

Appraisal of the EU Human Rights Dialogues:

- Assessment of the Human Rights situation in Iran -

July 2004

Contact

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Relations with the international human rights system and conventions

Relations to international human rights Conventions

No progress have been achieved by Iran in the field of ratification of international human rights instruments.

The FIDH has continuously insisted on the necessity for Iran to ratify the Convention on the Elimination of All Forms of Discrimination Against Women, including the Optional protocol recognising the competence of the CEDAW to receive and consider individual communications ; the UN Convention against torture (CAT) ; and the Statute of the International Criminal Court. Those conventions should be ratified without reservations that are incompatible with their aim and object.

The first session of the EU/Iran Human Rights dialogue, which took place in December 2002, focused on the prevention of torture and discrimination. The draft legislation on torture and its necessary compatibility with the CAT have been discussed extensively as well as discrimination against women and the added value of CEDAW ratification. In spite of the hopes raised by the first round-table and the assurances given by the Iranian side on that occasion, **the laws ratifying the CEDAW and the CAT have been censored by the Council of Guardians in August 2003.** The reason invoked is the incompatibility of the text of those conventions with the principles of Sharia. Such an argument is in clear contradiction with the jurisprudence of CEDAW and CAT with regard to other countries ruled by Islamic law.

In May 2004, for the second time, the outgoing Parliament adopted a bill approving ratification of the UN Convention against torture. The text was rejected once more by the Council of Guardians.

The Statute of the ICC was signed by Iran on 31 December 2000. Since then, no progress has been achieved with regard to ratification of the Statute.

Iran should ratify the first protocol to the International Covenant on Civil and Political Rights, which would make individual communications to the UN Human Rights Committee possible.

Relations with UN human rights special mechanisms and treaty bodies

Special mechanisms

Iran's cooperation with UN human rights mechanisms has improved during the period of the dialogue, following an open invitation to thematic UN mechanisms. Three UN mechanisms visited Iran : the Working Group on Arbitrary Detention (February 2003), the Special Rapporteur on Freedom of Expression (November 2003) and the Special Rapporteur on Migrants (February 2004). The Working Group on enforced disappearances visit to Iran has been delayed, while discussion are under way for the Special Rapporteur on violence against women to visit the country.

Treaty bodies

The respect by Iran of its obligations under the Convention on the Rights of the Child will be examined in September 2004 by the UN Committee on the Rights of the Child. Iran has also reported in February 2003 to the Committee on the elimination of racial discrimination, which led to CERD examinations in August 2003. We take note of Iran's acceptance to conform to UN report obligations, and thus accept international examination of human rights situation in the country.

However, Iran has not reported to the ICESCR and ICCPR for almost 10 years, and the lack of implementation of the recommendations issued by UN special mechanisms and treaty bodies is deeply worrying.

Openness, access and transparency

The FIDH has not been able to visit Iran, in spite of increased contacts with the Embassy of Iran in France.

Civil rights and political freedoms

Legislative elections

In its conclusions of 23 February 2004, the Council “expressed its deep regret and disappointment that large numbers of candidates were prevented from standing in this year's parliamentary elections, including many sitting members of the Majlis, thus making a genuine democratic choice by the Iranian people impossible. This interference was a setback for the democratic process in Iran”.

The Conservatives won the legislative election on 20 February, victory which was confirmed at the second ballot which took place on 8 May 2004. The Conservatives now have 195 seats on 290 in the Parliament (Majlis). Reformists, who held 190 seats in the outgoing assembly, won around 40. The new parliament is effective since 27 May 2004.

In January 2004, the Council of Guardians has rejected about 2500 on the 8000 candidates to the legislative election. The reason alleged to justify the rejection of those candidates was that they had violated the Islamic principles and the Constitution of Iran. The majority of the rejected candidates were reformists, including 87 members of the outgoing Parliament. This was nearly a third of the members of the Parliament. February's elections finally saw the lowest turnout since the Islamic revolution in 1979 with just over 50% of the electorate turning out to vote.

