

## UNCT-IRAN CONTRIBUTION TO UNIVERSAL PERIODIC REVIEW OF THE I.R. OF IRAN

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### I. Background and Framework

I.R. Iran has a population of approximately 75 million, with a 102 males to 100 females sex ratio. The fertility rate is 1.80 and the population growth rate between 2006 and 2011 was 1.29%. Life expectancy is 71.5 years for men and just over 74 years for women.

Iran is committed to several conventions and protocols.

In 1975, Iran acceded to the International Covenant on Economic, Social and Cultural Rights. The Government acknowledges the Beijing Declaration and Platform for Action, though with reservations. Additionally, Iran is a signatory to the International Conference on Population and Development (ICPD) Programme of Action. Iran has not ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and as a response to CEDAW, the High Council of the Cultural Revolution has developed a 'Charter of Women's Rights and Responsibilities.'

Iran is party to the Convention on the Rights of the Child (CRC), the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography. Iran ratified the CRC in 1994 with a general reservation. Iran has so far submitted three periodic reports to the CRC. The third one was submitted in 2013, which will be reviewed by the CRC in June 2015. The National Body on the Convention on the Rights of the Child (NBCRC) was established under the Ministry of Justice, as per the Council of Ministers' decision, in January 2010. This Body has a special mandate to monitor implementation of the CRC in Iran and has activated five working groups on Legal/Judicial, Protection and Coordination, Education/Information Dissemination, Monitoring and Evaluation and Violence against Children.

The Islamic Republic of Iran ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in 1976. Iran is not a State party to the 1954 Convention relating to the Status of Stateless Persons, nor to the 1961 Convention on the Reduction of Statelessness.

### III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

#### A. Equality and non-discrimination

Generally, there are no legal restrictions on women's ownership rights and access to bank loans and other form of credits. In regards to inheritance, a woman's share is generally half that of a man's entitlement. This is commonly justified by the fact that a woman has no financial responsibility towards her husband and children. In 2008, the civil law was revised so that a woman can now inherit both land and property in the event of her husband's death and demand her share of the inheritance without delay.

In most circumstances, a women's testimony is worth half of that of a man's. According to the penal code and penal procedural law, in some cases where there are female witnesses, a man must also provide testimony for the court to accept a woman's testimony. In some cases, women do not have the right to offer testimony.

The judiciary has recruited female lawyers who can act as advisers to the male judges in family courts, to influence their decisions. While women can be appointed to certain judicial positions - such as counsellors and investigators - they are barred from acting as sitting judges who issue verdicts. Currently, there is no woman in decision-making judicial positions such as the presiding judge of a court.

An Iranian woman who is married and has children with a foreign man is not allowed to pass on her nationality to their children. The child's nationality is determined by the nationality of his or her father. As a consequence, a large number of children born to Iranian mothers and Afghan or Iraqi fathers do not have a birth certificate or a nationality. While an Iranian man can transfer his nationality to a non-Iranian spouse, an Iranian woman is barred from doing so.

## **B. Right to life, liberty and security of the person**

The Islamic Republic of Iran's 4th National Plan, 2005–2010, emphasized the reduction of violence against women. Prior to its endorsement, the Iranian National Committee on Elimination of Violence against Women was established in 1998. Under the Presidency of Mr. Khatami, a comprehensive, three-year survey was conducted in 28 provinces to understand the scope of the problem, and was published in 2004. The report indicated that 66% of Iranian women have experienced domestic violence by their husbands at least once in their marriage.

In the case of divorce, the legal rights of women and men differ, with only men having unilateral and unconditional divorce rights. Minor reforms have been introduced to divorce legislation, such as a clause in the marriage contract, which has to be signed by the husband, giving the women the right to divorce. However, this right needs to be confirmed by a court, therefore it can be said that the current legal framework of family law does not offer full equality to women.

Custody and guardianship of children are determined separately. Guardianship, which mainly deals with legal and financial issues, primarily belongs to the father and/or paternal grandfather, while the physical custody of children is the right and duty of both parents. However, in the case of divorce, only one parent can have this right. When parents are separated/divorced, the mother has guardianship until the child turns 7, after which custody will devolve upon the father. However, the father will also assume guardianship before the child turns 7 if the mother remarries – a rule that does not apply if the father remarries.

