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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Third periodic reports of States parties**

**Iran\*, \*\***

[27 October 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* Annexes may be consulted in the files of the secretariat.

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## In the Name of the Almighty

### I. Introduction

1. The Islamic Republic of Iran is a vast country with more than 73 million population and located in one of the geostrategic areas of the Middle East in the Persian Gulf. According to the constitution that has been voted on by more than 98% of the people, the official language is Farsi and the official religion is Islam. Less than 2% of the population are from religious minorities who also enjoy equal rights privileges according to the law.
2. The Constitution of the Islamic Republic of Iran was adopted in 1980 with the votes overwhelming majority of people. It consists of 14 chapters and 177 articles. Chapter 3 of the Constitution, under the title of “The Rights of People” comprises 24 articles dealing with human rights and fundamental freedoms.
3. In the constitution of the Islamic Republic of Iran the principle of freedom figures prominently and is protected strongly. Article 2 of the Constitution enumerates five principles that are foundational principles of the Islamic Republic of Iran and in fact the cardinal pillars of Islamic faith. They are the principles of One God, divine revelation, return to God in the Hereafter, Justice of God, Imamate, the exalted dignity of man and his freedom coupled with responsibility before God.
4. It is noteworthy that paragraph 7 of the article 2 of the Constitution regards protection of political and social rights within the confines of law as the responsibility of the government of the Islamic Republic of Iran.
5. Article 9 of the Constitution also attaches importance to freedom and its protection in the Islamic Republic of Iran and states that the freedom, independence, unity, and territorial integrity of the country are inseparable from one another, and their preservation is the duty of the government and all individual citizens. The same article also states that no authority has the right to abrogate legitimate freedoms, not even by enacting laws and regulations for that purpose.
6. In the Islamic Republic of Iran all institutions of government arise from the will and direct or indirect vote of the people. The Leader as the first person of the country is chosen by the Assembly of Experts whose members are elected directly by the people. The President and representative of the parliament are also elected by the direct votes of people. Since the victory of the revolution 28 democratic elections have been held. There have been high turnouts of voters in all elections. In the last presidential election 85% of eligible voters (more than 40n million) participated in the election.
7. According to Chapter 7 of the constitution and for the purpose of promoting participation of people in the management of public and local affairs and in most decision-makings and programmes, the law on establishment of local councils was adopted and to this day three council elections have been held nationwide.
8. In 2001, the Head of the Judiciary issued instructions for the establishment of “High Council for Human Rights” for the purpose of better coordination between and among relevant organs and in line with the duty placed on him by the Constitution in respect of human rights. The members of this council comprise representatives from various divisions of the Judiciary and those from government agencies and organizations. One of the duties of this council is to address inadequacies and complaints concerning human rights and providing practical operational solutions in line with the laws of the Islamic Republic of Iran.

9. Concerning the obligations of the Islamic Republic of Iran in respect of human rights, it is noteworthy that the Islamic Republic of Iran is among the first group of countries that on 4 April 1968 acceded to the International Covenant on Civil and Political Rights. In addition to the Preparatory Report, Iran has submitted two periodic reports as well.

10. It should also be mentioned that in addition to the fifth periodic report of Iran to Committee on Economic, Social and Cultural Rights of the United Nations that was submitted this year, 19<sup>th</sup> and 20<sup>th</sup> periodic reports was submitted to the Committee on the Elimination of Racial Discrimination in the latter part of 2008.

11. Regarding the Convention on the Rights of the Child, Islamic Republic of Iran has submitted its two reports and will submit its third and fourth reports in 2010.

12. In keeping with our intention to cooperate with the human rights mechanisms of the United Nations, the Islamic Republic of Iran has had an open invitation for the special human rights mechanisms and to this day the following working groups and rapporteurs have visited the Islamic Republic of Iran:

- Working Group on Arbitrary Detention (Feb. 2003)
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (Nov. 2004)
- Special Rapporteur on the human rights of migrants (Feb. 2004)
- Special Rapporteur on violence against women (Feb. 2005)
- Special Rapporteur on adequate housing (July 2005)
- Independent expert for the Secretary-General Study on Violence against Children (2006)

13. Concerning the initiatives of the Islamic Republic of Iran on human rights, reference should be made summarily to the proposal and adoption of the idea of Dialogue among Civilizations in 2001, initiative of Iran in presenting and adoption of the resolution on human rights and cultural diversity by the General Assembly of the United Nations, holding of the meeting on human rights and cultural diversity for the foreign ministers of the Non-Aligned Movement in 2007, establishment of the NAM Center for Human Rights and Cultural Diversity in Tehran and holding of the meeting of the heads of the Judiciary of Islamic countries in 2007 for the purpose of establishing Legal and Judicial Union of Islamic Countries.

