

The official report of 5 June 1997 gave rise to many queries and critical observations <sup>(1)</sup>. Use has therefore been made of the regular updating of the official report to provide a reaction to the most important queries and observations. The existing structure has been followed as far as possible. Where applicable, an indication is given as to whether the relevant findings require clarification, amplification or revision of the previous official report's conclusions.

Recent developments are also reported on, following the same structure. For the remainder, and unless expressly stated otherwise, the content of the previous official report is still valid <sup>(2)</sup>.

The following reaction draws to a very considerable extent on specific reports from the Netherlands Embassy in Tehran. Those reports are based on (a combination of) own observation, findings of UN agencies and other Western embassies, or information provided by a large number of Iranian sources, such as contacts in religious communities, the legal professions, intellectual circles, the women's movement and former prisoners.

In preparing this official report use was also made, inter alia, of the confidential German *Lagebericht* of 17 December 1997 and information from authoritative government and non-governmental organisations such as UNHCR, Amnesty International, Human Rights Watch, the US State Department and information in the public domain <sup>(3)</sup>. Explicit mention should also be made of the reports by the Special Representative of the UN Commission on Human Rights, Maurice Copithorne, on the situation of human rights in Iran <sup>(4)</sup>. His latest **B** interim **B** report was published on 15 October 1997. Following a first visit to Iran in January 1996, Copithorne has to date not yet received permission from the Iranian authorities for a second visit. That visit may take place in April 1998.

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<sup>(1)</sup> See the reaction from Amnesty International (AI) of 30 July 1997 and the input from AI and organisations such as *Open Doors*, *Vluchtelingen Werk* (Dutch Refugee Council), *Vrouwen tegen Uitzetting* (Women against Deportation) and Iranian self-help organisations during the Hearing conducted by the Standing Parliamentary Committees for Foreign Affairs and Justice on the official report concerning Iran. A reaction to the main points was given in a letter to you dated 14 November 1997.

<sup>(2)</sup> As regards the section on monitoring, cf. the letter dated 28 October 1997 to the Lower House.

<sup>(3)</sup> The general sources are indicative sources used as background information for placing the Diplomatic Postings findings in the right context. US-Iran relations have been strained for many years. The US no longer has a representation in Iran. The State Department's Country Report for 1996 was given a critical reception in diplomatic circles in Tehran. Iranian press reports are analysed daily. The information in this official report has been updated to early February 1998.

<sup>(4)</sup> Specifically, the following two reports:

1. Report on the situation of human rights in the Islamic Republic of Iran, prepared by the Special Representative of the Commission on Human Rights, Mr Maurice Copithorne, pursuant to Commission resolution 1996/84 and Economic and Social Council decision 1996/287, of 11 February 1997, E/CN.4/1997/63.
2. Interim Report of 15 October 1997, A/52/472.  
For the sake of brevity, these are referred to below as Copithorne I and II respectively.

## 1. General situation

### 1.1. *The country and its people*

### 1.2. *History*

### 1.3. *Nature of government* <sup>(5)</sup>

### 1.4. *Recent (political) developments/elections*

The 1996 parliamentary elections, but particularly the presidential elections of 23 May 1997, the result of which was unexpected for many people, have shown Iran to be a complex and dynamic society, characterised by contradictory developments. The lines along which the Iranian State and society are organised are increasingly forming the subject of public debate, with various contending schools of thought involved. The debate is being conducted within the clergy and in the various institutions of the Islamic Republic, as well as at universities and in the media.

The presidential elections revived the Iranian people's hope of a more humane and tolerant society.

Although of the 238 declared presidential candidates, including nine women, only four were approved by the Council of Guardians to stand in the elections, a lively campaign was conducted. The general feeling was that voters genuinely had a choice.

Seyed Mohammed Khatami, the candidate of the left-wing Association of Combatant Clergy (MRM), which had joined forces with the moderates, won the Iranian presidential elections with a sizeable majority of nearly 70% and 20 million out of just over 29 million votes cast (turnout: 90%). His main opponent, the conservative speaker of parliament, Nateq-Nouri, who enjoyed the support of the spiritual leader Khamenei, won barely a quarter of the votes <sup>(6)</sup>. The elections were fair and none of the results were revoked. The conservatives, who had already seen their majority dwindle at the previous parliamentary elections in 1996, thus found their position of power further eroded by the outcome of the presidential elections.

Major themes in Khatami's election campaign were the development of civil society and implementation of the rule of law. He further advocated greater socio-cultural freedom, greater freedom of speech and a stronger position for women in society. He mainly received support from young people, women, intellectuals and Iranians who had shunned the ballot box in the past.

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<sup>(5)</sup> See the official report of 5 June 1997 for information on the country and its people, history and the nature of government.

<sup>(6)</sup> The President can count on support from a youthful majority of the population who have scarcely, if at all, experienced the revolution and is having to contend with the rigidity of revolutionary Islamic society. The minimum voting age is sixteen and seventy per cent of the more than 60 million population is below the age of thirty. Forty per cent is even younger than sixteen. In addition to young people, the female section of the population also made a major contribution to Khatami's victory.

Following the elections, it is now for Khatami to convert the people's mandate into concrete change. Here, he is encountering resistance from the conservative forces within the clergy, the Parliament (Majlis) and society. Parliament is still controlled by a conservative majority. In composing his Cabinet, Khatami opted for participation by the three main schools of thought <sup>(7)</sup>. Moderates such as the Minister for the Interior, Abdollah Nouri, and the Minister for Culture and Islamic Guidance, Mohajerani, were given a Cabinet seat, although their appointment was opposed by the conservatives in the Majlis. Both eventually received backing of a large majority of the Majlis. The Ministry of Intelligence appointment went to the conservative Dorri Najafabadi, who replaced Fallahian, discredited by the so-called "Mykonos" case (see 2.4 below). The cabinet further includes a number of left-wing politicians and technocrats. No women were appointed to the cabinet, even though Khatami had intimated this during his election campaign. He did, however, appoint a woman, Dr Masoumeh Ebtekar, as Vice-President in charge of environmental matters. The President does not require Parliament's approval when appointing vice-presidents.

Khatami has to contend with the fact that decision-making in a number of major policy areas, including foreign policy and national security, is the preserve of the spiritual leader, Khamenei. This is apparent, for instance, from Khamenei's opposition to Khatami's attempts at rapprochement with the United States. Moreover, some key posts in the judiciary are held by conservatives. The conservative forces see the outcome of the elections as a threat to their position. They are trying to tighten their grip on society by resuming their practice of placing strong emphasis on Islamic values and standards. Thus the conservative head of the judiciary, Ayatollah Yazdi, brought proceedings against some top municipal officials of Tehran, accusing them of bribery and corruption. Reportedly, however, the main purpose was to undermine the position of Tehran's popular mayor, Karbaschi, who was Khatami's campaign leader during the presidential elections.

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<sup>(7)</sup> See the official report of 5 June 1997, p.5.

The conservative forces receive support for their actions from Ansar-e Hezbollah<sup>(8)</sup>. This fanatical extra-parliamentary group was virtually invisible during the months leading up to the presidential elections in Iran. Its leader, Hussein Allahkaram, spent some time in prison after the elections for having insulted one of Khomeini's relatives.

However, Iranian press reports suggest that the movement is active again. The following incidents are cited as examples of increased activity. In August 1997, some destruction was caused to the office of the Iran Farda monthly. In November 1997 the office of the Union of Islamic Students was attacked and vandalised by a group of forty unidentified persons. The office is shared by the left-wing student paper Payam-e-Daneshjoue, which had just seen a publication ban on it lifted. Its director, Heshmatollah Tabarzadi, who is also the student union's Secretary-General, and some members of his staff were slightly injured<sup>(9)</sup>.

In November the Isfahan suboffice of the pro-Khatami daily Salaam was attacked by some thirty Hezbollah followers. There was some destruction and a threat was made to blow up the building if the paper were to continue publishing in the same vein. Salaam and other so-called "left-wing" papers were targeted because they did not publish the attack on Ayatollah Montazeri (see below). The incidents were condemned by the Ministry of Culture.