A girl under the age of 13 can marry, but needs the permission of a judge. In September 2013, the 'Protection of Children and Adolescents without Guardians or with Bad Guardians,' law was passed, which allows a man to marry his stepdaughter or adopted daughter. The law repeals a previous piece of legislation passed by parliament which forbade such marriages. However, the Council of Guardians disapproved the earlier law, finding it to be against Sharia.

## **C. Administration of justice, including impunity, and the rule of law**

The use of capital punishment for drug related crimes has been the subject of high-level discussions between the United Nations Office on Drugs and Crime (UNODC) and Iranian authorities, in four different meetings between the UNODC Executive Director and the then Iranian Minister of Interior and DCHQ Secretary General between July 2011 and March 2013. In these meetings, the Executive Director reiterated UNODC's concern over the use of capital punishment for drug trafficking crimes (as the latter do not qualify as "the most serious crimes") and called for a moratorium on capital punishment with a view of complete abolition, in line with General Assembly resolutions. The UNODC Executive Director has also reiterated UNODC's calls for more transparency on the part of the national authorities and for data and information on the use of capital punishment for drug related offences to be shared with UNODC

During a meeting with the Special Rapporteur on the situation of human rights in Iran on 24 June 2013, the UNODC Executive Director also reiterated the above mentioned position by UNODC, stressing the value of the Office's presence in Iran as it maintains a dialogue with the Iranian Government on human

rights issues connected to its programme, and underlined the importance of continuing UNODC programmes on fighting drug related crimes, enhancing criminal justice, and promoting drug demand reduction and HIV related issues. UNODC continues to advocate with the Mini Dublin Group and European Presidency, and other possible donors, to maintain their support to the Organization's drug control activities, which represent a unique opportunity for engagement and dialogue in this area of common interest with Iran.

Three bills impacting child rights were ratified and entered into force in Iran in 2013. These include the revised Islamic Penal Code bill (IPC), the bill for the Protection of Children without Effective Caregivers, and the Family Protection Act. In addition, two other bills, including the revised Penal Procedural Code bill (PPC) and the bill on the Protection of Children and Adolescents (Child Protection bill) are still in the ratification process:

- a) The revised IPC<sup>1</sup> includes provisions which promote alternatives to punishment for children who commit crimes under the category of *Ta'zir*. As for children who commit crimes under categories of *Hodoud* and *Qisas*, if they do not understand the nature of the crime or its prohibition and/or there is a doubt regarding their mental maturity and ability to reason, they will be subject to *Ta'zir* punishments (Article 91). This provision is expected to reduce the issuing of capital punishment for crimes committed by children below the age of 18. According to the Prison Organization, implementation of the child-related provisions of the revised IPC has contributed to the number of children deprived of liberty being reduced from 2000 in 2012 to 1000 at the end of 2013.
- b) The bill for the Protection of Children without Effective Caregivers provides a legal framework for adoption of children below the age of 16. The Note under Article 26 of this bill was severely criticized by child rights activists, because it allows for marriage between the adopted child and the adoptive parent if a competent court, in consultation with the State Welfare Organization, finds it in the interest of the child.
- c) The Family Protection Act addresses family-related issues, including marriage, divorce, custodianship and care of children, etc. The positive provisions of this Act include expanding family courts, establishing family counselling centres, and urging the family courts to use female counselling judges. This Act has been criticized by some activists for allowing temporary marriages of women to men, including married men (Article 21).
- d) Child-related provisions of the revised PPC bill address some of the existing gaps in the juvenile justice system and provide for establishing specialized juvenile police units, juvenile prosecution offices, and juvenile courts in the country.
- e) The bill on the Protection of Children and Adolescents (Child Protection bill) addresses situations that place children at risk e.g. lack of effective caregivers, malfunctioning of the family or legal guardian of the child, maltreatment of the child, involvement of the child in prostitution, pornography, drug smuggling, addiction, and forced labour. The bill considers child victims and witnesses of crime in need of protection and establishes certain mechanisms for protecting children at risk and in need of protection.

The age of criminal responsibility is linked to the age of puberty (in accordance with Sharia law) and is eight years and nine months (nine lunar years) for girls and fourteen years and seven months (fifteen lunar years) for boys.

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<sup>1</sup> The provisions of the bill on Addressing Children and Adolescents' Crimes (Act of Formation of Juvenile Courts or Juvenile Justice Bill) were integrated into the revised IPC and PPC bills.

No official data on children in conflict with the law, in particular children at risk of execution, is publicly available. However, various sources indicate that approximately 160 juvenile offenders are at risk of execution for crime committed below age of 18.