After his visit in Iran last November, the UN Special rapporteur on freedom of opinion and expression said that “the current practice of the Council of Guardians of screening, mainly on the basis of subjective criteria, the candidates to the election, is an impediment to the effective exercise of the right to take part in the conduct of public affairs and to the free expression of voters”. It consequently violates art. 25 of the International Covenant on Civil and Political Rights, ratified by Iran.

Freedom of expression

Since the journalist Zahra Kazemi has been murdered, the situation of journalists and the press in general has worsened in Iran. In 2003 RSF World Press Freedom Ranking, Iran is classified 160th out of 166 countries examined by the NGO.

The critical situation of freedom of expression has also been stressed by the UN Special Rapporteur on freedom of opinion and expression in his report published in January 2004. Many limitations to the right to freedom of opinion and expression provided for in the Press Law and the Penal Code do not conform with the permissible restrictions listed in article 19, par. 3, of the International Covenant on Civil and Political Rights.

The great majority of cases of prosecution of press offences have resulted in the ban (temporary or definitive) of the publications and the sentencing of the journalists concerned to prison terms. Statistics of the Office of the Prosecutor General for Tehran indicated that 81 publications were closed down – 59 after judicial decision and 22 after decision by the Press Supervisory Board – and unofficial statistics, reported by the UN Special Rapporteur, indicate that 98 publications were closed in the past five years.

Many journalists and intellectuals are still in prison. 11 Journalists are currently behind the bars.

<i>Journalists</i>	
Akbar Ganji	Arrested in April 2000
Hassan Yussefi Eshkevari	Arrested in August 2000
Hossein Ghazian	Imprisoned since October 2002
Abbas Abdi	Arrested in November 2002
Ali-Reza Jabbari	Arrested in March 2003
Syamak Pourzand	Imprisoned since 30 March 2003 This detention was considered arbitrary by the WGAD in May 2003
Reza Alidjani Taghi Rahmani Hoda Rezazadeh-Saber	Condemned to heavy sentences on 10 May 2003 by the Revolutionary Tribunal of Tehran Arrested in June 2003
Iraj Jamshidi	Arrested in July 2003
Ensafali Hedayat	Imprisoned since 16 January 2004

Several tens of students are still in prison in connection with the protests of 1999; this is notably the case of **Ahmad Batebi, Manoutchehr Mohammadi, Mehrdad Lohrasbi, Akbar Mohammadi, Farzad Hamidi and Peyman Piran.**

The UN Special Rapporteur on freedom of opinion and expression calls “on the authorities to grant a complete amnesty to all prisoners prosecuted or sentenced for press- and opinion-related offences”.

In the same report, the Special Rapporteur “underlines that the climate of fear induced by the systematic repression of people expressing critical views against the authorized political and religious doctrine and the functioning of the institutions coupled with the severe and disproportionate sentences imposed lead to self-censorship on the part of many journalists, intellectuals, politicians, students and the population at large, thus in effect impeding freedom of expression”.

Besides that, media are strictly controlled by the authorities, and subjected to judicial harrasment. In recent years the Iranian judiciary has shut down at least 100 publications, most of them supportive of the Islamic republic's political left.

In July 2004, two additional moderate newspapers have been closed following action by the hardline judiciary. The pro-reform newspaper *Vaghayeh Etefaghieh* was suspended for “insulting

officials" meanwhile the other pro-reform newspaper *Jomhouriat* shut down for three weeks by its publisher after he was summoned by Tehran general prosecutor Saïd Mortazavi. A group of 150 Iranian journalists as well as the Islamic Republic's embattled reformist government complained on 19 July 2004 over these closures, and accused the judicial system, controlled by the Conservatives.

Right of peaceful assembly, right to demonstrate

The right of peaceful assembly and the right to demonstrate are continuously under restrictions. Public demonstrations are often banned, such as the commemorations of the 1999 deadly student protests. Recently, the fifth anniversary of the violent student unrest, scheduled for the 8th of July 2004, has been banned amid an effort to prevent fresh outburst of anti-regime dissent. Even the Tehran University campus has been shut down for the occasion. On each anniversary of the unrest, the regime seeks to prevent any gatherings from taking place. This is an illustration of the authorities' willingness to muzzle any protest.