Hezbollah attacks seem to target in particular prominent organisations or persons who stand out as being in favour or renewal, thereby representing a threat to Islamic society as advocated by the conservatives.

A further power centre is the Expediency Council headed by the former President, Rafsanjani. All politically relevant schools of thought and power centres are represented in the new, expanded, composition of that Council. It has an important advisory function towards the spiritual leader. As former President and Chairman of that body, Rafsanjani seems to continue to be playing a major role in the political order.

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<sup>(8)</sup> At the Hearing on 20 October 1997 Amnesty International pointed to the lack of information on the Hezbollah in the previous official report. Analysts believe that the Hezbollah deliberately scaled down its activities during the period in the run-up to the presidential elections (i.e. the period covered by the official report of 5 June 1997). Following Nateq-Nouri's defeat Hezbollah's members came further into the open, as suggested above.

<sup>(9)</sup> During a meeting at the University of Tehran in October 1997, Tabarzadi had called for a review of the elections for the religious leadership. He had criticised the existence of overlapping power centres choking the elected Government. The abovementioned Hezbollah action two weeks later is assumed to be directly connected. Politically, Tabarzadi and the student union are close to the Freedom Movement (see 1.5 below).

In November 1997 the position of the spiritual leader, Khamenei, again came under discussion within the clergy and, thus also in Iranian society. At Qum, Iran's religious centre, a debate is being conducted on the political power of the Shia clergy and, in particular, the supreme leader, i.e. on the ideological foundations of the Islamic state order.

In 1992, and again in November 1997, Ayatollah Qomi criticised the Rule of the Religious Jurist (Velayet-e Faqih). He furthermore criticised Khamenei, who he claimed had insufficient religious authority.

The Grand Ayatollah Hussein Ali Montazeri, once Komeini's successor designate, but sidelined shortly before the latter's death, maintained that a spiritual leader should only fulfil a supervisory function instead of involving himself directly with day-to-day politics. The conservatives immediately reacted to Qomi's and Montazeri's viewpoints. Protest demonstrations were staged throughout the country. A number of ayatollahs announced that the Velayat-e Faqih's most important attribute should be political competence so as to exercise religious leadership. It was not important for that purpose for him to be the "most learned authority" in religious matters. Many newspapers published articles against both ayatollahs. In Qum the offices of both Montazeri and Qomi were ransacked, and property seized. The Iranian press reported that arrests had been made during a demonstration in Tehran in support of Montazeri <sup>(10)</sup>.

In a recent interview with Al Sharq Al-Awsat, Rafsanjani implied that Montazeri and Qomi had not attacked the principle of the Velayet-e Faqih, but had opposed him for other reasons. He referred to the manner in which the cases against Montazeri and the Tehran municipal officials had been handled as "unnatural when they strayed from customary and acceptable norms".

In short, Iranian society is extremely dynamic. This dynamism is also spreading to the structures of the state. It would no longer seem appropriate to refer to a monolithic regime nor, therefore, to unequivocal (political) "limits permitted by the regime" <sup>(11)</sup>. There now seems to be greater scope for criticism, even as regards certain (interpretations of the) principles underlying the Islamic revolution. The presidential elections have further revealed a clear desire among the Iranian people for a stretching of the limits and for change.

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<sup>(10)</sup> In its letter of 30 July 1997 Amnesty International refers extensively to persecution of the religious opposition. These aspects are touched upon only briefly in both the previous official report and the present one, mainly in view of their relevance to general (political) developments. The day-to-day practice of Netherlands asylum procedure shows no asylum-seekers in the category concerned. Consequently, a description in general terms only of this development was opted for.

<sup>(11)</sup> Cf. the official report of 5 June 1997 and Amnesty International's criticism of it in its letter of 30 July 1997.

These developments in Iran thus also provide an answer to Amnesty International's question as to whether the aforementioned limits are well-established or are fluid and variable with time. The Iranian voter has also unmistakably indicated what should be understood by "democracy ... brought into the system" <sup>(12)</sup>.

### *Socio-economic situation*

The Iranian economy faces considerable problems. However, the Gross National Product is increasing. This upward trend was indicated in an IMF report published in September 1997. In the period 1994-1995 growth still amounted only to 1,7%, contrasting with 3,1% for the period 1995-1996. In 1996-1997, Iran further managed to compress inflation to 24,5% as against 49% the previous year.

On the other hand, the Government persists in holding on to an overvalued currency, excessive subsidies on, inter alia, bread and petrol, and a restrictive policy towards imports. The demographic composition of the Iranian population makes huge demands upon expenditure on education. Unemployment will increase over the next few years as a large group of young people streams onto the labour market.

The present Government's pragmatic stance seems to be inspired by the need for economic development. However, this change of course is also taking place against a backcloth of diminished revolutionary ardour amongst the population.

Corruption is widespread in Iran. Officials are often open to payments from third parties. Potential arrests by police officers are regularly "bought off" immediately. This practice is also known to exist among prison warders, who include many conscripts and members of the Komiteh and the Revolutionary Guard. Things are different in the case of the Baseej, a volunteer corps loyal to the spiritual leader. They apply Islamic rules scrupulously <sup>(13)</sup>.

"Buying off" convictions, particularly in cases involving property, is a regular practice. Cases of this kind, which mainly concern confiscation matters relating to the past and come within the jurisdiction of the revolutionary tribunals, are frequently resolved by payments to judges.

### *Reception of refugees in Iran*

There are well up to two million refugees in Iran, predominantly Afghans (1,4 million) and Kurds from Iraq (600 000). Reception of refugees is deemed fairly satisfactory by international organisations. Tehran has shouldered a large proportion of the financial burden involved in this. Given the problems in the region, the refugee problem is not expected to be resolved in the short term. Iran has therefore become hesitant about sheltering any further

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<sup>(12)</sup> Ibid.

<sup>(13)</sup> The Iranian press reported disturbances in Arak on 26 October 1997, caused by two hundred Baseej at what they regarded as an overly frivolous music performance to commemorate the death of Fatima, the daughter of the Prophet Mohammed.

refugees. In 1996 Iran signalled it would welcome greater support from the international community <sup>(14)</sup>.

### 1.5. *Political parties/activities*

Political parties in the Western sense do not exist in Iran, but this situation seems to be changing according to the latest reports in the Iranian press <sup>(15)</sup>. President Khatami and his predecessor Rafsanjani recently spoke in favour of the setting up of political parties.

There is no organised opposition as such to the political system in Iran. The harsh repression in the early years of the Islamic revolution has practically silenced secular opposition in particular. An exception is the liberal Freedom Movement of the late Prime Minister, Dr Bazargan, which is formally banned, but is tolerated in practice. The Freedom Movement is increasingly coming forward in public, and seems to be waiting for the right moment in order to stand out as an alternative, without, however, intending to encroach upon Islamic principles. The Freedom Movement has provided candidates for the parliamentary and presidential elections. However, they were either not approved or withdrew. The Movement's office is located in Tehran.

The movement's current leader, Ebrahim Yazdi, was arrested on 14 December 1997. Together with 51 other prominent liberal Iranians, Yazdi had signed a letter to President Khatami, calling on him to protect Ayatollah Montazeri's fundamental rights and to prosecute those who had attacked his home. Yazdi was reportedly detained for having offended "holy religious values". He was released on bail on 25 December 1997. According to Iranian press reports a revolutionary court sentenced him on 31 December 1997 to payment of a fine of Rial 3 million (US\$ 1 000). It is not known which punishable offence Yazdi was convicted for. Around the time of his arrest a number of his supporters were also apprehended. All those arrested were released upon questioning.

### 1.6. *Demonstrations*

Demonstrations take place in Iran from time to time <sup>(16)</sup>. Participation in demonstrations

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<sup>(14)</sup> UNHCR publication Refugees No 108 (II-1997), pp.14 and 15.

