for women had been increased to nine months. Forced marriage was subject to imprisonment and such marriages were legally null and void. A bill on Protecting the Security of Women against Violence had been submitted to Parliament; its aim was to reduce sporadic

<sup>49</sup> A/HRC/28/12/Add.1. Human Rights Council. Twenty-eighth session. Agenda item 6. Universal Periodic Review. Report of the Working Group on the Universal. Periodic Review Islamic Republic of Iran.

<sup>50</sup> A/HRC/WG.6/7/IRN/1. National report submitted in accordance with paragraph 15 (A) of the annex to human rights council resolution 5/1\* Islamic Republic of Iran. Human Rights Council. Working Group on the Universal Periodic Review.

<sup>51</sup> Sharifi Khezarati. Amir. “Prohibition of Torture in the Iranian Criminal Code” Judiciary of Armed Forces. (2013).

<sup>52</sup> <http://www.imj.ir/Portal/Home/ShowPage.aspx?Object=NEWS&CategoryID=68df63e1-4876-4592-94f9-1045d0913e47&WebPartID=2fa8602c-42df-489f-95cd-e694c181d194&ID=f3b0c1f4-e3aa-4598-8d44-6ea0223bb9d9> Last visited: Oct 03, 2019.

<sup>53</sup> A/HRC/37/24. Human Rights Council. Thirty- seventh session. 26 February – 23 March 2018. Agenda item 2. Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General. Situation of human rights in the Islamic Republic of Iran. Report of the Secretary-General.

<sup>54</sup> A/HRC/37/68, paras. 69–74.

<sup>55</sup> A/HRC/28/12/Add.1. *Ibid.*

<sup>56</sup> A/73/398. Seventy-third session. Agenda item 74 (c). Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives. Situation of human rights in the Islamic Republic of Iran. Note by the Secretary-General. Distr.: General 27 September 2018.



violence against women. Women police and specialized consultants were being trained for the same purpose.<sup>56</sup>

And launching the new institutions and centers with the aim of improvement for the women situations in Iran is not deniable.<sup>57</sup>

In the Islamic Republic of Iran, as a matter of principle, women and men have equal social, political and other rights. Women can hold various governmental and non-governmental posts, and they can participate in referenda, as well as, in national and local elections with equal voting rights to men. They can, while enjoying equal rights to men, be ministers, members of parliament, attorneys-at-law, university professors, or hold other high offices.

According to UNESCO's 2012 Education for All Global Monitoring Report, Iran ranks amongst the world's six most successful countries in educational gender parity. Women's literacy rates in the 2009–2010 period increased from 97.1 to 97.7 percent. Similarly, for the period 2011–2012, the number of female university students studying in public universities, increased to 56 percent.<sup>58</sup>

In Article 38 of the Iranian labor Code, adopted on 24 October 1989 also ratified by the State Expediency Council on 20 November 1990, the need for the above equality and non-discrimination is expressed explicitly as follows: "Equal wages shall be paid to men and women performing work of equal value in a work-place under the same conditions. Any discrimination on the basis of age, gender, race, ethnic origin and political and religious convictions shall be prohibited." Violations of these provisions shall be punished in accordance with Article 174 of the labor Code.<sup>59</sup>

The women employment has been an important issue from the ancient history of Persia.<sup>60</sup>

Recently, we observe a good increase of women employment in Iran from 17 % in 2011 up to 19.7% in 2017.<sup>61</sup>

The Iranian Labor code puts emphasis on the equal pay for women while there are many countries even in Western Europe, which suffer from lack of this right. For instance, the data reveals that men are typically paid significantly more than women in most UK businesses. Despite efforts and campaigns by women's rights groups to close the gap, the results found that the gender pay gap has widened in favor of men in the past year, with 78 % of the biggest companies in Britain reporting a gap in favor of men.<sup>62</sup>

It should be noted that Iranian perspective of women rights suggests some different ideas which deserve more intellectual considerations. For instance, instead of equality of sex's idea, there is an alternative Islamic path which tries to define the place and the role of women in society as a complementarity role, a role more important and valuable for the humanity. The human being life needs two wings. The one wing is man and another is woman, each important and definitive. In this

<sup>56</sup> A/HRC/28/12. 22 December 2014. Human Rights Council. Twenty-eighth session Agenda item 6. Universal Periodic Review. Report of the Working Group on the Universal Periodic Review. Islamic Republic of Iran.