The judicial system

If the reestablishment of the function of prosecutor in February 2003 in the judicial system was also a positive step, the appointment of Mr Mortazavi as the Attorney-General of Tehran is extremely preoccupying. Mr Capithorne, the UN Special Representative on Iran, had already acknowledged that Mr Mortazavi was responsible for the closure of newspapers in 2000 and for the arrest of editors and journalists, for the arrest of lawyers who had legitimately exercised their profession as well as for the arrest of the intellectuals who had participated in the conference in Berlin. The WGAD qualifies that appointment as “questionable and questioned”¹.

The FIDH has called for the suspension of Mr Mortazavi from his functions. The FIDH would like to stress that Mr Mortazavi is responsible for the repression against the pacific protests of June 2003 and he had the authority on the detention center of the Guardians of the Revolution where Mrs Kazemi would have been tortured. The involvement of the Prosecutor of Tehran in the death of Mrs Kazemi is clearly evidenced in the Article 90 Commission's report relating to that case².

Arbitrary grounds for arrests and detentions

Arbitrary arrests are still commonplace. People are arrested for the exercise of the rights and freedoms guaranteed by international human rights treaties binding on Iran, in particular the International Covenant on Civil and Political Rights.

In that regard, it should be noted that **Mr Nasser Zarafchan**, a lawyer and human rights defender, is still in prison. He is one of the founding members of the Defenders of Human Rights Association, of which Shirin Ebadi is the president.

During its visit to Iran in February 2003, the UN Working Group on Arbitrary Detention noted that situations of arbitrary detention “were essentially related to infringements of freedom of opinion and expression and many malfunctions in the administration of justice, in particular concerning due process of law, abuse of “solitary confinement”, the role of the revolutionary tribunals and clerical courts, the failure to take account of the principle of proportionality in passing sentence, and the consequences of the abolition of prosecutors between 1995 and 2002 on the observance of the right to a fair trial.”

¹ *Report submitted by the UN Working Group on Arbitrary Detention, to the Commission on Human Rights of the UN Economic and Social Council, E/CN.4/3/Add.2, 27 June 2004, para. 64.*

² *Report N°1 from the Constitution Article 90 Commission concerning « Inquiry into File M4529 regarding the causes and perpetrators of the killing of Iranian photojournalist Mrs Zahra Kazemi ».*

Right to a fair trial

The judiciary is not independent in Iran. As noted by the UN Special rapporteur on freedom of opinion and expression in his January 2004 report, “the judiciary is, according to the Constitution (art. 156) “an independent power” responsible for the administration of justice, i.e. for all judicial, administrative and executive matters relating to the judiciary. In this framework, the head of the judiciary is responsible, *inter alia*, for the appointment, dismissal, assignment and promotion of judges (art. 158). In particular, he is responsible for the appointment of the President of the Supreme Court and the Prosecutor-General, who shall be selected among “Mojtaheds” (doctors in religious law). The Head of the judiciary shall also be a “Mojtahed”, directly appointed by, and accountable to, the Leader (arts. 110 and 157). Therefore, control is exercised to a large extent by the Office of the Leader over the judiciary as an institution, and over individual judges” (para 21).

The Special Rapporteur has identified the following pattern in the process applied to journalists and intellectuals prosecuted:

Most cases relate to an alleged violation of national security provisions, or to provisions on insult to Islam or to religious figures in the Press Law and the Penal Code;

Access to a lawyer is allegedly permitted only after an extremely long period of incommunicado detention (which can reportedly extend from 30 days to, in some cases, more than one year). In this respect, the Special Rapporteur expresses his concern that, according to Commission on Human Rights resolution 2003/32, “prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment or even torture”;

After indictment, there is sometimes a provision for release on bail, but the amounts demanded are reportedly extremely high;

In most cases, hearings take place in closed trials by a Revolutionary Court, in violation of article 168 of the Constitution, and there are reports that in some cases, witnesses called by the defence were not allowed in the court and the files transmitted to the defence lawyers were not complete;

In all cases brought to the attention of the Special Rapporteur, extremely severe sentences were imposed on the defendants - prison terms of several years, sometimes lashes and, in rare cases, the death penalty” (para 48).