#### **E. Freedom of movement**

One of the most notable changes in Iranian gender politics over the last 30 years has been the substantial entry of women into public life. The mass mobilization of Iranian society during the Revolution and the Iran-Iraq War brought many women into the public sphere in unprecedented ways. Following the Revolution, the advent of an Islamic public sphere aided women's efforts to claim social rights that had previously been off-limits.

Hijab is the term used for the proper Islamic dress for women. In Iran, women are required to cover their bodies with the exception of face and hands. The implementation of the rule is left to the discretion of law enforcement forces. Following President Rouhani's election, Iran's morality police was barred from arresting women deemed to be immodestly dressed, as the President has moved to fulfil an election promise to ease the Islamic dress code. President Rouhani also moved to rein in the *Gashte Ershad* (Guidance Patrol) and ordered the Iranian police to hand over the responsibility of this issue to the Ministry of Interior, interpreted as an easing of the customs that have governed personal behaviour, particularly that of women.

For a woman to obtain a passport and travel abroad, her husband's written consent is required. A married woman does not have the freedom to choose her residence, which is decided by her husband, and legally, a woman does not have the freedom to leave the house without her husband's consent. In addition, sex segregation in certain public spaces also limits women's freedom of movement.

#### **F. Freedom of religion and belief, expression, association and peaceful assembly**

Under the Rouhani presidency, three female Vice-Presidents have been appointed: Masoumeh Ebtekar, Vice-President and Head of Environmental Protection Organization; Shahindokht Molavardi, Vice-President of Women and Family Affairs; and Elham Aminzadeh the first female Vice-President for Legal Affairs. Marzieh Afkham was in 2013 appointed Iran's first female Foreign Ministry spokesperson and Head of the Center for Public and Media Diplomacy at the Ministry of Foreign Affairs.

Iran does not place any legal obstacles for women to be elected as Members of Parliament (MPs). However, only 73 women – out of 2,700 MPs – have ever been elected over the course of nine Parliamentary terms. The number of women MPs has significantly decreased since 2004, and is currently 2.4%. Iran currently has no female cabinet ministers.

#### **G. Right to work and to just and favorable conditions of work**

Iranian women make up only 13% of the workforce in paid positions. While the civil service is gradually becoming feminized, the private sector remains male-dominated. In 2012, the estimated unemployment rate was 19.9 per cent for women.

Women employed by ministries and their affiliated organizations enjoy certain advantages during maternity leave and breast-feeding compared to women in the private sector, and often women working in private and informal sectors face difficulties in negotiating such advantages with their employers. Cultural and religious norms do not encourage women's employment in demanding jobs which interfere with a women's role and responsibilities in the family.

In an effort to increase the declining fertility rate a proposed new bill requires private and public employers to prioritize in their hiring first married men with children – then married men – and only then women with children.

#### H. Right to social security and to an adequate standard of living

An increasing number of poor households are headed by women, known as 'Female-headed households' (FHH). Statistics indicate that the number of FHH has increased by 71.8% in the past 15 years, and was 12% in 2011. According to the most recent figures for FHH, more than 2,500,000 households are headed by women. Female-headed households face unique social and economic challenges, and the proportion of such households is growing in Iran.

#### I. Right to health

Islam places great emphasis on the right to health, including on matters such as safe motherhood, healthy children and ensuring that pregnancies are wanted. Major progress has also been made at the national level in access to primary health care services. While over-weight and obesity are emerging as a public health concern in the area of nutrition, still in south-east provinces, higher percentages of children are suffering from under-nutrition. Large nutritional disparities are particularly noticeable in the provinces of Hormozgan, Sistan and Baluchistan. For example in Hormozgan province the prevalence of Sever Wasting is as high as 5.05% and in Sistan and Baluchistan out of every 10 child 2 (20%) are suffering from moderate and sever Stunting. This is while the average figure for national level is 6.83% and 4 % for stunting and wasting.

From 1989 onwards, Iran began implementing a very successful family planning programme, endorsed by religious leaders and health experts alike. Contraceptive use has since risen from 37% of married women in 1976 to 73% in 1997, and Iran's family planning programme is today considered a model for developing nations and other Muslim countries.

The maternal mortality ratio (MMR) has declined to 20 out of 100,000, and Iran is one of the few countries to have reached Millennium Development Goal 5A, with an 80% drop in the MMR between 1990 and 2008. The increased rate of contraceptive prevalence among married women, safe deliveries and pre- and post-natal care are contributing factors.