14. The present report is the third periodic report of the Islamic Republic of Iran on the basis of article 40 of the International Covenant on Civil and Political Rights. The purpose of preparing this report is to explain and shed light on some of the actions and legislative, judicial and executive initiatives of the Islamic Republic of Iran based on our international obligations, especially those in the International Covenant on Civil and Political Rights.

## **II. Article 1**

15. Concerning the right of self-determination, article 56 of the Constitution of the Islamic Republic of Iran states: "Absolute sovereignty over the world and man belongs to God, and it is He Who has made man master of his own social destiny. No one can deprive man of this divine right, nor subordinate it to the vested interests of a particular individual or group. The people are to exercise this divine right in the manner specified in the following articles". The Constitution of Islamic Republic of Iran in paragraph c of article 2 negates all forms of oppression, both the infliction of and the submission to it. It believes

that the political system should provide for justice and equity, political, economic, social and cultural independence and national unity.

16. In some parts of article 3 of the Constitution it is stated that the government of the Islamic Republic of Iran has the duty to completely eliminate imperialism and prevent foreign influence, to eradicate all forms of despotism and autocracy and prevent all attempts to monopolize power, to ensure political and social freedoms within the framework of the law, to promote participation of the entire people in determining their political, economic, social, and cultural destiny, to abolish all forms of undesirable discrimination and to provide equitable opportunities for all, in both the material and the intellectual spheres.

17. Article 6 of the constitution states: In the Islamic Republic of Iran, the affairs of the country must be administered on the basis of public opinion expressed by the means of elections, including the election of the President, the representatives of the Islamic Consultative Assembly, and the members of councils, or by means of referenda in matters specified in other articles of this Constitution.

18. Article 9 states: In the Islamic Republic of Iran, the freedom, independence, unity, and territorial integrity of the country are inseparable from one another, and their preservation is the duty of the government and all individual citizens. No individual, group, or authority, has the right to infringe in the slightest way upon the political, cultural, economic, and military independence or the territorial integrity of Iran under the pretext of exercising freedom. Similarly, no authority has the right to abrogate legitimate freedoms, not even by enacting laws and regulations for that purpose, under the pretext of preserving the independence and territorial integrity of the country.

19. In connection with paragraph 2 of article 1 of the Covenant, the Constitution of the Islamic Republic of Iran in articles 46 and 47 states:

Everyone is the owner of the fruits of his legitimate business and labor, and no one may deprive another of the opportunity of business and work under the pretext of his right to ownership.

Private ownership, legitimately acquired, is to be respected. The relevant criteria are determined by law.

20. Concerning rejection of domination, both the exertion of it and submission to it, and protection of aspirations of humanity, articles 152, 153, and 154 of the Constitution state:

The foreign policy of the Islamic Republic of Iran is based upon the rejection of all forms of domination, both the exertion of it and submission to it, the preservation of the independence of the country in all respects and its territorial integrity, the defense of the rights of all Muslims, nonalignment with respect to the hegemonic superpowers, and the maintenance of mutually peaceful relations with all non-belligerent States.

Any form of agreement resulting in foreign control over the natural resources, economy, army, or culture of the country, as well as other aspects of the national life, is forbidden.

The Islamic Republic of Iran has as its ideal human felicity throughout human society, and considers the attainment of independence, freedom, and rule of justice and truth to be the right of all people of the world. Accordingly, while scrupulously refraining from all forms of interference in the internal affairs of other nations, it supports the just struggles of the freedom fighters against the oppressors in every corner of the globe.

### III. Article 2

21. The Constitution of the Islamic Republic of Iran in article 3 states that in order to attain the objectives specified in Article 2, and for the purpose of attaining justice, political, economic social and cultural independence and national unity, the government of the Islamic Republic of Iran has the duty of directing all its resources to attain these goals. These goals are listed in 16 paragraphs. These goals and many others that are part of the Constitution provide the ground for the general policies of the Islamic Republic of Iran.

22. The Twenty-Year Vision does not have qualitative or quantitative indicators and accordingly the general macro policies are not regarded as qualitative indicators. These policies are part of the vast reach of the Vision document and draw the tangible strategies for the attainment of its goals.