<sup>(15)</sup> According to the Weekly Press Digest of 31 January 1998, the Ministry of Foreign Affairs has given authorisation for the founding of the Islamic Iran Solidarity Party, the first political party since the 1979 revolution. Other political parties are also reported to be in the making.

<sup>(16)</sup> For instance, the following demonstrations were recently reported in the Iranian press:

**B** student demonstrations in Tehran on 30 September, in protest against the dismissal of professors suspected of links with the Freedom Movement;

**B** a demonstration in Isfahan on 2 October in connection with the temporary appointment of a new Friday prayer leader;

**B** demonstrations against (and for) Grand Ayatollah Montazeri in November and December (see above).

prompted by socio-economic problems is not deemed political activism. Only when a movement such as the Mujaheddin-e-Khalq (MKO, see also 2.4 below) is believed to be behind the demonstrations may participants be taken into custody on suspicion of political activities.

### 1.7. Legal system/judicial process <sup>(17)</sup>

The Iranian Constitution states that the judiciary is independent. In practice, however, the latter proves to be a major power base for the conservatives. Iranian law sets Islamic loyalty as a condition for exercising the office of judge. A considerable number of judges in Iran are mullahs <sup>(18)</sup>. The training of judges was given increasing attention in the 80s. Public pressure for a professional judiciary was strong and continues to be so.

#### *Courts*

In Iran there are two kinds of courts, public courts and revolutionary courts. All the divisions of public courts deal with civil cases, criminal cases and family-law matters. One public court specialises in matters relating to the press (see 2.3 below). The revolutionary courts are subdivided into three divisions: one for economic offences, one for political offences and one for specific crimes, including drug offences and smuggling <sup>(19)</sup>. The special court for the clergy apparently also forms part of the revolutionary courts; however, this cannot be confirmed <sup>(20)</sup>. A court for military matters, operating independently of the system of public and revolutionary courts, deals with all cases concerning military personnel. This does not include civilian officials employed by the Ministry of Defence (see 3 below).

#### *Revolutionary Courts*

Under Article 5 of the Law of 25 July 1994 establishing Public and Revolutionary Courts, the Revolutionary Courts are responsible for prosecuting the following criminal offences:

- \* acts committed against the internal and/or external security of Iran and corruption

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Disturbances are supposed to have taken place in Kashan on 21 October. It is claimed that these concerned bad public transport services.

<sup>(17)</sup> For information on the various police forces and the amended Islamic Penal Code, see the official report of 5 June 1997.

<sup>(18)</sup> A precise percentage cannot be given.

<sup>(19)</sup> This passage replaces the section on ordinary and special courts in the official report of 5 June 1997 (pp. 9 and 10).

<sup>(20)</sup> Little public information is available on the Special Courts for the Clergy. See Amnesty International's Open Letter of 30 July 1997. Not only Muslim clergy appear before such a court. There is one known case of a functionary belonging to another religious community that was tried in such a court.



on earth. Examples of this latter activity are, inter alia, the setting up of brothels, large-scale fraud, etc;

- \* insults against the founder of the Islamic Republic of Iran and/or the Spiritual Leader;
- \* conspiracy in or organisation of a coup against the Islamic Republic or armed insurgence, terrorism or destruction of public buildings or installations with the aim of seeking confrontation with the Iranian Government;
- \* spying;
- \* drug dealing or related criminal offences;
- \* proceedings referred to in Article 49 of the Constitution. That Article reads as follows: "The Government is required to appropriate wealth derived from usury, usurpation, bribery, embezzlement, theft, gambling, misuse of pious endowments, misuse of Government contracts and transactions, sale of original barren and uncultivated lands, brothels and other illegitimate acts and to return it to its rightful owner; in case the owner is not known to return it to the Treasury. This stipulation must be carried out by the Government by examining, investigating and substantiating the proof in accordance with the provisions of Sharia".

All other criminal offences are handled by public courts.

#### *Summonses/calls to appear before a court/arrest warrants*

Summonses/calls to appear before a public court must be served in person. If the addressee is absent, the document must be handed to a family member residing at the same address, and the judicial officer must affix a note to the original concerning the date and manner of service. If nobody is present at the address in question, a carbon copy of the summons must be affixed to the door of the house. This must be noted on the original. Arrest warrants are not served on wanted Iranians themselves. They are exclusively intended for the investigating authorities <sup>(21)</sup>.

#### *Position of lawyers*

Iran has a bar association. The bar association has an executive committee, a general assembly, its own disciplinary prosecutor and its own appeal boards. In January 1998 elections for the executive committee took place for the first time since the revolution. A few lawyers standing for election were refused admission to the list of candidates without indication of any reason. Virtually all registered lawyers took part in the vote. Those elected to the executive committee will choose the bar association's President. The current President was appointed by the head of the judiciary, Ayatollah Yazdi.

The (compulsory) licence required to practise as a lawyer is issued by the bar association. It must be extended annually. Some lawyers had their licences revoked for "undisciplinary conduct". Lawyers may appeal against that decision. According to sources in legal

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<sup>(21)</sup> Between July 1996 and September 1997 the Netherlands Embassy in Tehran examined several hundred (copies) of documents, including many arrest warrants, from Iranian asylum-seekers staying in the Netherlands. More than ninety percent of the documents submitted were found not be authentic.

circles, no licences have been revoked over the past few years on the grounds of political conviction.

Lawyers' access to clients being tried before the revolutionary courts is not guaranteed <sup>(22)</sup>. They must sometimes seek special permission from the revolutionary court to visit a client. As a rule, however, visits are allowed. Nor is the right to a free choice of counsel guaranteed. The revolutionary court may "designate" a lawyer <sup>(23)</sup>.

### *Light and heavier sentences*

Contrary to the information contained in the official report of 5 June 1997, the distinction between minor and more serious criminal cases has nothing to do with the bringing of charges. The distinction concerns the possibility of early release on bail pending preliminary hearings. Persons suspected of serious criminal offences may request provisional release after four months. In other cases they may do so after two months. Iranian legislation does not provide a more precise definition of minor and serious criminal cases. This is left to the judge's discretion. In practice, the time limits for dealing with court cases are regularly exceeded, as a result of a high workload.

### *Further appeal*

When a judgment is annulled upon appeal to the Supreme Court, the case is referred back to another court. The court which then has jurisdiction will try the case taking into account the Supreme Court's comments and recommendations. No further appeal is possible after that judgment. In cases where further appeal lies not with the Supreme Court, but with another court, judgments are in principle final. A judgment may confirm a previous sentence, but it may also result in acquittal. There are some examples of acquittals <sup>(24)</sup>.

The Supreme Court has ruled that judgments should be annulled where the condemned was not represented by a lawyer.

### *Trial procedure*

Sources consulted in legal circles confirm that the quality of the process of law has improved compared to the early years of the revolution. However, as pointed out in the official report of 5 June 1997, the situation differs from one court to another. In general, including in the revolutionary courts, suspects now have greater legal guarantees than in the early years of

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<sup>(22)</sup> Consequently, Amnesty International's remark in its letter of 30 July 1997 (p. 25) to the State Secretary for Justice is correct.

<sup>(23)</sup> As, for example, in the proceedings against Sarkouhi (see 2.3).

<sup>(24)</sup> Since case-law reviews are not available in Iran, information has to be based on patterns derived from the experience of contact persons. In the absence of a (public) system, statistical data are unavailable. The information obtained from a number of Iranian contact persons holding prominent positions in legal circles has been checked against what is known to observers in Tehran.

the revolution. Naturally, this merely constitutes a relative improvement, of significance mainly to those not regarded as potential opponents by the authorities.

Practice also tends to differ from theory. Where a judgment is handed down, it is not always clear in advance whether and, if so, how it will be enforced. The right connections and cash (see also 1.3 concerning corruption) may go some way towards coming to an arrangement <sup>(25)</sup>.