The rate of births attended by skilled health staff is 96% and the contraceptive prevalence rate is 77%. Basic reproductive health care is available throughout the country and women benefit from family planning programs. The adolescent pregnancy rate is 8.3%, with Sistan-Baluchistan and Ardabil provinces having higher rates of around 13%.

Significant achievements have been made in reducing child mortality. From an average of 46.3 per 1000 live births 1993, the U5MR has decreased to 22.5 per 1000 in 2010<sup>2</sup>. Newborn and infant mortality rates have also decreased in the past decade (under 1 mortality and neonatal mortality rate have been reduced to 20.3 and 15.29 respectively) because of increased access to reproductive health services and education. Significant geographical disparities however remain.

The Iranian Parliament in 2012 revoked the existing Family Planning Law, and in January 2014 adopted the new 'Comprehensive Population and Family Excellence Plan,' consisting of 50 articles. The Plan encourages population growth, with a goal to "increase the pregnancy rate to 2.5% of the quantitative population growth until the year 2025, simultaneous with qualitative improvement of the population

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<sup>2</sup> Rashidian A, Khosravi A, Khabiri R, Khodayari-Moez E, Elahi E, Arab M and Radaie Z, Islamic Republic of Iran's Multiple Indicator Demographic and Health Survey (IrMIDHS) 2010. Tehran: Ministry of Health and Medical Education, 2012.

and its stabilization by the year 2051.” As part of a plan to encourage Iranians to have more children, in 2013 the government increased maternity leave from 6 months to 9 months and gave fathers a two-week paternity leave.

Availability and accuracy of data on incidences of HIV/AIDS is a major challenge, however within the framework of the available data<sup>3</sup>, until September 2013, some 27,041 cases of HIV infection had been identified in the country, with injecting drug use being the highest cause of infection (52 %). Furthermore, since 2012, an estimated 33.2% of all recorded HIV cases indicated a sexual route of transmissions. The low level of comprehensive knowledge about HIV amongst youth (18.27%) combined with low prevalence of condom use—lower than 10 %— poses a risk for the latter figure to increase further. The cumulative rate for Mother to Child Transmission (since 1986) is 1.2%. This is while in recent year this rate has become 3.4% showing that this trend has been on the rise. Evidence from the capital also suggests an HIV prevalence of 4.5% amongst street and working children.

## J. Right to Education

Iran has shown improved results in the education sector and has been successfully moving towards reaching MDG2, universal primary education. All Iranian children have full access to primary education now (Adjusted Net Enrolment Ratio of 100 per cent reached in 2011)<sup>4</sup>. Nearly 96 per cent of students entering primary education finish the course and more than 95 per cent of them start the course of secondary education<sup>5</sup>. Challenges exist in primary education of children of poorer families living in disparity rural areas with linguistic backgrounds different from the official language of the country. These challenges are mainly caused by factors such as poverty, inadequate educational measurement methods, low quality of education in rural areas, inflexibility of the curriculum and cultural barriers.

Iranian women enjoy good access to education, and the literacy rate of women to men aged 15-24 is largely on par. During the past decades, the total literacy rate has increased steadily – particularly the literacy rate of women. In 2011, the total literacy rate was 79%, up from 35% in 1976. Adult Literacy Rates of Iranian women and men stand at 81% and 89% respectively, with 99% of women aged 15-24 reported as literate. Iran experienced a startling 21% increase in the rate of women’s literacy in the period 1986-96. At present 94% of Iranian females attend school. The improving enrolment and minimal gender disparity at all education levels further verify this development, with Gender Parity Index in primary and secondary education reported as 0.99, 0.96 respectively<sup>6</sup>.

In terms of secondary and tertiary education, women comprise over 60% of all university graduates. An increasing number of young women are completing higher education, with 64% of all university entrants in 2003 being female. However, the high educational attainment of Iranian women is not yet reflected in their economic status, and opportunities for employment are scarce.

In 2011, the number of women who were admitted to universities dropped from over 60% to 48.7%. This occurred following years of admitting a larger proportion of female applicants, a result of gender-neutral national examinations.