<sup>57</sup> As example, The Center for Women and Family, The Cultural and Social Council of Women, The women and Children Committee of the Expediency Council, Women and youth Working Groups (A/HRC/WG.6/7/IRN/1) the Vice-Presidency Bureau for Women and Family Affairs, the Women's Employment Fund and the Women's Entrepreneurship and Self- Employment Grant Scheme.( A/HRC/28/12).

<sup>58</sup> A/HRC/WG.6/20/IRN/1. p. 16.

<sup>59</sup> OHCHR. [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92). 2010. United Nations Human Rights. Office of High Commissioner for Human Rights. Human Rights in the Islamic Republic of Iran [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92)

<sup>60</sup> Jaorolahi. Ozra. "History of women employment in Iran" *Social Sciences Journal*. 11<sup>th</sup> Article. No 3 & 4. Spring 1995(Persian Article).

<sup>61</sup> Infographic Survey. "Employment and unemployment of women in Iran and situation of work for women" 2018. Isna.

<sup>62</sup> Olivia Petter. "Gender pay what is it and how is it different from equal pay?" Independent. Friday 5 April 2019. <https://www.independent.co.uk/life-style/women/gender-pay-gap-equal-pay-women-paid-less-motherhood-a8856121.html>

regard, the women role in the society is equal and maybe more definitive on the development of humanity.<sup>63</sup>

#### *b(4). Restrictions on Freedoms of Opinion and Expression and Peaceful Assembly*

The Secretary-General of UN has noted the numerous statements of President Rouhani in favor of freedom of opinion and expression and freedom of the press. However, the crackdown on journalists, writers, social media activists and human rights defenders increased ahead of the elections, with a high number of such people being interrogated and arrested by intelligence services and the Iranian Revolutionary Guards Corps. Heavy prison sentences on individuals that peacefully exercise their right to freedom of expression continued to be imposed by the judiciary for the claimed offences of “propaganda against the State”, “insulting” political or religious figures, and harming “national security”.<sup>64</sup>

Like previous claims, the reports and positions of HRC are formed upon the news and records, impartial in nature.

Each political system has its own definitions and conceptions about the criteria of democracy.

Islamic Republic of Iran undertakes, like other political systems in the world, its own criteria relating to democratic values and principles.

The progress and considerable improvement on the issues like freedom of expression and press or media should be highlighted. To best practice principle 24 of the Constitution (freedom of expression), article 608 of the Islamic Penal Code has foreseen punishment only for individuals who use freedom of expression to slander. Similarly, the Press Law endorses freedom of expression and constructive criticism; providing such expression and criticism does not turn into slander, mockery, defamation, libel and violation of the public and private rights of individuals. The aforementioned constraints correspond to articles 18 and 19 of the International covenant on civil and political rights (ICCPR).

To best practice principle 25 of the Constitution (protection of citizens’ correspondence) and in observance of article 17 of the ICCPR, the Islamic Penal Code – in article 582 – has addressed the need for the protection of correspondence, communications and telephone conversations of citizens; further stating that government employees and agents who violate such rights are subject to punishment.<sup>65</sup>

At present, 6100 publications have been registered including 214 newspapers and 813 weeklies. Thirty percent of publications are distributed locally (provincial city, province or a number of neighboring provinces). Out of this number, 1000 publications (amounting to 17 percent of the total publications) are published – some in local languages and dialects – in border regions. Sanctions for the observance of the rights of the media have been foreseen and incorporated in the press law. Article 4 of the law states “No Government or non- governmental official has the right to gag the media or pressure them to publish an article or seek to control them.”<sup>66</sup>

By virtue of Articles 26 and 27 of the Iranian Constitution, all Iranian citizens enjoy the fundamental right to peaceful assembly. Articles 26 states that: "The formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted, provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic. No one may be prevented from participating in the aforementioned groups, or be compelled to participate in them." Article 27 of the Constitution provides that "Public gatherings and demonstrations may be freely held, provided arms are not carried, and that they are not detrimental to the fundamental principles of Islam."