23. The macro policies that have been adopted by the Expediency Council can be divided into two categories of specific general policies and overall general policies. The specific general policies are in terms of subject matter and the target audience that are especially inclusive. They are binding for the same subject and relevant agencies. The overall general policies are for diverse subjects and are generally inclusive and binding for all relevant agencies and institutions.

24. In this same connection, the strategic policies of the Judiciary can be divided into overall general policies and those relating to structural and organizational development of the Judiciary.

#### **First: overall general policies of the Judiciary**

25. These documents are undoubtedly under the general policies specific to an institution. In this connection two specific documents have been drawn up in relation to the Judiciary.

26. In accordance with article 19 of the Constitution “all people of Iran, whatever the ethnic group or tribe to which they belong, enjoy equal rights; color, race, language, and the like, do not bestow any privilege”.

27. Article 20 of the Constitution also states: “All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.”

28. Moreover paragraph 14 of article 3 of the Constitution stipulates: ... securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law is the duty of the government of the Islamic Republic of Iran.

29. Paragraph 9 of article 3 of the Constitution regards the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all, in both the material and the intellectual spheres as another duty of the government of the Islamic Republic of Iran.

30. The overall general policies of the Judiciary were adopted by the Expediency Council on 28/08/1379 and with some amendments were promulgated by the Leader in 17 paragraphs on 28/07/1381. These policies are combination of rights of people to enjoy judicial security which are among fundamental and recognized rights of citizens in all countries. These policies are:

Paragraph 1. Structural reform of the judicial system in order to ensure justice, individual and social security combined with speed and accuracy in view of the policies stated in subsequent paragraphs.

Paragraph 2. Orderly and efficient use of courts.

Paragraph 3. Use of multiple judges in important cases.

Paragraph 4. Specialization of court proceedings at the required levels.

Paragraph 5. Centralization of administrative affairs that have judicial character with the definition of judicial essence and amendment of laws and regulations on that basis and substantive review of all pleas for justice and complaints.

Paragraph 6. Reducing the court and hearing time to reach final ruling within appropriate time.

Paragraph 7. Unification of court and trial procedures in conformity with the laws.

Paragraph 8. Improving and strengthening supervisory and inspection capacity of the Judiciary over executive, judicial agencies and institutions.

Paragraph 9. Use of arbitration and other forms of adjudication in settlement of disputes.

Paragraph 10. Elevating the academic levels of law schools and training institutions matching the needs of judicial system and improving legal knowledge of judges, strengthening research capability of the Judiciary and paying greater attention to financial and moral conditions of those in charge of judicial positions.

Paragraph 11. Elevating the knowledge level and moral merits of enforcers of the Ministry of Justice and creating better conditions for the use of police forces.

Paragraph 12. Meeting the financial, organizational and recruitment needs of the Judiciary in light of articles 156, 157 and 158 of the Constitution.

Paragraph 13. Setting Islamic criteria for all judicial affairs, including adjudication, principal and agency relations, enforcement, supervision and continuous follow-up by the Judiciary to ensure good performance.

Paragraph 14. Review of legislations and laws to reduce the title of offences and prison sentences.

Paragraph 15. To draft legislations relating to the Judiciary.

Paragraph 16. Promotion of legal and judicial knowledge in the society.

Paragraph 17. Development of legal assistance and counseling system.

31. General policies of the government to preserve the status and independence of judges (adopted 27/12/1384) for the purpose of creating conducive political, social and cultural conditions to ensure the independence of the judiciary by the following ways:

(a) Independence of judges in adjudication of cases, interpretation of laws, judgment and final ruling;

(b) Evidence-based judgments and rulings without being influenced from outside;

(c) Respecting the status and dignity of judges in the society and administrative system of the country;

(d) Selection of individuals on the basis of merits relating to their knowledge, piety, and the required judicial capability;

- (e) Setting legal criteria for dismissal, appointments, suspension and transfer of judges;
- (f) Providing for the livelihood, security and proper working space for judges;
- (g) Precise and rule-based supervision over the work of the judge and applying the force of the law in respect of judicial violations.

32. Second: General policies relating to the Judiciary: these instruments and documents can be part of the general policies, some of which are dedicated to judiciary, such as general policies relating to management and administrative system (adopted 15/02/1386) that are somehow related to the Judiciary.