### 1.8. Prisons

Closer investigation has confirmed the conclusions in the official report of 5 June 1997 that facilities do not come up to international standards. The findings of UN Representative Copithorne of 21 March 1996 are borne out by observations of the Tehran Embassy <sup>(26)</sup>. Conversations with former prisoners suggest that conditions of hygiene are on the whole good. Due to the large number of prisoners in Iran, some prisons are overcrowded <sup>(27)</sup>. A new prison complex is being worked on in a suburb of Tehran.

## 2. Human rights

### 2.1. General

The human rights situation in Iran continues to give cause for concern. The emphasis placed by President Khatami on respect for the rule of law and a society based on the Constitution looks promising and developments in that direction are encouraging. However, it remains to be seen whether that trend will continue. For the time being, the influence of the conservative religious power centre is in practice still considerable.

Those groups or persons in particular who are viewed in Iran as a (potential) threat to society organised according to Islamic values and standards consequently (still) run the risk of falling victim to human rights violations.

This includes, inter alia, the tough measures taken against the Baha'is, a religious community which has also been persecuted from time to time under earlier regimes. A further instance is the harsh treatment of persons who actively attempt to convert Muslims to Christianity.

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<sup>(25)</sup> For instance, the imposition of flogging can usually be bought off (see also 2.2.2 and 2.7).

<sup>(26)</sup> UN doc. E/CN.4/1996/59. It should be added here that conditions may be particularly bad during pre-trial detention. As already stated in Chapter 2, human rights violations tend to occur in particular at the investigative stage.

<sup>(27)</sup> This is true, for example, of the Evin and Qasr prisons in Tehran and the Dastgerd prison in Isfahan.

Despite the political developments referred to above, intellectuals, in particular writers, journalists and publishers, continue to be at risk. The image of intellectuals as a vulnerable group is confirmed by reports of disappearances and murders committed against intellectuals in suspicious circumstances. Thus, the disappearance of Ali Tschegini was reported in the Iranian press in May/June 1997. Tschegini was a journalist with Adineh, the newspaper of which Sarkouhi was editor-in-chief. Nothing further is known about Tschegini's fate. On 29 March 1997 the body of Ebrahim Zalzadeh, a writer and a journalist was found, with stab wounds in the chest. Zalzadeh was the publisher of the monthly Me'yar (Standard) and director of the publishing house Ebtekar. He had been arrested a month earlier by security officers <sup>(28)</sup>.

The pressure on intellectuals stems primarily from conservative circles; it takes the form of smear campaigns in the press, occasionally arrests, publication bans and possible Hezbollah action taken against them. As stated in Chapter 1, Iranian society is marked by conflicting tendencies in this area. The presidential elections ushered in a period of hope for intellectuals, with the new Government now allowing them more scope.

## *2.2. Inviolability of the person*

### *2.2.1. Death penalty*

The death penalty may be imposed for various offences, including spying, the spreading of "corruption on Earth" (Mofsed), murder, armed robbery, abduction, rape, adultery or incest, sexual intercourse between a non-Muslim man and a Muslim woman, sodomy, drug smuggling, apostasy, affronts to the holy and the prophets, and where a person is regarded as an opponent of God (Mohareb) <sup>(29)</sup>.

The death penalty may be carried out in various ways; execution, hanging and, and in a single case, also stoning occur. The death penalty is usually carried out in public.

The number of death sentences carried out in 1997 was markedly higher than in 1996 <sup>(30)</sup>.

### *Stoning*

Under the Islamic Penal Code death by stoning may be imposed on both men and women. In practice, the death penalty is rarely carried out in this form, and certainly not in urban areas. However, it cannot entirely be ruled out that stonings do take place in fairly inaccessible rural areas.

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<sup>(28)</sup> Copithorne II, p. 28, Open letter from Amnesty International, 30 July 1997, p. 10.

<sup>(29)</sup> Contrary to what was claimed at the Hearing on 20 October 1997, the Iranian Penal Code includes no provision enabling the death penalty to be imposed in the case of multiple offences against the dress codes.

<sup>(30)</sup> At least 110 death sentences were carried out in 1996. The number of public executions in the first nine months of 1997 already amounted to 137. See Copithorne II, p. 10.

Copithorne indicates in his interim report of 15 October 1997 that stoning has occurred from time to time since 1979. He mentions four cases of stonings in the past 18 months. Thus, in August 1997, the Iranian press reported on the judicial stoning of a woman in Boukan for adultery <sup>(31)</sup>.

Three cases reported by human rights organisations in 1996 were investigated locally in Iran. Two cases could not be confirmed. Conversations with villagers revealed that the third case had never happened.

### Drug offences

According to recent press reports, the Parliament has recently passed a bill on more severe punishment for drug offences. The relevant law will soon enter into force. Even heavier penalties are reportedly being imposed on drug traffickers and smugglers, and it is expected that the number of death sentences will increase.

Drug addicts are apparently no longer imprisoned, but sent to special camps for compulsory disintoxification.

The Iranian press regularly reports on the imposition of the death penalty for drug offences <sup>(32)</sup>.

### Adultery

Adultery, involving a married person having sexual relations with someone other than his/her legal spouse, is a punishable offence under the Iranian Penal Code. It carries the death penalty for the married offender. The offence may be declared to be proved in three ways, viz. by a fourfold confession, the testimony of four persons or on the basis of the judge's own perception.

If there is any question of a false accusation, the person making the false accusation is punishable. He/she may be condemned to 80 lashes on the grounds of "Qazf" (false accusation).

### Relationship between a non-Muslim man and a Muslim woman

The death penalty may be imposed on a non-Muslim man who has a sexual relationship with a Muslim woman. The rules on evidence referred to above also apply in this case.

A recent case involves a German man who is currently being held in custody in Iran. He has been sentenced to death for committing this offence. The unmarried Muslim woman has been sentenced to 100 lashes. The sentence is not yet final.

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<sup>(31)</sup> Copithorne II, p.14; Amnesty International MDE 13/37/97. The woman was initially declared dead, but was taken to hospital after it was discovered that she was still alive.

<sup>(32)</sup> Thus:

**B** five Afghans were hanged for drug offences in Ghonabad (Khorassan) on 7 August 1997;

**B** 12 drug traffickers were hanged in Mashad in July 1997;

**B** two persons were executed for drug smuggling in Kashan in November 1997.

## Spying

There are instances of Baha'is and members of the MKO (for MKO see 2.4) having been sentenced to death for spying.

A former soldier, Siavash Batani, who had been a refugee in the US since 1984, returned to Iran in 1995. He was arrested for spying for the US and sentenced to death. He was executed at the end of August 1997 <sup>(33)</sup>.

Mohammad Assadi, a lawyer in prison since 1993, was convicted of taking part in a coup attempt in 1990, being a freemason and a member of the International Lions Organisation and visiting Israel. Yet the visit took place before the revolution. Despite international protests, Assadi was executed on 9 August 1997 <sup>(34)</sup>.

## Corruption

There is no information on the execution of twelve dervishes in June 1996 for setting up "centres of corruption" <sup>(35)</sup>.

Large-scale embezzlement may also lead to a death penalty. Those involved in large-scale illegal trade, for instance drug trafficking and trafficking in women (incitement to prostitution), may be convicted of "corruption on Earth". The sentence has been carried out in a number of cases <sup>(36)</sup>.

## Murder

Death sentences for murder are regularly reported in the press <sup>(37)</sup>.

### *2.2.2. Corporal punishment*

The Islamic Penal Code makes provision for corporal punishment which generally means

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<sup>(33)</sup> Many refugees resident in the US return to their homeland for short periods without encountering any problems. Legal proceedings are in progress in Iran initiated by persons having obtained refugee status elsewhere who wish to recover property confiscated after the revolution.

<sup>(34)</sup> Amnesty International, MDE 13/14/1997; MDE 13/25/97, MDE 13/36/97; Copithorne II, p. 11. The Iranian Press Agency (IRNA) issued a press release on 27 January 1998 regarding the death sentence passed on Morteza Firouzi, former editor-in-chief of Iran News. Firouzi had been held since May 1997 on suspicion of spying, the crime for which he was sentenced to death. Later press releases stated that the death sentence had been confirmed by the Supreme Court.