<sup>63</sup> Afshar. Haleh. “Women and the politics of human rights within the Islamic discourse in Iran”

G.U.II.B.F. Ozel Sayisi. Special Issue. 1-13. 2002. p. 2.

<sup>64</sup> A/72/562, paras. 62–69. 2017.

<sup>65</sup> A/HRC/WG.6/20/IRN/1. August 4, 2014.

<sup>66</sup> *Ibid.* p. 7.

In order to achieve the objectives contained in the above Articles, the Law Pertaining to Activities of Parties, Societies, Political and Professional Associations as well as Islamic and Recognized Religious Minorities Societies was adopted on 29 August 1981.<sup>67</sup>

#### *b(5). Situation of Religious and Ethnic Minorities*

The report of Special Rapporteur states the concerns regarding the substantial violations of the rights of religious and ethnic minorities described in the previous reports of his predecessor and the Secretary-General,<sup>68,69</sup> in particular the serious and consistently documented violations of rights of members of the Baha'i community in the Islamic Republic of Iran.<sup>70</sup>

Referring to religious minorities, it is necessary to notify that Iranians of all religious and social minorities enjoyed the right to profess and practice their culture and religion and to speak their language. Although religious minorities accounted for less than 0.2 per cent of the population, they were represented by five members of Parliament, who held guaranteed seats for minorities. Subsidies were allocated from the annual budget to religious minority associations to promote their beliefs and traditions.

In accordance with article 13 of the Constitution, members of all minorities were granted freedom to practice their creed and traditions, to receive education in their language, to publish books and newspapers and to exercise other civil liberties.<sup>71</sup>

The Constitution of the Islamic Republic of Iran, the civil code and government practice provide very broad freedoms for members of recognized religious minorities, including the applicability of their canon laws to their personal and communal affairs as well as reserved seats in the Parliament. (Principle 13 of the Iranian Constitution) Even national courts must abide by the respective canon law in matters pertaining to recognized religious minorities.

About the Baha'is in Iran, the Iranian authorities state that although Bahaism is not considered an official religion, its followers enjoy social, civic and citizenship rights. Bahaism has not been identified by any Islamic country and the Organization of Islamic Countries. Some aspects relating to the citizenship rights of Baha'is are as follows:

- The followers of this cult have their own cemeteries throughout the country and their dead are buried according to their customs and traditions.
- They can enroll in schools just like others. They can travel inside and outside Iran just like other citizens and their visa are issued freely.
- Baha'is teachings start at the age of four. For this purpose, an institute has been formed teaching all Baha'is of all ages.
- Geriatric hospitals have been created for elderly Baha'is.<sup>72</sup>

#### **C. Iran's Views Regarding the Positions of HRC**

Human rights reflect the highest aspirations of humanity and cannot be the monopolized domain of a few. By the same token, they cannot be subject to selectivity, politicization and application of double standards, which are the exact opposite of the universality of these rights. The universality of human rights does not only require a truly universal theoretical base but also a universal method of application outside the control of a few.

Application of double-standards and selectivity based on political considerations are unfortunately no longer exceptions to the process, but in fact the rule of the game.

<sup>67</sup> OHCHR. [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92). 2010. United Nations Human Rights. Office of High Commissioner for Human Rights. Human Rights in the Islamic Republic of Iran. [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92)

<sup>68</sup> A/HRC/37/68, paras. 69–74.

<sup>69</sup> A/HRC/37/24, paras. 48–50.

<sup>70</sup> A/HRC/37/68, paras. 69–74.