The recent drop in female enrollment came about after a newly imposed quota system for specific subjects in certain universities. In 2012, 36 Iranian universities banned women from enrolling in 77 academic subjects, including nuclear physics, computer science, electrical engineering, industrial

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<sup>3</sup> Ministry of Health, Latest Statistics on the rate of HIV/AIDS infection in Iran, Center for Disease Management, Summer 2008

<sup>4</sup> Education for All Global Monitoring Report, 2013-14, Paris: UNESCO, 2014, p. 353

<sup>5</sup> Rashidian, Arash, *et. al.*, Health Observatory: First Report [of the] I.R. Iran [of the] Multiple-Indicator Demographic and Health Survey, 2010, Tehran: Ministry of Health and Medical Education, 2012, p. 65

<sup>6</sup> Education for All Global Monitoring Report, 2013-14, Paris: UNESCO, 2014, p. 324

engineering and business management. It is estimated that less than 32% of admitted students in technical universities in 2010-2012 were female. This is down from 45% in the period 2007-2008.

#### **N. Migrants, refugees and asylum-seekers**

The Islamic Republic of Iran hosts one of the largest refugee populations in the world. According to the latest statistics shared by the Government in 2011, there were some 840,158 Afghan and 42,501 Iraqi refugees registered with the authorities.

About 60 per cent of the Afghan and Iraqi refugees in the Islamic Republic of Iran have lived in the country for 20 to 30 years. Half of them were born and educated in the country. Over 97% of refugees in the country reside in urban areas, while approximately three per cent live in settlements. Half of the refugee population is female.

#### **Acknowledgments/ Main achievements in refugee protection**

The Iranian Government is the primary contributor in refugee programmes in the country and it continues cooperation with UN in provision of protection to refugees. The Ministry of Interior's Bureau for Aliens and Foreign Immigrants' Affairs (BAFIA) maintains the overall responsibility for coordinating refugee affairs in protection, including registration, health, and education.

Some of the main achievements in the refugee protection in Iran include:

- Iran has played an important and active role in the formulation and adoption of the multi-year Solutions Strategy for Afghan Refugees to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries (SSAR) as well as in its subsequent implementation. The primary focus of the SSAR is to create an enabling environment for sustained return and reintegration in Afghanistan, as well as to address the continued protection of the refugees remaining in Iran and Pakistan, with a key focus on basic needs, livelihoods and social protection.
- The Government's agreement to work with UNHCR and private service providers to offer refugees unprecedented health insurance coverage. Under the current Health Insurance Scheme, UNHCR assists the Government in covering 100 per cent of the insurance premium for some 220,200 vulnerable refugees. This scheme complements UNHCR's other activities in the health sector where it assists the Ministry of Health to ensure that refugees have free access to health care in Iran.
- The Government continues issuing registration documents (Amayesh cards) with a validity period of one year to registered refugees. These cards permit their legal stay and access to a variety of services such as basic health care and education.
- The Government continues issuing temporary work permits (TWP) to qualified refugees, enabling them to work legally in the country and receive benefits. The TWPs are issued with a validity of one year.
- Iran has been providing educational services to refugee children for the past three decades. In the 2012-2013 school year about 309,000 refugee children—that is, approximately %91<sup>7</sup> of all registered Afghan children living in Iran—have been studying in Iranian schools, though with payment of school fees. Unregistered refugee children who are estimated to be equal in number

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<sup>7</sup> Based on UNHCR/MOE Iran report presented at the Kuala Lumpur Refugee Education Strategy Consultation, November 2013

to the registered, however, cannot access education even with payment of school fees. However, the Government has facilitated a partnership between UNICEF and a number of national NGOs through which 6,365 children and 520 Afghan women so far have received informal education and social services.

### Recommendations/Suggestions

In addition to the above, for the fulfilment of UNHCR's mandate functions, as well as for its efforts to improve the situation of persons of concern to UNHCR, it is recommended that the Government of the Islamic Republic of Iran considers the following:

- Ensure robust implementation of the livelihoods programmes in the context of the SSAR to enhance the capacities of refugees to be self-reliant and enhance their capacities to be well able to reintegrate when they attain a durable solution.
- Share updated refugee statistics with UNHCR in line with its obligations under the 1951 Convention relating to the Status of Refugees, with a view to enabling better targeted programming, assistance and protection service delivery.
- Issue birth certificates to refugee children. Children born to refugees in Iranian hospitals may only receive delivery certificates issued by the hospitals. Lack of birth certificates impact negatively on many spheres of children's life, from Amayesh registration, access to education, benefits upon return, etc. UNHCR recommends that the Islamic Republic of Iran issues birth certificates to all children born on its territory, and in particular to the children of registered refugees.