<sup>(35)</sup> Amnesty International open letter, 30 July 1997, p. 20.

<sup>(36)</sup> A man was executed on 9 November 1997 for "corruption on Earth". He was convicted of having raped twenty women, being involved in drug trafficking, committing extortion and setting up brothels. In Mashad at the end of September 1997 eleven members of a gang were executed for "corruption on Earth". Four people were flogged. According to the Iranian press, they belonged to a gang involved in extortion, dealing in alcohol, terrorising the populace and kidnapping.

<sup>(37)</sup> For example:  
public hanging of the "Vampire of Tehran" in August 1997, convicted of murdering nine women;  
five executions in Qasr for murder, November 1997.

flogging and amputation. Flogging is a common sentence but whether the sentence is actually enforced depends on the gravity of the offence. In practice, the sentence to flogging can be bought off. Amputation occurs very occasionally. Sources in Tehran indicate that the sentence may be enforced on a repeat offender, for instance in order to set an example where crime figures are on the increase.

### 2.2.3. Torture

Major violations of human rights may occur particularly in the early days of detention. At the investigative stage, there are reports of torture and ill-treatment in order to extract confessions<sup>(38)</sup>. That stage can last days, weeks or even months.

### 2.3. Freedom of expression

The increasing pressure on intellectuals<sup>(39)</sup> reported after the general elections in 1996 is now changing following Khatami's electoral victory. Intellectuals who were previously under great pressure now appear to be enjoying new opportunities under the new President.

The arrest of Faraj Sarkouhi, writer and publisher of the monthly, *Adineh*, illustrates the position of certain intellectuals. Many reports of his imprisonment appeared in the (international) press. Sarkouhi was given no right to choose a lawyer and the trial took place in camera which the Iranian authorities alleged was at his own request. That allegation cannot be regarded as plausible. He was sentenced to one year's imprisonment for "propaganda against the Islamic Republic". He was not convicted of spying, despite insinuations among conservative elements of the government. Sarkouhi was released at the end of January 1998. The outcome of the trial<sup>B</sup> a relatively light sentence<sup>B</sup> was seen as a first indication of the Khatami government's change in approach towards writers and intellectuals. At the time, the judgment was greeted with a measure of relief in intellectual circles in Iran.

As described above, there is also talk of a backlash among conservative forces who fear that they will lose their power<sup>(40)</sup>.

On the one hand, new publications are coming on the market while, on the other hand, publications are being banned. Pluralism is most evident in the written press. Radio and

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<sup>(38)</sup> Article 38 of the Constitution prohibits torture. According to Amnesty International, two members of the KDPI died as a result of torture when on remand in 1996. (AI open letter, 30 July 1997, p. 19).

<sup>(39)</sup> See official report of 5 June 1997, pp. 5, 6, 7 and 12.

<sup>(40)</sup> See section 1 above for the action taken by Hezbollah regarding the "liberal" press, students and members of the Freedom Movement. On 27 January 1998 a group of Iranian intellectuals, including Ebrahim Yazdi, the leader of the Freedom Movement, reported the arrest of Akbar Ganji, publisher of the liberal monthly, *Rah-e No*. Ganji has apparently been in custody without formal charge since December 1997.

television are entirely under government control <sup>(41)</sup>.

### *Press court*

Iran has a special press court which handles cases involving publications which are the subject of complaints by one or more individuals. In practice, this court generally orders (temporary) publication bans and imposes fines. Thus the popular youth magazine, *Aftabgaran*, published by Mayor Karbaschi of Tehran, was banned from publication for having insulted the Iranian state channel, IRIB. Karbaschi was also fined <sup>(42)</sup>. Temporary bans were also imposed on other publications, including the leftwing publication, *Salaam* <sup>(43)</sup>. The publishing climate improved under the new Minister for Culture and Islamic Guidance; on 2 October 1997 Iranian journalists set up an independent association and President Khatami declared his support for the initiative.

### *2.4. Freedom of political participation*

As already stated, as a result of the heavy repression in the early years of the Islamic revolution, the (secular) opposition was practically reduced to silence. No activities by opposition groups such as Tudeh, Iran Paad, Komala, Fedayeen, Darafash Kaviani, etc. have been observed <sup>(44)</sup>. The Mujaheddin-e Khalq (MKO) and the Kurdish Democratic Party of Iran (KDPI) are involved in armed activity from Iraq <sup>(45)</sup>. It is assumed that the communist group, Komala, has become ideologically isolated since the break-up of the Soviet Union and now undertakes practically no activities. Conversations with ex-prisoners have revealed that members of the said movements are

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<sup>(41)</sup> Copithorne describes one of the paradoxes of Iranian society, i.e. the lively discussion in the press, as "islands of liberty". Copithorne II, pp. 3 and 8.

<sup>(42)</sup> The Ministry of Culture and "Islamic Guidance" lifted the ban and that decision was subsequently reversed by the court.

<sup>(43)</sup> According to the Iranian media, the press court sentenced the publisher of the monthly, *Sobh*, to a fine and a one-month ban for insulting the Minister for Posts and Telegraphs. There are other examples of recent bans on "liberal" or "leftwing" publications. A number of newspapers were only able to appear again after Khatami's inauguration. A remarkable instance of censorship was the withholding of the third edition of *Hoviyat*, a book named after the eponymous television programme in which "leftwing" intellectuals were portrayed as enemies of the state.

<sup>(44)</sup> Possessing or distributing prohibited material, including satellite dishes, speeches on tape or video, literature deemed offensive to Islam or old sound and film material relating to the Shah is in practice punishable by a fine at most. That position is once again confirmed. The situation is rather different for persons found in possession of MKO material. They are generally presumed to have links with the organisation and risk long-term detention on those grounds.

<sup>(45)</sup> See the Amnesty International letter of 30 July 1997.



serving long sentences <sup>(46)</sup>. No recent convictions of members (or supporters) of illegal political opposition groups, apart from MKO and KDPI, have come to light <sup>(47)</sup>.

Since the murder of KDPI leaders outside Iran (see below), this organisation's activities have been decreased.

The MKO is regarded by the Iranian authorities as a serious threat. The organisation aims to bring down the Tehran regime and makes use of armed resistance, including terrorism. The estimated strength of the armed wing of the MKO in Iraq lies in the thousands. The Iranian authorities have reacted in the past by taking a hard line against the MKO and that policy has not altered in recent years. The MKO appears to enjoy little sympathy from the population in Iran <sup>(48)</sup>.

The organisation has bases in Iraq from which satellite television broadcasts are made and occasional border incursions take place. Persons suspected of having links with the MKO can expect heavy prison sentences. The Iranian press regularly reports the arrest of MKO members <sup>(49)</sup>. MKO members are at risk if they return since the Iranian authorities are particularly interested in any activities abroad. On the other hand, former MKO members (people who have openly distanced themselves from the organisation) are known to have returned to Iran and encountered no problems.

There have been attacks on political opponents abroad and some have lost their lives. In the "Mykonos affair" a court in Berlin established that the Iranian authorities had a hand in the murder of four KDPI leaders in Berlin on 17 September 1992. Recently the theatre of terrorist attacks appears to have moved from Europe to countries bordering on Iran. Two members of the MKO were murdered in Istanbul on 20 February 1996. The perpetrator has

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<sup>(46)</sup> It is not possible to confirm that monarchists are still in detention.

<sup>(47)</sup> The cases referred to in the Amnesty International letter of 30 July 1997 almost all date from before 1 May 1996 (date of the penultimate official report). It is, however, possible that sentences were carried out after 1 May 1996. Thus Heydatollah Zenzahdel and two other Iranians were sentenced to death on 23 July 1996 for spying for the US and Israel during the Iran-Iraq war. Other indictments relate to misappropriation, corruption and smuggling. The case began as early as 1988. All three were reported to have been executed at the end of 1996. (AI letter, p. 21).