<sup>71</sup> A/HRC/28/12. Dec. 22, 2014. Iran

<sup>72</sup> OHCHR. [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92). 2010. United Nations Human Rights. Office of High Commissioner for Human Rights. Human Rights in the Islamic Republic of Iran. [https://lib.ohchr.org/HRBodies/UPR/Documents/Session7/IR/JS2\\_IRN\\_UPR\\_S07\\_2010\\_JointSubmission2.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/Session7/IR/JS2_IRN_UPR_S07_2010_JointSubmission2.pdf)



Another important related point which is very much diluted in human rights debates is the relationship between international protection of human rights and the principles of sovereignty and non-interference in internal affairs of others. Nobody would question a serious, balanced, objective and non-selective international concern for human rights. However, when human rights and its pertinent fora, become vehicles for the advancement of the political consideration of a few, it becomes a totally different scenario; the one we are facing today. Such political acts of intervention are certainly against the well-founded and universally recognized principles of non-intervention and the imperative of respect for sovereignty.

Islamic Republic of Iran has constantly stated its considerations regarding the positions of HRC. These considerations include:

### *I. Unfairness*

Iran views the “Resolution on the Situation of Human Rights in Iran” and the appointment of the Special Rapporteur, as a political, discriminatory and unfair process that is based on double standards. Unfortunately, this process is being pursued by certain Western countries as a means to achieve their political wills. Such a biased approach, visibly contradicts human rights principles and norms that were drafted to promote and protect these ideals.

### *II. Sanctions*

Economic sanctions and unilateral coercive measures against the citizens of a country lead to the formation of multiple barriers to the full enjoyment of their human rights – specially economic, social and cultural rights – and as such are inconsistent with all human rights norms and standards. The Unilateral sanctions are clearly against the principles of international law,<sup>73</sup> the spirit and letter of the Charter and UDHR in particular numerous articles of the ICESCR. Hence, the sanctions are not legitimate and justified. Iran highly expects that the international community unequivocally condemns these economic sanctions and unilateral coercive measures and adopts practical measures to compensate damage caused and to take immediate and effective steps to completely lift the sanctions.

### *III. Terrorism*

Since the victory of the Islamic Revolution, the scourge of terrorism – which is supported by certain foreign governments – has proven to be one of the most serious intrusions on the fundamental rights of Iranian citizens – especially their right to life, peace and security.<sup>74</sup>

For Iran, there are important issues which should not be neglected:

- Without equality and justice and in the absence of a just international order there is no peace, if there is no peace there is no development, if there is no development there is no rights.

- Combating terrorism as well as the biased security arrangements should not be a reason for violation of the human rights of peoples of different cultures and religions,

- Associating certain religions and cultures with terrorism are totally unacceptable and that enjoying freedom of expression should not constitute a pretext and a platform to insult religions and their sanctities, defamation of religions particularly the divine message of Islam should be rejected.

## **Conclusion**

What seems to have transpired over the years is the transformation in the nature of dialogues between the Iranian delegation and the international community through the UN treaty-based bodies.

The Special Rapporteur takes the view that the outcome of the universal periodic review of the Islamic Republic of Iran, which was conducted in October 2014, provides a sound platform for collaboration with the Iranian authorities. In this regard, he believes that he could contribute to the efforts of the Islamic Republic of Iran to implement the recommendations resulting from the review

<sup>73</sup> Edumson. Echa. Eric “The United States and use of unilateral sanctions in international law: A case for proscription”. *Nigerian Juridical Review*. Volume 12 (2014). Faculty of Law, University of Nigeria, Enugu Campus, Enugu, Nigeria. LL.B (Hons.), B.L., LL.M (Nig).

<sup>74</sup> A/HRC/WG.6/20/IRN/1. Human Rights Council. Working Group on the Universal Periodic Review Twentieth session. 27 October–7 November 2014

which have been accepted or partially accepted for implementation, and aims to contribute to following up on, monitoring and reporting on the implementation of those recommendations.<sup>75</sup>

While Iran is frequently cited as a classic case of non-compliance with international law, it is apparent that international human rights norms and consciousness have entered the fabric of Iran's religious and political culture and institutions.