## **Second: structural, organizational and substantive developments in the Judiciary**

### **First subject: reform of the judiciary organization**

33. The structure of courts and Prosecutor's Office before the abolition of Prosecutor's Office (Dadsara) comprised General Courts, Reconciliation Courts, Civil Courts One and Two, Criminal Courts One and Two, General Dadsara, Revolutionary Courts and Dadsara, Appellate Courts, and Supreme Court. The Structure of courts and Dadsara after revival of Dadsara are detailed below.

34. General Courts: according to article 4 of the amended law on establishment of General and Revolutionary Courts adopted in 1381 (attachment A-10), in each judicial district with more than one branch of general courts, that branch is divided into civil and criminal branches. Civil courts only deal with civil cases and criminal courts deal with criminal cases.

35. General and Revolutionary Dadsaras: according to article 3 of the above-mentioned law, in each judicial jurisdiction of a city there is a Dadsara with a General Court. Dadsara is responsible for discovery of crimes, filing lawsuits from the perspective of divine rights (God's right) and protection of the rights of the public and Islamic *hodood*, enforcement of rulings and dealing with probate matters.

36. Provincial Criminal Courts: according to the Note to article 4 of the above law, cases for which *qisas* punishment (death sentence), *Qisas* of limbs (amputations), stoning, execution and life in prison apply as well as those relating to press or political offences are tried in the provincial criminal courts. Cases relating to charges against members of the Expediency Council, the Council of Guardians, representatives of the Islamic Consultative Assembly, ministers and their deputies, deputies and advisors of the heads of three branches of government, ambassadors, Prosecutor and head of the Government Auditing Tribunal, judges, provincial governors, and general offences by military and police officers from brigadier general upward, directors general of the intelligence services in provinces are all within the competence of Criminal Court of Tehran, except those that are within the jurisdiction of other judicial authorities.

37. In the capital city of each province there is a branch or branches of Appellate Court as Provincial Criminal Courts. The number of branches is determined by the head of the Judiciary. This branch needs to have five judges.

38. To facilitate trials, the Head of the Judiciary can order establishment of a temporary criminal court in the city where an offence has been committed. In such cases the Prosecutor of that location or his deputy or one of the assistant prosecutors would assume the duties of the prosecutor.

### **Revolutionary Courts**

39. According to article 5 of the aforesaid law, in the capital of each province and regions where it is deemed to be necessary by the Head of the Judiciary, Revolutionary Courts, as required, are established in order to deal with the following offences:

- All offences relating to the state security and “waging war against God or corruption on earth”
- Insulting the founder of the Islamic Republic of Iran and the Supreme Leader
- Conspiracy against the Islamic Republic of Iran, armed action, assassination and destruction of institutions for the purpose of acting against the Islamic Republic
- Espionage for foreign powers
- Cases relating to article 49 of the Constitution

### **Appellate Court**

40. According to article 20 of the law mentioned in paragraph a, for the purpose of hearing protests against the rulings of the General and Revolutionary Courts, appellate courts are established in the capital of each province. The Provincial Court of Appeal has the competence to hear protests against rulings of the General Courts (Civil, Criminal and Revolutionary Courts).

### **Supreme Court**

41. According to article 21 of the aforesaid law, appeals against rulings from Provincial Criminal Courts and those verdicts from the Provincial Appellate Courts that are appealable are heard by the Supreme Court.

Specialized Courts

Titles of Specialized Courts

Civil Court

Criminal Court

Revolutionary Court

Children Court

Family Court

Provincial Criminal Court

Economic Criminal Court

Medical Court

Computer Crime Court

Driving and Traffic Court

Titles of Specialized Courts under consideration:

Specialized Marine Branch

Specialized Urban Lands Branch

Specialized Branches for Banking Claims

Specialized Branches for Diplomatic Missions, Consulate Offices and International Organizations in Iran

- Specialized Branch for Press Offences
- Specialized Branch for Security Offences
- Specialized Branch for Offences against Environment

#### **Developments in the courts**

42. The reform of the judiciary is a subject that is emphasized clearly in the second development plan for the Judiciary. There are a number of paragraphs dealing with the comprehensive structural reform of the Judiciary. The reform is based on the larger and overall mission of the Judiciary and improvement of the indicators relating to fair distribution of resources (human, financial and physical). This is a matter that more than anything else arises from the following needs:

- Preventing unnecessary referrals to the Judiciary
- Promoting the idea of arbitration and settlements by Reconciliation Council
- Strengthening interaction in the Judiciary on one hand, and lawyers and counsels on the other hand
- Benefiting from comprehensive operational information system and management
- Dissemination of information among those using the Judiciary and the Judiciary in an efficient and timely manner

#### **Review of interactions between executive branch agencies and the Judiciary**

43. Carrying out these reforms in the Judiciary requires theoretical support, in matters relating to law, religious jurisprudence, management and other disciplines. Without research and development one cannot be sure that achievements would not become obsolete and outdated. Accordingly, the plan for the reform of the Judiciary should take into account all principal elements essential to the Judiciary and those that are related to it. After initial studies, the following reforms were carried out.

