



**Iran: Researched and compiled by the Refugee Documentation Centre of Ireland on 18 March 2010**

**Information on the court structure and process, particularly, information on all military courts and courts in which employees of the Revolutionary Guard and or Sepah would be tried; Outline the practice and procedure in a matter that comes before such a court; Information on the fairness or otherwise of such legal processes (and in particular in relation to such a court as indicated above)**

A report by the *US Department of State* under the heading 'Denial of Fair Public Trial' states:

"The constitution provides that the judiciary be "an independent power"; in practice the court system was corrupt and subject to government and religious influence. After the 1979 revolution, the judicial system was revised to conform to an Islamic canon based on the Koran, Sunna (the traditions of the Prophet), and other Islamic sources. The constitution provides that the head of the judiciary is a cleric chosen by the supreme leader. The head of the Supreme Court and prosecutor general also must be clerics.

Traditional courts adjudicate civil and criminal offenses, and Islamic revolutionary courts try offenses viewed as potentially threatening to the Islamic Republic, including threats to internal or external security, narcotics and economic crimes, and official corruption. A special clerical court examines alleged transgressions within the clerical establishment, and a military court investigates crimes connected with military or security forces. A media court hears complaints against publishers, editors, and writers, including Internet cases. The Supreme Court has review authority over some cases, including appeals of the death penalty." (US Department of State (11<sup>th</sup> March 2010) *2009 Human Rights Report: Iran*)

It also states under the heading 'Trial Procedures'

"Many aspects of the prerevolutionary judicial system survive in the civil and criminal courts. According to the constitution and criminal procedure code, a defendant has the right to a public trial, presumption of innocence, a lawyer of his or her choice, and the right of appeal in most cases that involve major penalties. These rights were not respected in practice. Panels of judges adjudicate trials; there is no jury system in the civil and criminal courts. In the media court, a council of 11 persons selected by the court adjudicates cases. No defendants in any court had the right to confront their accusers, nor were they granted access to government-held evidence." (ibid)

It also states:

“On August 1, the Tehran Revolutionary Court convened the first of a series of televised mass trials for more than 100 opposition politicians and activists detained after the June 12 election; the opposition referred to them as "show trials." Among those on trial were senior proreform politicians, lawyers, and journalists, including former vice president Muhammad Ali Abtahi; journalist and former interior ministry official Muhammad Atrianfar; intellectual and prodemocracy activist Saeed Hajjarian; filmmaker and Newsweek reporter Maziar Bahari (see section 2.a.); an Iranian-American academic; and Mohsen Mirdamadi, the leader of the largest reformist party, the Islamic Iran Participation Front. The prosecution accused the defendants of fomenting a "velvet revolution," acting against national security, and having ties to British spies. Authorities did not permit any of the defendants access to legal counsel prior to the trial. Some of those charged read aloud "confessions" in which they denounced former colleagues and declared there had been no fraud in the election. There were allegations that several defendants, including Abtahi and opposition candidate Mousavi supporters Mostafa Tajzadeh, Abdollah Ramezanzadeh, and Mohsen Aminzadeh, underwent "massive interrogation" in Evin Prison. There were also reports that authorities tortured Hajjarian in detention” (ibid)

A report by the *Home Office UK Border Agency* under the heading ‘Judiciary’ states:

“The military courts deal with cases concerning military personnel, including members of the revolutionary guard, Basij and the like, who have broken the law.” (Home Office UK Border Agency (26<sup>th</sup> January 2010) *Country of Origin Information Report – Iran- pg.65 -11.06*)

It also states:

“The Military Courts: they are mandated to investigate crimes committed in connection with military or security duties by members of the Armed Forces, the Police, and the Islamic Revolution Guards Corps. The office of the military prosecutor and the military courts are also part of the judiciary and are subject to the same principles that regulate the Judiciary (Article 172 of the Constitution).” (ibid) (pg. 66-11.07)

A report by the *UK Parliament House of Commons Library* under the heading ‘Criminal justice and the rights of detainees’ states:

“The Iranian Constitution states that the judiciary is "an independent power", yet, in practice, this has not proved to be the case. The court system is widely regarded as corrupt and subject to government and religious interference. After the 1979 revolution, the judicial system was revised to conform to an Islamic canon based on the Koran, "Sunna" (the traditions of the Prophet), and other Islamic sources. The Constitution of the Islamic Republic provides that the head

of the judiciary is chosen by the Supreme Leader. The head of the Supreme Court and Prosecutor General must also be clerics. Women continue to be barred from serving as certain types of judges. There are several court systems in Iran. The two most active are traditional courts, which adjudicate civil and criminal offences, and Islamic revolutionary courts, which try offences viewed as potentially threatening to the Islamic Republic, including threats to internal or external security, narcotics and economic crimes, and official corruption. A special clerical court examines alleged transgressions within the clerical establishment, and a military court investigates crimes connected with the military or security duties. A press court hears complaints against publishers, editors and writers. The Supreme Court has authority of review over some cases, including appeals against death sentences. Many aspects of the pre-revolutionary judicial system survive in the civil and criminal courts. For example, under the Constitution and Criminal Procedure Code, a defendant has the right to a public trial, presumption of innocence, a lawyer of his or her choice, and the right of appeal in most cases involving major penalties." (UK Parliament House of Commons Library (11<sup>th</sup> December 2009) *The Islamic Republic of Iran: An introduction*)

A report by *Freedom House* under the heading 'Political Rights and Civil Liberties' states:

"The judicial system is not independent, as the supreme leader directly appoints the head of the judiciary, who in turn appoints senior judges. General Courts ostensibly safeguard the rights of defendants, but in practice, suspects are frequently tried in closed sessions without access to legal counsel. Political and other sensitive cases are tried before Revolutionary Courts, where due process protections are routinely disregarded and trials are often summary. Dissident clerics are tried before the Special Court for the Clergy. The country's penal code is based on Sharia and provides for flogging, stoning, amputation, and hanging for a range of social and political offenses; these punishments are carried out in practice." (Freedom House (2009) *Freedom in the World 2009 – Iran*)

### **References:**

Freedom House (2009) *Freedom in the World 2009 – Iran*

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US Department of State (11<sup>th</sup> March 2010) *2009 Human Rights Report: Iran*  
<http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136068.htm>  
(Accessed 18<sup>th</sup> March 2010)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

**Sources Consulted:**

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