Detailing the social, political, and legal transformations Iran has undergone in recent years can, however, paint an overly optimistic picture of the current situation as well as the immediate prospects for Iran attaining high standards of human rights observance. Few would dispute the claim that the challenges and tasks ahead for Iranian human rights advocates remain formidable and the risks of the gains made thus far being curtailed are still quite real.

There is also a good base of willing in the Iranian elite for getting closer towards to the ratifications of additional international human rights treaties. Since early 2002, a serious debate over the ratification of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) has taken shape.

Interestingly, the Center for Women's Participation and reformists advocated that the convention be ratified without any or a few reservations.

The reformists and particularly the women's faction in Iranian parliament and intellectual context in society are seriously pursuing the introduction of a CEDAW ratification bill and in the process are making use of the arguments of sympathetic jurists and intellectuals to strengthen their efforts. More recently, the question of ratification of the Convention against Torture (CAT) has also reached the corridors of parliament, with disputes over the compatibility of Islamic law and values with the provisions of the treaty certain to follow.

During the twenty-five past years a number of legislative initiatives seeking to bring Iranian laws into greater conformity with human rights standards were either proposed or passed. For instance, Iranian parliament passed legislation that raised the age of marriage for girls from 9 to 15 years of age. The Council of Guardians rejected the resolution on the grounds that it contravened Islamic law; however, the Expediency Council, a body that mediates between the Parliament and the Council of Guardians, decided on raising legal marriage for girls to 13. While this was not an ideal outcome, it was indisputably a human rights victory.

There are many other steps taken recently by Authorities to promote statue of Human Rights in Iran.

For instance, the new criminal procedure law was adopted recently to facilitate demands for justice. The main concepts contained in the new law include: protection of the rights of the victim and society – besides those of the accused (article 1), prohibition of prolonged trials and guarantee of judicial independence (article 3), the need for victim and witness – in addition to the accused and other relevant parties – to be informed of the charges and have immediate access to an attorney (articles 5 and 6), need to respect citizens' rights by all judiciary officials, court officers and others involved in the prosecution – along with appropriate penal sanctions (article 7), prohibition of disclosure of any and all private information and identity of victim, witnesses and other informed sources (article 40).

The rights of religious minorities are appreciated more. Respect for religious minority rights has been incorporated into various laws. As an example, it could be referred to article 554 of the new Islamic Penal Code – which is based on a State Decree by the Supreme Leader– announcing that the *Dieh* (blood money) payable for the murder of members of religious minorities recognized by the Constitution will be similar in amount to that of Muslim citizens. Also, in accordance with the Single Article Act on the Personal Status of Iranians, when hearing cases on the personal status, inheritance and wills of Iranians whose religions have been officially recognized, courts must abide by the prevalent rules, regulations and traditions of those religions.<sup>76</sup>

<sup>75</sup> A/73/398. Seventy-third session. Agenda item 74 (c). Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives. Situation of human rights in the Islamic Republic of Iran. Note by the Secretary-General. Distr.: General 27 September 2018.

<sup>76</sup> A/HRC/WG.6/20/IRN/1. Human Rights Council. Working Group on the Universal Periodic Review Twentieth session. 27 October–7 November 2014. p. 20.