#### **Revival of Dadsaras (Prosecutor's Office)**

44. The Prosecutor's Office as the institution that is responsible for the pursuit of legal proceedings found its place in the modern Judiciary system of Iran after the Constitutional Movement. This institution has weathered many changes with the passage and the exigencies of time. After the victory of the Islamic Revolution, the function of this institution was terminated and its duties were given to the presiding judges in the courts, the Head of the Judicial District. Experts in this field concluded that omission of Prosecutor's Office gives rise to new challenges, including lack of specialization of the courts, waste of court's time, lack of clarity concerning who has the duty to prosecute on behalf of the public and overlapping of the duties of prosecution and crime investigations.

45. After 8 years without the Prosecutor's Office, the leaders of the judiciary branch came to the conclusion that is better to revive this office. The decision was for the purpose of mitigating the problems of the Judiciary. The General and Revolutionary Dadsaras were reinstated, but with more general jurisdiction covering general and revolutionary offences.

46. Moreover, for the purpose of expediting legal proceedings, the automation of Dadsaras and courts was given greater priority. Accordingly, all Dadsaras in the capital of 29 provinces were mechanized and automated by computers. Presently all citizens can submit complaints, file lawsuits, and present statements and other documents via internet and find out about the latest situation of their cases.

47. It is interesting to know that as a result of launching electronic justice system in more than 130 Court Complexes nationwide or in more than 2,300 branches of Dadsara and courts, if the claimant or respondent and other parties to the litigation and their lawyers leave their contact number in the statement of complaint and registered by the user in the system, the time of hearing, the order of the judge, the date of ruling or award and summary of the court verdict can be sent to the parties via SMS.

48. Other advantages of the system are as follows:

- Prevention of loss of dossier in the court
- Prevention of bribery and administrative corruption
- Helping to reduce crime
- Preventing the middleman
- Ease of retrieving the dossier
- Preventing loss of the content of the dossier
- Reducing the court time
- Speed and diligence in responding to the people
- Increasing the speed of the proceedings
- Reducing the cost of proceedings
- Increasing the quality and quantity of cases
- Increasing the evaluation and supervision capability of the management of the Judiciary
- Preventing and reducing administrative offences and violations
- Providing electronic services to the people
- Being able to receive the latest information on the status of the case via information kiosks

#### **Establishment of the Council of Directors General of the Ministry of Justice in provinces**

49. Among other fundamental measures to achieve the goal of judicial development and to create better coordination and unity among Directors General of the Ministry of Justice, affiliated agencies and administrative staff, is the establishment of the Council of Directors General of the Ministry of Justice in provinces. The Council comprises heads of provincial justice departments, administrative officials and heads of the affiliated agencies. This council was established upon the instruction by the Head of the Judiciary in August 1990 and began its formal operation in November 1991. The most important functions of this council are as follows:

- Hearing the reports of the branches of the Ministry of Justice throughout the country, and reflection of inadequacies and problems of the Judiciary to the head of the Judiciary and the Council for the purpose of presenting remedial and corrective proposals
- Setting judicial and executive priorities of the Judiciary
- Presentation and review of the general policies of the Judiciary at different junctures of time

- Expressing views and opinions on the bills proposed by the Judiciary and presenting remedial proposals and the required legislations
- Allocation of a branch for violations of human rights

50. According to Implementing Regulations 1989/14/3/2/s dated 28/6/1380 it was decided to establish a branch of the General Courts dedicated to violations of human rights. With this decision in place, not only cases relating to human rights are reviewed by a special branch, but also the proceedings are expedited.

51. Establishment of these courts does not mean creation of an appellate authority and does not undermine the independence of the judge. The purpose is to have a branch that is able to deal with human rights cases without interrupting the works of the courts, this will prevent tension and would provide better statistics and numbers. The target audience of these courts is the enforcers of the Judiciary, prison staff and those dealing with the case of the accused.