<sup>(48)</sup> A contributory factor is that the MKO operates from Iraq which was at war with Iran for several years. The MKO's rather undemocratic structure and the lack of subtlety in its methods hardly make it an attractive alternative. On the basis of the 1996 Anti-terrorism Act, the United States published a list of thirty terrorist organisations on 8 October 1997 and the MKO is among them.

<sup>(49)</sup> There is a suspicion that the MKO is also found guilty of acts in which it was not always involved. Conversely, some arrests may relate to common crime, such as drug smuggling, activities for which the MKO is also reputed to be responsible.

been convicted. He stated that he had been commissioned by the Iranian authorities. In his most recent report, Copithorne refers to attacks on MKO bases in Iraq in 1997 and on KDPI members in Iraqi Kurdistan <sup>(50)</sup>.

Copithorne asked the Iranian government for information regarding the arrest of individuals in the Iranian province of Azerbaijan who were committed to the Azerbaijani cause <sup>(51)</sup>.

Relatives of political opponents may also be interrogated. Reports that relatives have been detained cannot be substantiated. There are reports that relatives have even been summoned several years later to provide information regarding the activities of their kin. Where relatives of political opponents engage in political activities themselves and are arrested on those grounds, the authorities are not slow to connect their activities with those of the relative <sup>(52)</sup>. The risk of prosecution increases if the activities relate to the MKO.

Individuals who served long periods of detention in connection with political activities are in danger of more severe punishment if they become active again. Repeated offences generally lead to heavier sentences. The section of the Iranian criminal code relating to offences against the internal and external security of the Islamic Republic contains a multiplicity of offences for which opponents can be sentenced <sup>(53)</sup>.

## 2.5. *Position of religious minorities*

Article 13 of the Iranian constitution recognises religious freedom for Christians, Jews <sup>(54)</sup> and Zoroastrians.

The authorities' policy is aimed at strict compliance with Islamic values and standards. The treatment of religious minorities is variable. Christians, Jews and Zoroastrians enjoy freedom of religious conviction. On the other hand, there is severe discrimination against Baha'is. They are very often prosecuted.

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<sup>(50)</sup> Copithorne II, p. 20.

<sup>(51)</sup> Copithorne II, p. 25.

<sup>(52)</sup> There are no reports of pamphlet circulation by relatives of political opponents.

<sup>(53)</sup> Reports of persons detained for long periods in the 80's who then became active in distributing pamphlets after several years of freedom have not been substantiated. Nor are there any reports of ex-political prisoners who, on release, were arrested for infringing the rules on alcohol, the dress code or the possession of pornographic videos.

<sup>(54)</sup> There are still a few tens of thousands of Jews in Iran. In practice they enjoy a position comparable to that of the Armenian and Assyrian Christians. Iranian Jews may, however, face foreign travel restrictions (see below).

## Christians

The Christian community in Iran consists mainly of Armenian and Assyrian Christians who form communities integrated into Iranian society <sup>(55)</sup>. They form a clearly delimited ethnic unit. Proselytizing by these communities does not take place. Muslims are not tolerated within the community. The authorities do not see them as forming any threat to Islamic society. In matters of marriage, divorce, inheritance and finance, they are permitted to follow their own rules within the community. The use of alcoholic beverages is tolerated in the privacy of the Armenian Christian congregation. Armenian Christians have their own schools teaching through the medium of their own language. Armenian Christians are very often active in trade. After the Islamic Revolution, shops owned by a Christian were required to display a notice in the window if they sold perishables. A Christian is regarded by a practising Muslim as unclean. The rule was applied to warn Muslims against purchasing "unclean" goods. The notice is now no longer compulsory. Muslims were and are permitted to purchase goods from an Armenian shop <sup>(56)</sup>.

Protestant churches do accept converts but, with the exception of the "Assemblies of God" (pentecostal community), they exercise great restraint in admitting new believers. Apostasy from Islam carries the death penalty under the Sharia. No recent cases have come to light in which the death penalty was imposed on converts to Christianity. Those who, in the view of the authorities, offer Muslims an alternative to Islam run the risk of falling victim to human rights violations. There have recently been fresh reports of threats and intimidation, including house searches, directed at churches which include converts among their congregations. Repression of Christians is directed particularly at leading members of the Anglican church and the Assemblies of God.

Muslims who convert to Christianity may face obstructive measures. It is known that a prohibition on foreign travel has been imposed on some converts. Converts are sometimes summoned by the security forces and instructed to cease attending church. In a few cases they have been threatened with prosecution. However, the churches consulted have not known about any actual prosecutions. Muslims who have converted and openly demonstrate their religious conviction have to reckon with serious forms of repression, even if their conversion took place decades ago. In the past several unsolved murders took place and were attributed to fundamentalist elements

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<sup>(55)</sup> Many Iranians regard Christians as synonymous with Armenians.

<sup>(56)</sup> Questions on this issue were raised at the Hearing on 20 October 1997.

within the government or outside it <sup>(57)</sup>. During 1997 there have been no known instances of such extrajudicial violence nor has any death sentence been known to have been imposed for conversion to Christianity (apostasy).

The churches generally urge their followers not to leave Iran. According to the data supplied by the various religious communities in the country, a few hundred converts appear to be resident in Iran <sup>(58)</sup>.

### *Baha'is*

The situation of members of the Baha'i faith, a religious minority not officially recognized in Iran, is a worrying one <sup>(59)</sup>. They are regarded as apostates because the authorities take the view that they have renounced Islam. Active practice of the Baha'i faith is regarded as a crime <sup>(60)</sup>. Religious ceremonies, if they are possible at all, are held behind closed doors. The practice of arresting Baha'is and holding them for a short time is continuing. Copithorne reports that nearly two hundred Baha'is are said to have been arrested over the past three years and held for anything between two days and six months <sup>(61)</sup>. Baha'is also face all manner of restrictive measures, in such areas as education (e.g. no access to university or the final year of secondary school), employment and administrative matters. Confiscation of property is still taking place <sup>(62)</sup>. According to UN Special Rapporteur Amor <sup>(63)</sup> Iran has a restrictive government directive regarding the Baha'is <sup>(64)</sup>.

Following the 1979 revolution, all those known to the Baha'is were dismissed from

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<sup>(57)</sup> Open Doors gave an account of this to the Hearing.

<sup>(58)</sup> Asylum seekers in the Netherlands sometimes claim to have been converted in Iran. All the queries submitted to the embassy regarding such asylum seekers have been thoroughly investigated and in no instance has the applicant's claim been substantiated.

<sup>(59)</sup> "The Special Representative has continued to receive reports of cases in which the human rights of Baha'is have been breached and of situations of discrimination and even persecution against the members of this religious community, including extrajudicial executions, arbitrary detentions, refusal of entry to universities, confiscation of property and dismissal from employment (Copithorne II, p. 16).

<sup>(60)</sup> Copithorne II, p. 16.

<sup>(61)</sup> Copithorne II, Appendix III.

<sup>(62)</sup> A Baha'i holy place in Orumiyeh is reported to have been demolished in December 1996 to make way for a new building. (Copithorne II, Appendix III).

<sup>(63)</sup> Special Rapporteur to the Human Rights Commission for the Elimination of All Forms of Intolerance and Discrimination on Grounds of Religion or Conviction.

<sup>(64)</sup> While the Iranian government denies the existence of such a directive, its content broadly corresponds to current practice regarding Baha'is: preventing Baha'i development, excluding Baha'is from university studies, preventing international links between Baha'is, imposing restrictions on the functions which Baha'is may exercise and denying them influential positions.

government positions <sup>(65)</sup>. The houses of Baha'is were looted. Arrests and executions followed. The Baha'is were systematically persecuted, with the result that tens of thousands fled the country. There has been a relative improvement in the situation of the Baha'is in relation to the first years after the revolution. Systematic persecution on the scale then seen no longer occurs.