The Special Rapporteur “is seriously concerned about this pattern, which indicates (...) that the procedural rights of the defendants are not respected” (para 49).

The Ambassador of Iran, during the last session of the UN Commission on Human Rights in Geneva, declared that revolutionary courts no longer have jurisdiction over press cases : those cases will be tried by a committee composed of three judges and a jury (provincial criminal courts). This was an express recommendation of the UN Special rapporteur on freedom of opinion and expression. However, in practice, the situation did not change. Journalist Ensafali Hedayat, e.g., was condemned to one year imprisonment in April 2004 by a tribunal composed of one judge only, and no jury. Hashem Aghajari (it is not a press case but a case related to freedom of expression) saw his death sentence for blasphemy confirmed by a regional court in May 2004 – the court was composed of one judge only, and no jury... Aghajari was condemned to a five-year jail sentence in July 2004 following his retrial. Again, one judge made the decision and there was no jury.

With regard to students arrested after the peaceful protests of 1999 and June 2003, the UN Special rapporteur notes that the process is “very similar to the pattern identified in the cases of journalists and intellectuals as cited above. Students prosecuted for their participation in the 1999 and 2003 demonstrations were reportedly not allowed the assistance of a lawyer until their indictments and - in the cases of those who have already been tried - the trials by a Revolutionary Court were closed and often very short” (para 58).

Zahra Kazemi's case

In his report of January 2004, the UN Special Rapporteur on freedom of opinion and expression denounced the lack of transparency after the investigation. He indeed notes that he “fears that... there will be no adequate and satisfactory response from the authorities to this odious crime and that the chain of responsibility will not be elucidated, at least not publicly, thus allowing the persons responsible for Mrs. Kazemi’s death to remain unpunished ... by failing to fully disclose the findings of the comprehensive inquiries carried out, the authorities are favouring a climate of impunity for officials of law enforcement agencies and send a message that officials are not accountable to the people for their acts”³.

Two intelligence officers were arrested and charged in August 2003 following the death of the Irano-Canadian photo-journalist Zahra Kazemi as a result of beatings while in detention.

The first hearing was held on 17 July 2004, almost one year after the death of Mrs Kazemi. No charges were brought against the Public Prosecutor of Tehran, who is still in place despite the fact that his responsibility in the arrest of Zahra Kazemi has been clearly established. On 18 July 2004, the case was resumed by the Court. The hearing was held in violation of the right to a fair trial since the persons involved in the case according to the reports of the Article 90 Commission and the Commission of enquiry appointed by President Khatami were not heard by the Court, in spite of a specific request by the lawyers of Mrs Kazemi's family. In addition, foreign journalists and diplomats were not allowed to enter the courtroom on 18 July, which had not been the case the day before.

On 25 July, the judgement was made public : it acquits intelligence agent Mohammad Reza Aghdam Ahmadi. The lawyers of Mrs Kazemi family have 20 days to appeal the decision.

The FIDH recalls that in addition, up to now, no demarches were made by the Iranian authorities to ensure that the body of Mrs Kazemi be sent back to Canada, as requested by her family.

³ *Report submitted by the UN Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo, to the Commission on Human Rights of the UN Economic and Social Council, Doc. UN E/CN.4/2004/62/Add. 2, 12 January 2004, para. 78 and 79.*

Torture

In April 2004, the Head of the Judiciary, Ayatollah Mahmoud Hashemi Shahroudi, issued instructions for the judiciary, the police and the security forces asking them to respect the law : “During arrests or questioning, blindfolding, restraining pestering and insulting of detainees must be avoided. (...) Agents carrying out interrogation should not hide their faces, nor stand behind the accused backs, nor take them to secret locations (...) All forms of torture aiming to obtain confessions is banned, and confessions obtained in this way have no legal or religious value (...)”. The directive added that arrests must be the exception, carried out within a legal timeframe and “where possible, families must be informed”.