#### **Allocation of a branch for children**

52. Considering the importance of children and for the purpose of increasing the possibility of protecting their rights, the head of the Judiciary, according to circular 1105/78/1 dated 15/11/1387, declared if a judiciary district needs a children court, arrangements should be made in light of article 231 of the Criminal Procedures Code for General and Revolutionary Courts to dedicate a branch or branches cases relating to offences committed by children.

#### **Creation of Reconciliation Council**

53. After the victory of the Islamic Revolution, mandatory arbitration had no place before the adoption of the Law on Third Development Plan, until the time the Legislator decided to legislate the Law on Mandatory Arbitration after trying different laws since 1306. The purpose was to increase people's participation in settlement of disputes. With the adoption of the law concerning the establishment of General and Revolutionary Courts and article 189 of the Law on Third Development Plan, Mandatory Arbitration entered a new phase and the Reconciliation Council was established. (Article 189 of the Third Development Plan was adopted in 17/1/1379).

54. For the purpose of reducing the referrals of people to the court, promoting people's participation in settlement of disputes, settlement of disputes locally and settlement of disputes that do not have judicial character or their judicial character is simpler, the cases are reviewed by the Reconciliation Council. The scope of powers and authority of these councils, their compositions and the selection of their members are on the basis of Implementing Regulations that are approved by the Head of the Judiciary, proposed by the Minister of Justice and also approved by the Council of Ministers. (Article 134 of the Fourth Development Plan of the Islamic Republic of Iran).

55. Article 189 of the Law on Third Development Plan of the Islamic Republic of Iran adopted in 17/1/1379 and amended was in force for the Fourth Development Plan.

56. Implementing Regulations for article 189 of the Third Development Plan and article 134 of the Fourth Development Plan were first published in the Official Gazette, issue 16747. These Implementing Regulations are in 23 articles.

#### **Instruction for establishment of Specialized Reconciliation Councils**

57. In light of the short text of the Implementing Regulations and its silence on many cases and the need to create specialized reconciliation councils to improve the performance of this mechanisms and pave the way for interactions with other agencies, a number of

meetings were held with members of different professions, and some articles were adopted in the form of circulars and instructions:

- Instructions for the establishment of reconciliation councils for trade disputes, adopted 2/4/1384
- Instructions for the establishment of reconciliation councils for transport sector
- Instruction for the establishment of reconciliation councils for children, 12/10/1385
- Instructions for the establishment of reconciliation councils for business and commercial insurance, adopted 20/3/1386
- Instructions for the establishment of reconciliation councils for teachers, adopted 31/6/1386
- Instructions for the establishment of reconciliation councils for medical affairs, adopted 31/6/1386
- Implementing Regulations for the establishment of the reconciliation council of the Administrative Justice Tribunal (for civil servants), adopted on 13/8/1386

#### **Statistical review of the Reconciliation Councils**

58. With the end of the Iranian month Sharivar 1387, the number of councils in the country was 15,748. The councils were assisted by 3,207 judges, 3,058 personnel of the Ministry of Justice and 103,114 volunteer members.

59. In the first 6 months of the current year, more than 2,623,069 cases were taken up by the councils, of which 257,126 cases were settled.

60. The cases are dealt with through referrals by courts, police stations referral by people seeking settlement of disputes. The councils attach priority to reconciliation and take special group of cases and complaints. The scope of jurisdiction of Reconciliation Councils is stipulated in the law.

61. Appointment of women as members or secretaries of the Council and offering training to them in order to cultivate skilled human resources are among the achievements of the Councils. The planners and organizers of the Council try to employ women mostly in the Councils dealing with women, such as Family Councils. Gender distribution among the members of the Councils and presence of women in the Councils are according to the following table:

#### **Gender distribution among the members of the Councils**

| <i>Title</i>                | <i>Women – number</i> | <i>Men – number</i> | <i>Total</i>   |
|-----------------------------|-----------------------|---------------------|----------------|
| Number of principal members | 3 723                 | 58 262              | <b>61 985</b>  |
| Number of secretaries       | 3 587                 | 10 098              | <b>13 685</b>  |
| Number of alternate members | 1 766                 | 25 678              | <b>27 444</b>  |
| <b>Total</b>                | <b>9 076</b>          | <b>94 238</b>       | <b>103 114</b> |

62. As was explained earlier, the Reconciliation Councils were established in the latter part of 1381 their number is shown below.