According to the Baha'i community outside Iran, 21 Baha'is are at present in prison because of their faith <sup>(66)</sup>. Spying or apostasy is given as the reason for imprisonment <sup>(67)</sup>. The death sentences on the Baha'is Mahrami (apostasy) and Talibi (spying) have been upheld by the Supreme Court. Both have sought amnesty. There are indications that the sentence on Mahrami will be overturned, but no confirmation of this can be obtained at present. Two Baha'is met their deaths in July 1997 under suspicious circumstances <sup>(68)</sup>.

In contrast to the situation some years ago, Baha'is may in some cases be eligible for a passport and may leave the country legally <sup>(69)</sup>. When completing the application for the passport, the applicant's religion must be declared <sup>(70)</sup>; for this reason passports were always refused to Baha'is in the past. There were, however, Baha'is who stated their Baha'i faith on the application form and still managed to obtain a passport in the normal way. Equally, cases are known of Baha'is who stated on the form that they were Muslims, but who, on travelling out of the country with the passport so obtained, were given a negative reception by the Baha'i community abroad.

There are said to be around 300 000 Baha'is resident in Iran.

### *Sunnis*

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- <sup>(65)</sup> Before 1979, at the time of the Shah, Baha'is were able to hold important government positions. Of old, Baha'is were better educated, which explains their unpopularity. As a consequence of oppression of the Baha'is, that situation has changed, however.
- <sup>(66)</sup> Letter from the National Spiritual Council of the Baha'i Faith in the Netherlands to the Ministry of Foreign Affairs dated 23 January 1998.
- <sup>(67)</sup> The accusation of spying for Israel and the USA dates back to the early days of the Islamic Revolution. The highest Baha'i authority is established in Haifa (Israel), which is an important element in the charge. The Baha'is have regularly attested that this authority has been established there since the 19th century, long before the foundation of the State of Israel.
- <sup>(68)</sup> This concerned a person who died after having been severely beaten when in preventive custody in Isfahan. He was arrested in his native village when on his way to a Baha'i meeting. Another Baha'i, a military conscript, was shot dead by his superior officer. The training officer reported this as an accident. The judge ruled that no blood money was to be paid because the victim was a Baha'i. Copithorne II, Appendix III.
- <sup>(69)</sup> Since 1994 it has been possible for Baha'is to obtain a passport. It bears a red exit stamp, signifying that the passport holder may only leave the country once. The red exit stamp is issued not only to Baha'is, but also to Jews, military personnel and married women to whom only one journey abroad has been permitted by their husbands. Current exit stamps are no longer coloured, but the practice remains unchanged.
- <sup>(70)</sup> It was stated at the Hearing that the religion of the person concerned is given on passports and identity documents. This information is incorrect.

It is estimated that between twelve and fifteen million Sunnis live in Iran. Ethnic minorities such as Kurds, Baluchis and Turkomans are Sunni. In his Interim Report of 15 October 1997, Copithorne states that the situation of Sunnis in Iran is difficult to judge. He has the impression that freedom of religion for the Sunni minority is not fully guaranteed, and has announced an inquiry. Amnesty International states in its letter of 30 July 1997 that in December 1996 unrest broke out in the province of Bakhtaran (previously Kermanshah) after the death in unexplained circumstances of a Sunni spiritual leader.

## 2.6. *Position of women*

President Khatami owes his election on 23 May 1997 in not inconsiderable degree to the female section of the electorate. Issues such as greater participation by women in socio-economic and cultural life contributed to this. Even after the elections, there is still a lively debate in Iranian society with regard to the position of women. Without exception, this stresses the need to improve women's position.

UN Representative Copithorne sees signs which may indicate change <sup>(71)</sup>. In this area, too, the picture in Iran is contradictory. Important points of conflict are the improvement of educational opportunities for women and the combating of (child) prostitution, child abuse and child marriages. There is increased concern in Iran regarding such matters as violence against women within marriage.

From various contacts with women in the Iranian women's movement it appears that the dress codes in Iran are not an issue as such. The movement concentrates above all on the improvement of the legal position, in which women are still disadvantaged. That women have not been without success in this area in recent years is illustrated by the recent changes in the law regarding rules on the custody of children in cases of divorce or of death of one of the parents. The new rules offer women a better chance of obtaining custody of their children. These rules are intended to protect children who have been the victim of maltreatment by the father within the marriage <sup>(72)</sup>.

Another recently introduced legal provision indicative of the attempts by the Iranian authorities to improve the position of women in socio-economic life is a law which lays down that a woman running a household can claim financial compensation from her husband <sup>(73)</sup>. In addition, a new rule has also come into force under which those with maintenance obligations can be prosecuted for failing to comply with the maintenance order.

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<sup>(71)</sup> Copithorne II, p.3. A few examples: Women in Iran, even if they are married, can open a bank account in their maiden names; women may own land; women are allowed to drive. An opposite tendency is, however, the prohibition on women riding bicycles in Iran.

<sup>(72)</sup> The practice outlined by *Vrouwen Uitzetting* (Women against Deportation) on custody of children after divorce ignores the fact that in practice women are awarded custody of the children in many cases on the basis of a consensus between the former spouses.

<sup>(73)</sup> Copithorne I, p. 8.

Some rules appear not to be applied in practice, however. Thus, in 1995, a law was approved which was supposed to provide financial support for divorced women without an income. This law has not so far been implemented.

A number of single women must therefore provide for themselves after divorce or the death of their husbands. They then face a disadvantageous position on the Iranian labour market, which is further aggravated by the relatively poor economic situation in the country. Many single women as a result work in the unofficial sector<sup>(74)</sup>.

Nevertheless a growing percentage of women is present on the labour market, even at higher levels<sup>(75)</sup>. The aforementioned contacts in the Iranian women's movement confirm the view of foreign observers that divorced women can take an active part in social life or exercise a profession.

## 2.7. Offences against dress and behaviour codes

There is still strict enforcement of observance of the dress and behaviour codes in Iran. Failure to wear the Hijab<sup>(76)</sup> is in practice virtually unheard-of<sup>(77)</sup>. Openly showing part of the hair is in practice tolerated in the larger cities<sup>(78)</sup>. If a woman is sanctioned for improperly wearing the Hijab, the sanction is at most a fine. In some cases a written statement is required that the woman concerned will mend her ways<sup>(79)</sup>. No cases of

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<sup>(74)</sup> See Nahid Motiee in "Danneh", UNICEF Publication Volume 2, December 1997, p. 4.

<sup>(75)</sup> The woman minister and lady mayor referred to by way of example in the earlier official report have caused confusion. The first mentioned was a woman junior minister who had the status of minister because of her special area of responsibility, while the lady mayor was one of the district mayors of Tehran, the mayor of the VIIIth district. As stated in Chapter I, there is now a woman vice-president for environmental affairs. There are two women junior ministers (for health and women's affairs). Recently, for the first time since the revolution, four women judges were appointed. On 5 February 1998 the appointment of the first woman ambassador was announced in the Iranian press.

<sup>(76)</sup> Garment covering the hair and feminine form; not, as is often thought, the obligatory wearing of a veil.

<sup>(77)</sup> This obligation applies also to foreign women. In big cities the rules for wearing the Hijab are less strict than in rural areas. In the euphoria following Iran's placing in the football world cup, the greatest outburst of popular rejoicing since the fall of the Shah, there were instances of women spontaneously taking off their Hijab to wave it.

<sup>(78)</sup> Vrouwen tegen Uitzetting (Women Against Deportation) testified in its written contribution to the Hearing that this information was a one-off observation. This position of WAD does not correspond to reality; witness the recent CNN interview with President Khatami, in which the female interviewer wore a headscarf which left part of the hair uncovered.

The assertion at the Hearing that the death penalty may be imposed for a third offence against the dress codes is incorrect.