## References:

- Abdullahi A. An-Na'im. "The Position of Islamic States Regarding the Universal Declaration of Human Rights" in Peter Baehr, Cees Flinterman and Mignon Senders, editors, *Innovation and Inspiration: Fifty Years of the Universal Declaration of Human Rights*, Amsterdam: Royal Netherlands Academy of Arts and Sciences, 1999, pp. 177-192. <http://www.dwc.knaw.nl/DL/publications/PU00010805.pdf>
- Advisory Council on International Affairs. *Universality of human rights and cultural diversity*. Hague. Netherlands. No. 4, June 1998.
- Afshar.Haleh. "Women and the politics of human rights within the Islamic discourse in Iran" G.U.II.B.F. Ozel Sayisi. Special Issue.. 2002. PP.1-13
- Afshari, R. "Human Rights in Iran; The Abuse of Cultural Relativism". Philadelphia: University of Pennsylvania Press. 2001.
- Danesh. Tahirih and Adam Hug "Iran Human rights review: Religion. Preface by Cherie Blair" The Foreign Policy Centre. London N1 5DL. United Kingdom. Foreign Policy Centre 2010.
- Davoodifar. Hassan .and Jayum Anak Jawan,"Change of Human Rights Perspective in Iran. International Journal of Business and Social Science Vol. 2 No. 7; [Special Issue –April 2011]
- Dwyer, K. "Arab Voices: The Human Rights Debate in the Middle East". London: University of California Press. 1991.PP.182-3
- Edumson. Echa. Eric "The United States and use of unilateral sanctions in international law: A case for proscription". Nigerian juridical review. Volume 12 (2014). Faculty of Law, University of Nigeria, Enugu Campus, Enugu, Nigeria. LL.B (Hons.), B.L., LL.M
- Friedland. Elliot "Fact sheet. Human Rights in Iran". Clarion Project Research, 2014. Website: [www.clarionproject.org](http://www.clarionproject.org). Last visited Oct 03, 2019
- Greenberg, David F "Siting the Death Penalty Internationally". Journal of the American Bar Association. 33 (2): May 2, 2008. doi:10.1111/j.1747-4469.2008.00105.x .PP. 295–343
- Harris. Molly I. "Human Rights Legislation in Egypt and Iran. A Comparative Historical Analysis" Senior Honors Thesis. Paper 89. 2004.
- Healy, P. *Human Rights and Intercultural Relations: a Hermeneutic-Dialogical Approach*. Philosophy & Social Criticism. (2006), 32(4), PP. 513-541.
- "Human Development Report."Human Development Indices and Indicators" (PDF). (Human Development Report Office) United Nations Development Program. PP. 22–25.Last visited: Sep. 14, 2018.
- Infographic Survey. "Employment and unemployment of women in Iran and situation of work for women" 2018. Isna.
- Jaorolahi. Ozra. "History of women employment in Iran" Social Sciences Journal.11<sup>th</sup> Article. No 3 & 4. Spring 1995(Persian Article)
- LDDHI. League for the Defense of Human Rights in Iran .Briefing paper for the EU-Iran human rights dialogue. 20 November 2017
- Moinipour. Shabnam. "UN treaty-based bodies and the Islamic Republic of Iran: Human rights dialogue (1990–2016)". Politics & international relations | Research article. Cogent Social Sciences (2018), 4: 1440910. Moinipour, Cogent Social Sciences (2018), 4: 1440910. <https://doi.org/10.1080/23311886.2018.1440910>
- Mokhtari. Shadi. "The Search for Human Rights within an Islamic Framework in Iran". The search for Human Rights. The Muslim World. Volume 94. October 2004
- Maleki. Yadollah. "Quranic principles and judicial analysis on prohibition torture and International instruments and Iranian Law" Journal of Jurisprudence and History of Civilization" No 31. 12<sup>th</sup> year. Spring 2016.
- Olivia Petter ". Gender pay what is it and how is it different from equal pay?" Independent. Friday 5 April 2019.<https://www.independent.co.uk/life-style/women/gender-pay-gap-equal-pay-women-paid-less-motherhood-a8856121.html>
- Sadeghi. Mohammad Hadi, "Prohibition of Torture in Islamic Law" Journal of Humanities and Social Sciences. Shiraz University, 2001. No 33.Fall 2001. (Persian Article)
- Sceats. Sonya and Shaun Breslin "China and the International Human Rights System. Chatham House (The Royal Institute of International Affairs) October 2012.
- Sharifi Khezarati. Amir. "Prohibition of Torture in the Iranian Criminal code" Judiciary of Armed Forces.(2013)<http://www.imj.ir/Portal/Home/ShowPage.aspx?Object=NEWS&CategoryID=68df63e1-4876-4592-94f9-1045d0913e47&WebPartID=2fa8602c-42df-489f-95cd-e694c181d194&ID=f3b0c1f4-e3aa-4598-8d44-6ea0223bb9d9> Last visited: Oct 03, 2019
- Villiers. Theresa. Number CDP-2017-0175 |. Human Rights in Iran. t2016 Human Rights and Democracy report: 5 October 2017 [www.parliament.uk/commons-library](http://www.parliament.uk/commons-library) | [intranet.parliament.uk/commons-library](http://intranet.parliament.uk/commons-library) | [papers@parliament.uk](mailto:papers@parliament.uk) | [commonslibrary](http://commonslibrary). Last visited: Jan 03, 2018