### Number of Reconciliation Councils

| <i>Year</i> | <i>Number of branches</i> |
|-------------|---------------------------|
| 1381        | 287                       |
| 82          | 6 269                     |
| 83          | 11 412                    |
| 84          | 17 291                    |
| 85          | 17 000                    |
| 86          | 15 922                    |
| 87          | 15 740                    |

### Establishment of quasi-judicial and medical bodies

63. In light of the technical nature of medical cases, violations and offences in this field cannot be adjudicated solely by judges and the presence of experts in such cases is not merely accidental but something that happens continuously. Therefore, in order to provide the possibility of continuous presence of medical experts along with judicial officials, and to help both the defendants and claimants in such litigations, special quasi-judicial bodies have been established. The members are medical professionals and judges. This body has the exclusive jurisdiction over medical malpractice or other similar cases.

### Development of information and communication technology

64. Development of information and communications technology has been one of the priorities of the Judiciary. For this purpose, the following plans have been devised:

- Court Management System Plan
- Court experts system
- Plan for mechanized integrated systems
- Court Management Plan

65. This plan is for the purpose of implementing Criminal and Civil Procedures Codes and to increase the speed, the accuracy and quality of court proceedings. Moreover, this plan has about 40 more advantages in respect of management, supervision, and productivity, of the Judiciary.

66. The civil part of this system was completed in June 2004 and was launched in the first electronic judiciary complex in the country. The head of the Judiciary inaugurated this complex in 2005. It is noteworthy that volume of data and software for the civil section is more than 700 megabytes. The criminal section was also completed in 2005.

67. Using this system, delay in receiving information the status of cases in cities should not more than 24 hours in the cities and 3 to 7 days in the districts.

### Judicial experts system

68. This system includes facilities consisting of data based on deductive system and acts like an expert, this system simulate judicial behavior of a highly qualified and expert judge.

69. Among the advantages of this system is the fact that it can assist the judges to preserve past experiences, assist them in the adjudication, and help them and lawyers to have better access to legal data bases.

70. The pilot Judicial Expert System for criminal cases relating to theft was launched in June 2004. In this system, 189 articles of law relating to theft are put together. For this purpose, a group of 12 systems, software and legal experts worked for 8 months. This system initially deals with the competence of the court, then matters relating to ruling, corroborative evidence and general matters such as pardon and reduced sentences. Finally the proposed ruling and decision of the court is studied and made available to the judge. Accompanying the proposed ruling are all the necessary legal agreements and resources from fiqh in a form of a report.

## **Second discussions**

### **Structural administrative reform**

#### **Paragraph 1: establishment of International Affairs Office**

71. This office was established in 1369 with the aim of conducting the foreign relations of the Judiciary. The purpose of this office is to promote judicial cooperation with other countries and human rights organizations. Major part of its activities relate to promotion of respect of human rights, creating conducive conditions for the exercise of these rights, responding to human rights communications from the United Nations and participating at international seminars. This office was elevated in 1381 to be a part of the Deputyship for International Relations which includes General Department for Treaties and Human Rights and the General Department for External Relations and the General Department for Affairs of Iranians Abroad.

#### **Paragraph 2: General Department for Public Relations of the Judiciary**

72. This department applies different ways and methods to promote the right of people to have access to information and to have access to courts and secure their rights.

#### **Paragraph 3: establishment of Informatics Council in the Office of the Head of the Judiciary**

73. In light of the need to increase the efficiency of the Judiciary in the advancement of judicial affairs, a committee comprising experts assumed the responsibility to prepare the plan for the management of Informatics System. The members of this committee are active in expediting the functions of the judiciary and protecting the rights of people. In 1378, the Committee was elevated to Informatics Council of the Judiciary. This council has to this day reviewed the following activities: 1. Measures taken by the administrative units, 2. Measures taken in the branches of the Ministry of Justice and the courts, 3. Feasibility studies on high-speed communication lines, 4. measures taken in respect of Internet, 5, measures taken in respect of the Official Gazette, 6. Automation of courts, 7. Software activities.