<sup>(79)</sup> The fine is higher for repeated offences.

floggings ordered merely for improper wearing of the Hijab came to light in the inquiry conducted. The imposition of a flogging for offending against the dress codes is not even permitted, as may be seen in the note to Article 638 of the Iranian penal code (Tazirat). In cases of an improperly worn Hijab together with other offences against the behaviour codes, flogging may indeed be imposed <sup>(80)</sup>.

## 2.8. Position of homosexuals

### Legal framework

It is laid down in the Iranian penal code that homosexual behaviour between men carries the death penalty.

For lesbian behaviour there is a provision carrying a sentence of 110 lashes of the whip. The same penalty applies on the following two occasions of such an act being declared proven. The fourth proven offence carries the death penalty. The manner of execution is determined by the Sharia judge.

Homosexuality may be proved in three ways, with regard to both men and women, namely by fourfold confession, by the testimony of four honourable men based on their own observation or on the basis of the Sharia judge's own perception, based on accepted methods. The law gives no further clarification of "accepted methods".

Where fewer than the four required charges are brought, the witnesses may be punished for "malicious accusation". The punishment for this is eighty lashes.

### Practice

In practice there is no active policy of persecution. In Tehran, several known homosexual meeting places are tolerated. In several Tehran parks, contacts are openly made between homosexuals. The authorities are aware of this, but seldom take action.

No recent criminal proceedings solely on the grounds of homosexual behaviour, including sentences based on the judge's own perception, are known. Where complaints are received by the judge (homosexuality is in principle an offence only prosecuted following complaint), the parties are urged to come to a settlement. In doing so, the judge commonly points to the heavy burden of proof (four witnesses) and the possible consequences (eighty lashes) if the accusation cannot be substantiated. The UNHCR recently also stated that it was not aware of any case of enforcement of the death penalty on the basis of homosexual relations <sup>(81)</sup>.

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<sup>(80)</sup> In Mashad on 3 December 1997, 26 men and women who had attended a party were sentenced to flogging and fines. In the raid on the house, a satellite installation, illegal videos and cassettes were seized. The women were sentenced to a fine for non-observance of the dress codes.

<sup>(81)</sup> Letter from UNHCR (The Hague) to Vluchtelingen Werk, dated 3 February 1998.



From time to time there are cases of accusations of homosexuality being brought in a broad range of criminal offences. The Iranian press reported on a public execution in Hamadan on 27 November 1997. The person involved had been sentenced to death for drug trafficking, adultery and homosexuality. Similarly, in connection with accusations such as "setting up centres of corruption and prostitution", homosexuality is at times adduced as an additional charge.

### *2.9. Position of transsexuals*

Operations for the purpose of changing a person's sex are permitted in Iran and are actually carried out. For a sex change, an application must be made to the courts. The court then orders a psychiatric examination of the person in question. The psychiatrists produce an opinion, on the basis of which the court finally gives a ruling on whether a sex change is permitted. In general the psychiatrists' opinion is followed. If the sex change is permitted, the subject's birth certificate is adapted. Facilities are also provided for the person concerned to undergo the necessary operations. It is known that in some cases the Iranian authorities have borne the cost of these operations, which are carried out under satisfactory conditions of hygiene. Those concerned do not need to resort to "underground" circuits. Prior to the operations, the person concerned can obtain a declaration from the court stating that he/she is actually of a different sex. Finally, the person's birth certificate is adapted. Under Iranian civil law, the name and the new sex are registered in the subject's birth certificate. There are thought to be a few dozen transsexuals resident in Iran.

### **3. Refusal of military service/desertion**

The following supplements the information in the official report of 5 June 1997.

Civilian officials in service with the Ministry of Defence are not considered as military personnel. If they absent themselves from work they may be dismissed. Prosecution for desertion is not possible. This applies equally to staff employed by police departments.

Professional military personnel and police personnel may resign, with the exception of a small category of persons who have access to very sensitive information, e.g. air force personnel, in particular.

#### 4. Exit procedure at airports

The following supplements the comments in the official report of 5 June 1997. The exit procedure at international airports and at external land borders is still extremely strict. No warning is normally given where a travel ban is imposed; any such ban is usually communicated at the moment of departure at the airport. Reports are regularly received of people who have learnt at the airport that they cannot leave the country.

The exit procedure for foreigners at the international airport is the same as for Iranian nationals. The passport of a non-Iranian national must show how he entered Iran. This information is compared in the course of departure formalities with the computer-registered details.

If the authorities find a passport, forged or otherwise, which is not recorded, this may result in the arrest of the person in question, a ban on leaving the country and extensive further investigations. Foreigners who have overstayed the period of validity of their visa by more than a few days cannot leave until they have paid a court fine <sup>(82)</sup>.

#### 5. Return

A number of asylum seekers have returned voluntarily to Iran with the assistance of the IOM (International Organization for Migration). In 1996 and 1997 Iranians with refugee status also returned from the Netherlands to Iran for a short stay <sup>(83)</sup>. From the United States, as from other countries, many Iranians who fled the country during or after the Islamic Revolution also regularly return to Iran for short stays. According to estimates by observers, these amount to a minimum of a few thousand persons a year.

All EU countries are of the opinion that Iranian asylum seekers who have exhausted all

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<sup>(82)</sup> Iranians returning from abroad without a document valid for cross-frontier travel must pay a fine following investigation. The Nabard foundation has commented that return without a valid travel document carries an unconditional prison sentence as provided in Article 34 of the Passport Law. However, this Article also makes provision for payment of a fine only, which is the normal practice.

<sup>(83)</sup> On departure, the Iranian authorities verify whether entry is guaranteed to the country of destination. In such cases Iranians must therefore be in possession of a visa for that country before they may leave Iran. This is the reason why around two hundred Iranians annually visit the Netherlands Embassy to request issue of a visa. Most of these cases concern persons with refugee status in the Netherlands or a residence permit on humanitarian grounds, based on an asylum application. There are also some Iranians who have obtained Netherlands nationality after long residence in the Netherlands, but have retained their Iranian nationality. Even these Iranians can only leave Iran with an Iranian passport. Besides these categories, there are also Iranians who hold residence permits for the Netherlands for study purposes or in connection with family reunification.

remedies can be expelled to Iran. No information is available from other Western countries regarding problems following return.

In the first eleven months of 1997, Germany expelled 102 Iranians who had exhausted all remedies. France returned eighteen rejected Iranian asylum-seekers in 1997. For Canada, Switzerland and Belgium these figures were seventy, eight and four persons respectively. At the time of producing this report, it was not known how many rejected Iranian asylum-seekers were expelled in 1997 by Denmark.

In 1996 Sweden deported 198 Iranians who had exhausted all remedies. During 1997, the figure was 135 persons. Sweden does not engage in any monitoring activities; where there are reports of problems, its embassy sets up an inquiry. In the past, a number of such inquiries were set up but found that the supposed problems had not arisen. The Swedish authorities do not have recourse to the Iranian authorities in the event of expulsions. Asylum-seekers who have exhausted all remedies and who do not possess a (valid) passport or identity document are also expelled by the Swedish authorities without a laissez-passer.

Canada does not make use of a laissez-passer either, but provides a travel form in cases of deportation.

## **Conclusions**

Although the political climate in Iran is in the process of changing in a positive sense, the change has not yet taken effect sufficiently for any conclusions other than those in the official report of 5 June 1997 to be drawn. This means on the one hand that there are still certain categories of people (as referred to above) who are at risk of persecution or inhuman treatment: one factor to be considered in this respect is the judicial process in Iran, the shortcomings of which, by Western European standards, seem to be most manifest with regard to those categories. On the other hand, this also means that the return of those who have been shown by a carefully-conducted procedure not to belong to the categories mentioned is not necessarily irresponsible. Insofar as they would have to face an inadequate judicial process upon their return, they run no greater or lesser risks in doing so than do other citizens who do not belong to a particular group at risk. Those countries which are comparable to the Netherlands in that they face the same problem all take the view that asylum-seekers who are rejected after a carefully-conducted procedure can return to Iran without running particular risks.