In May 2004, the Council of Guardians approved a bill banning torture. The legislation strengthens rights enshrined in Iranian law and the Constitution, by giving the force of law to the above mentioned directives. It should be noted, however, that the bill does not cover corporal punishments, although they are covered by the UN Convention against torture. In addition, there is no indication on how this new legislation will be respected in practice.

In fact, a great number of allegations of torture and inhuman or degrading treatment are continuously recorded. It is clearly stated and illustrated in the Report of the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment for the 60th session of the UN Human Rights Commission. According to the allegations recorded in the report, torture is common in Iran.

For instance, on 2 April 2003, the Special Rapporteur sent a joint appeal with the Special Rapporteur on the right to freedom of expression concerning Amir Abbas Fakhavar, a student, writer and journalist, who “was ordered to appear before the Revolutionary Court on North Tehran on 18 March 2003 to hear an appeal against his eight-year sentence for writing a book which was reportedly critical of the Iranian state. When Amir Abbas Fakhavar appeared in court, he was reportedly not permitted to be represented by the two lawyers who had represented him on previous occasions. After an argument with the judge, he was reportedly beaten in front of judges, officials and both his parents, before being transferred to Qasr prison. He is said to be in need of medical treatment for severe injuries sustained in court”⁴.

⁴ Report submitted by the UN Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, Theo van Boven, to the Commission on Human Rights of the UN Economic and Social Council, Doc. UN E/CN.4/2004/56/Add.1, 23 March 2004, para. 815.

Criminal punishment

It seems that the death penalty as well as other forms of cruel, inhuman and degrading punishments continued in the same proportions as in the previous year.

	2002	2003
Executions	At least 113	At least 108
Death by stoning	At least 2	At least 4
Flogging	At least 84 (flogged)	At least 197 (flogged or sentenced to be flogged)
Amputations	No indication	At least 11

Source : Amnesty International Annual reports 2003 and 2004.

With regard to the death by stoning, a decree was reportedly adopted by the Judiciary in 2003 establishing a moratorium on the death by stoning. However, that decision has not been respected (Amnesty reports that four men were condemned to the death by stoning in November 2003). In addition, a decree can be reversed at any moment : it should be enshrined in a law adopted by the Parliament.

One specific death penalty case has attracted much international attention. **Hashem Aghajari**, a well-known intellectual and professor, saw his death sentence for blasphemy confirmed by a regional court in May 2004. He had criticised the clerical rule in Iran in 2002. In November 2002, he had been condemned to the death penalty. In January 2003, the Supreme court ordered a re-trial. This re-trial resulted in the confirmation of the death sentence. However, Judiciary spokesman Gholam Hossein Elham said on 1st June 2004 that the Supreme Court had scrapped the sentence because it was not satisfied with the review of the case. Aghajari was condemned to a five-year prison sentence in July 2004 following a review of his case.

Mr Aghajari is currently being held in the Evin prison in Tehran.

In her march 2004 Report, the Special Rapporteur, on extrajudicial, summary or arbitrary executions made it clear that she was “deeply concerned that in a number of countries the death penalty is imposed for crimes which do not fall within the category of the “most serious crimes” as stipulated in article 6, paragraph 2, of the International Covenant on Civil and Political Rights and paragraph 1 of the Safeguards guaranteeing protection of the rights of those facing the death penalty. In this connection, the Special Rapporteur jointly with the Special Rapporteur on the question of torture sent an urgent appeal to the Government of the Islamic Republic of Iran regarding summary executions that allegedly occurred and at risk of occurring, after a riot started on 9 February [2003] in a prison in Esfahan. Reports indicated that since the riot, a number of prisoners, including Seyed Mahmoud Mirsafian and Seyed Atta Naser Mirsafian, were reportedly executed although they were

originally imprisoned for drug-related offences.”⁵

Another cause for concern is the manner in which death sentences are executed. On 20 October 2003, the Special Rapporteur sent a communication to the Government of the Islamic Republic of Iran regarding the case of four Iranian prisoners who were allegedly hanged in public in different locations in the city of Arak on 30 January 2003. One of them was reportedly executed in front of the university’s main entrance, allegedly to create a climate of fear after recent demonstrations staged by Arak University students. In her report, the Special Rapporteur recalls that «paragraph 9 of the Safeguards guaranteeing protection of the rights of those facing the death penalty stipulates that “where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering” »⁶.