## *Instruments and Documents:*

- A/HRC/28/12. 22 December 2014. Human Rights Council. Twenty-eighth session
- A/HRC/WG.6/20/IRN/1. Human Rights Council. Working Group on the Universal Periodic Review Twentieth session. 27 October–7 November 2014
- A/HRC/37/24. Human Rights Council. Thirty- seventh session. 26 February – 23 March 2018. Agenda item 2. Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General. Situation of human rights in the Islamic Republic of Iran. Report of the Secretary-General.
- A/HRC/28/12/Add.1. Human Rights Council. Twenty-eighth session. Agenda item 6. Universal Periodic Review. Report of the Working Group on the Universal. Periodic Review Islamic Republic of Iran.
- A/73/398. Seventy-third session. Agenda item 74 (c). Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives. Situation of human rights in the Islamic Republic of Iran Note by the Secretary-General. Distr.: General 27 September 2018
- A/HRC/WG.6/7/IRN/1. National report submitted in accordance with paragraph 15 (A) of the annex to human rights council resolution 5/1\* Islamic Republic of Iran. Human rights council. Working Group on the Universal Periodic Review.
- CRPD. Convention on the Rights of Persons with Disabilities. New York, 13 December 2006. Entry into force. 3 May 2008, in accordance with article 45(1). [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15&chapter=4&clang=\\_en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en#EndDec). Last visited: August 29, 2019
- “E/CN.4/RES/1993/62”, Resolution adopted by Commission on Human Rights United Nation
- OHCHR. [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92). 2010. United Nations Human Rights. Office of High Commissioner for Human Rights. Human Rights in the Islamic Republic of Iran. [https://lib.ohchr.org/HRBodies/UPR/Documents/Session7/IR/JS2\\_IRN\\_UPR\\_S07\\_2010\\_JointSubmission2.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/Session7/IR/JS2_IRN_UPR_S07_2010_JointSubmission2.pdf)
- OHCHR. [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92). 2010. United Nations Human Rights. Office of High Commissioner for Human Rights. Human Rights in the Islamic Republic of Iran. [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=86&su=92](http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92). Last visited: Oct 03, 2019
- Ratification Status for Iran (Islamic Republic of) The Office of the High Commissioner for Human Rights (UN Human Rights).2018
- [https://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=81&Lang=EN](https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=81&Lang=EN). Last visited: August 29, 2019
- Treaty Series, vol. 1465. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. United Nations, Treaty Series, vol. 1465, p. 85
- [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV9&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV9&chapter=4&clang=_en)
- Treaty Series, vol. 1249, Convention on the Elimination of All Forms of Discrimination against Women. Treaty Series, vol. 1249, P. 13
- [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=_en)
- Treaty Series, vol. 2716 International Convention for the Protection of All Persons from Enforced Disappearance. United Nations, Treaty Series, vol. 2716, P. 3; Doc. A/61/448; C.N.737.2008.[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-16&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&clang=_en)
- Treaty Series, vol. 2220 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families United Nations, Treaty Series, vol. 2220, p. 3; Doc. A/RES/45/158
- [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-13&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&clang=_en). Last visited: August 29, 2019
- UN Treaties. 1970. Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. New York, 24 October 1970. <http://legal.un.org/avl/ha/dpilfrscun/dpilfrscun.html>
- United Nations Treaty Collection .2019. [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&clang=\\_en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en#EndDec). Last visited on Auguste.29.2019