⁵ *Report submitted by the UN Special Rapporteur on Extrajudicial, summary or arbitrary executions, Asma Jahangir, to the Commission on Human Rights of the UN Economic and Social Council, Doc. UN E/CN.4/2004/7, 22 December 2003, para. 50.*

⁶ *Idem, para. 53.*

Discrimination

Discriminations against women

It should be noted that in August 2003, the legislation passed by the outgoing parliament ratifying the CEDAW was rejected by the Council of Guardians.

Women do not enjoy the same rights as men within the judicial process:

The responsibility under criminal law for the girls is 9 years old, while it is 15 years for the boys. They could even be condemned to the death penalty. On the contrary, they are responsible under civil law when they reach 18 years old, except if a court states that the child is mentally mature.

According to article 300 of the Islamic Penal Code, the blood money for a female is half as much as that of a male. If a woman kills someone (a man or a woman), she may be condemned to the death penalty. However, according to Art. 209 of the Islamic Penal Code, if a woman is murdered by a man, the family of the victim must pay (half of the blood price of the murderer) to the family of the murderer in order to allow that the murderer be judged by a court and condemned to the death penalty.

The legal value of a woman's sworn testimony has half the value of a man's testimony (art. 237 of the Islamic penal law).

Currently, the state takes half a couple estate if a husband dies in the absence of other heirs than his wife. The wife inherits only half of the estate. When wives die in the same circumstances, husbands are entitled to the entire estate. The outgoing parliament adopted a bill to address that discrimination in May 2004, but there is little chance that the Council of Guardians approve the reform.

As recalled by the UN Special Rapporteur on violence against women in her March 2004 report, numerous information tends to show that in Iran “the women face discrimination in the criminal justice system and are subjected to forms of punishment, such as stoning, amputation and blinding, which amount to torture, forced marriages, high levels of domestic violence and sexual violence at the hands of gangs and organized crime rings. Furthermore, information was transmitted of allegations of widespread violence against women prisoners and political opponents that reportedly took place primarily during the time the Ayatollah Khomeini was in power and included the alleged rape, torture and execution of many women. The Special Rapporteur expressed particular concern about the reported involvement of senior State and religious officials in these crimes, and about allegations of continued torture and sexual abuse of women prisoners.”

On 24 November 2003 the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on torture regarding a report in the Tehran newspaper *Kayhan* of 15 November 2003, which stated that seven women, about whom no further details were provided, were sentenced to 50 lashes each by a general court in Shiraz for allegedly showing disrespect (*hormat shekani*), for the holy month of Ramadan. The women were allegedly accused of driving around the streets of Shiraz, listening to loud music and dancing in the vehicle.

In September 2003, the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal to the Government of the Islamic Republic of Iran concerning the case of Afsnaneh Nozouri. Ms. Nozouri was sentenced to death for having stabbed to death the head of police intelligence in Kish, southern Iran. She allegedly acted in self-defence in order to prevent being raped, thereby meeting the conditions laid in article 61 of the Islamic Criminal Code, which stops prosecution and punishment if a person acts in self-defence to defend one's life, honour or chastity. Under the existing Islamic statute, it is reported that had she not defended herself from being raped, she would have most likely been accused and tried for adultery and faced death by stoning.

In her Report for the 60th session of the UN Commission for Human Rights, the Special rapporteur welcomes the initial response from the Government of the Islamic Republic of Iran reporting that the head of the judiciary ordered that the implementation of the sentence be postponed for further consideration. But, while the Rapporteur specifically asked for more details, the Iranian authorities have not done so up to now, and it is to be noted that amid all the urgent appeals and communications issued by the Special Rapporteur on extrajudicial, summary or arbitrary executions, this one was the only communication answered by Iran in 2003.

Discriminations against minorities

According to art. 207 of the Islamic Penal Code, “whenever a Muslim is killed, the murderer shall be subjected to *qesas*” (crime of retaliation). This means that whenever a non-Muslim is killed, the murderer will not be subjected to *qesas*; in that case, blood money must be paid to the family of the victim.

According to art. 210, “whenever a non-Moslem living under the protection of the Islamic government on a non-temporary basis murders another non-Moslem living under the protection of the Islamic government on a non-temporary basis, s/he shall be subject to *qesas* even if the two are believers of different religions”.

Consequently, people belonging to non-recognised religious minorities are not protected by the law. It is only if the court considers that not punishing the murderer creates general disorder in the society or encourages the murderer to commit further crimes, that the murderer can be sentenced to three to ten years of imprisonment (art. 208 of the Islamic Penal Law).

The condition of Bahá'ís is particularly worrying. In August 2003, the Committee on the elimination of racial discrimination took note “with concern of the reported discrimination faced by certain minorities, including the Bahá'ís”, and “that certain provisions of the State party's legislation appear to be discriminatory on both ethnic and religious grounds”⁷.

⁷ *Concluding observations of the Committee on the Elimination of Racial Discrimination: Iran (Islamic Republic of)*, CERD/C/63/CO/6, 10 December 2003, para. 14.

Their situation has been worsening during the last two years. Indeed, during his interactive dialogue at the Commission on 2 April 2004, Mr. Abdelfattah Amor (UN Special Rapporteur on freedom of religion or belief) responded to a question on this situation by saying:

“It is indisputable that the Bahá'ís constitute a community facing persecution of a particular kind in Iran: persecution as regards the law; political persecution; religious persecution. And it is not for a State – any State whatsoever – to judge a belief or a religion. (...) At a certain time, we believed that things had calmed down somewhat, with regard to the Bahá'ís in Iran. Unfortunately, it seems clear to me that now the situation is again a cause for concern.”

Bahá'ís in many different localities in Iran are still subjected to arbitrary arrest, short-term detention, and persistent harassment, intimidation and discrimination. All attempts to obtain redress are systematically denied as officials continue to confiscate Bahá'í homes, deny them their rightfully earned pensions and inheritance, block their access to employment or impede their private business activities. The authorities also interfere with classes given to Bahá'í youth in private houses and persist in banning the sacred institutions that perform, in the Bahá'í Faith, most of the functions reserved to clergy in other religions.

According to the Bahá'í International Community, many official documents clearly indicate that it is still the policy of the Iranian government to deprive the Bahá'ís of all rights. In one of these documents (pertaining to the cases of five Bahá'ís whose rightfully earned pensions had been suspended), the Ministry of Agriculture responded in January 2003 to an Administrative Court's verdict in favour of the plaintiff as follows: “[implementing this judgement] not only create[s] a variety of problems for the ministry, but also allow[s] such individuals, who openly confess to being followers of the perverse Bahá'í sect, to claim civil rights”. The Ministry's blatant statement serves as further evidence that, contrary to their claims, national government officials sanction and pursue persecution against the Bahá'ís, even when solutions are proposed at individual and/or local level.

As of July 2004, a Bahá'í follower was still being held in Iran under a sentence of life imprisonment for apostasy, only because of his religious beliefs.

Eventually, many Bahá'í holy places have been demolished by the Iranian authorities. The last record, reported by the Bahá'í International Community, is that of a holy place in Tehran, at the beginning of July 2004. This constitutes a violation of article 18 of the International Covenant on Civil and Political Rights.

The prison system

The FIDH does not have first-hand information regarding the conditions of detention in Iran. It stresses, however, that when the WGAD visited the sector 209 at the Evin prison, the visit was cut short under the pressure of two individuals who firmly requested the delegation to leave, even though the authorisation had been agreed by high-level ministerial representatives, who were with the delegation and thus present in the prison. The WGAD qualifies sector 209 as “a prison within a prison”.

The Working group denounces as well the abuse of solitary confinement. Prolonged incommunicado detention in press and opinion-related offences was also denounced by the Special Rapporteur on freedom of opinion and expression after his visit to Iran. In that regard, the FIDH recalls the Commission on Human Rights resolution 2003/32, in which the Commission “reminds all States that prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment or even torture, and urges States to respect the safeguards concerning the liberty, security and the dignity of the person”.