#### **Paragraph 4: education and training in the Judiciary**

74. Before the victory of the Islamic Revolution, education and training in the Judiciary was the responsibility of the general Department for Training, which carried out its duties in five main areas:

- Training of “Justice Soldiers”
- Training of administrative personnel
- Judicial training
- Training of students referred to the Judiciary from other agencies

- Judicial meetings that informally were connected to training and education

75. After the victory of the Islamic Revolution, education and training was divided into two periods, from 1358 to 1378 and from 1378 to the present. In these two periods attention has been paid to improvement of the proficiency and skills of the human resources of the Judiciary and affiliated professions as well public awareness programmes. The training programmes have resulted in development and expansion of training as follows:

- Structural development of training by elevating the level of General Department to deputyship level
- Development of the fundamentals of education and training in the Judiciary
- Development of training objectives
- Development and defining of the target groups and audience
- Development by training classifications
- Development by improving performance indicators

#### **Paragraph 5: deputyship for Legal Affairs and Judicial Development**

76. The office of the Deputy Head of the Judiciary has under its purview the General Department for Drafting of Bills and Plans, and the Center for Judicial Development Studies. It has been involved in reviewing strategic issues in the Twenty-Year Vision of the Islamic Republic of Iran, The Law on Fourth Economic, Social and Cultural Development Plan, general policies relating to judicial matters, comprehensive operational five-year development plan. It has tried, like other sections of the Judiciary, to facilitate the exercise of the rights of citizens. Accordingly, preparation, review, amendment of laws and presenting recommendations to facilitate the proceedings of court cases and reducing the volume of work in the courts have been among the achievements of this department. The efforts and activities of this department are explained below by introducing the structure, duties and programmes of the following two sections: first, Department for Drafting of Bills and Plans, and second, the Center of Judicial Development Studies.

#### **General Department for Drafting of Bills and Plans of the Judiciary**

77. The General Department for Drafting of Bills and Plans started its work in the second half of 1383. This department's purpose is to apply and use development plans that have been tested in research centers. It has the duty of preparing and formulating bills and plans.

78. To discharge this duty, the department has four other departments which carry out the bulk of the work. These departments have judicial counselors, judges seconded to them, researchers and administrative staff.

#### **Department for Drafting Civil Bills**

79. Private law covers a broad scope, such as civil law, family law, personal status, insurance, principal and agency matters, citizenship, business law, civil procedures and many other subjects. This department has the duty to prepare and draft bills, implementing regulations and other instruments with legal character. It also expresses its opinion on legal subjects referred to it by other departments.

#### **Department for Drafting Bills on Criminal Matters**

80. Criminal matters have always been accorded the first priority in Judiciary reforms. Issues relating alternative sentencing other than prison and decriminalization are within the

purview of this department. Therefore, as it was expected, this department has a large volume of works in its hands.

#### **Department for Drafting General Bills**

81. This department was established in 1384 and has the duty to prepare and draft bills, implementing regulations and other directives related to these subjects, amendments and evaluation, counseling on international and public law.

#### **Department for Evaluation of Laws**

82. This department is intended to make an assessment on the needs of other aspects of laws. It began its work from the beginning of 1385. Needless to say, in light of the large volume of legislations that have not been evaluated and the fact that never in the legislative history of the country we had such a body; it takes much effort to make it a success.

83. Areas of the activities of the General Department for Drafting of Bills:

- Research and applied studies
- Holding of seminars, conferences and roundtables
- Cooperation with other sections of the Deputyship for Legal Affairs and Judicial Development, and other organs of the Judiciary
- Dissemination of information and recommendations to senior officials of the Judiciary
- Providing views and opinions on bills, implementing regulations and legal subjects
- Establishment of working groups and technical cells
- Preparation and publication of brochures and books
- Participation at meetings and national and international symposiums
- Relations with government and international forums and agencies for exchanging views and collaborative relationships
- Providing information via internet publications and sites
- Assessment and reform of legislations
- Preparation and assisting in legislation of laws, implementing regulations and directives
- Establishment of the High Council of Judicial Development and the Center for Strategic Studies and Judicial Development

84. In discharging the duties assigned to the Judiciary by the Constitution, the High Council and the Center for Strategic Studies was established. The mission of this council is to articulate strategies, macropolicies of the Judiciary, evaluation of the realization of intended objectives, realization of the important missions of the Judiciary, identification of the main areas in need of reform, reviewing of the vision for judicial development and presentation of consultative recommendations and practical proposals.

85. To achieve these goals, five expert commissions and number of committees have been established:

- Commission on Policies Relating to Criminal Matters
- Commission on Civil Laws
- Commission Business and Trade Law

- Commission on Protection of the Rights of Women and Children
- Committee on Public Law

**Duties**

86. Duties and terms of reference of the above-mentioned commissions are as follows:
- Preparation and drafting of judicial legislations and bills relating to criminal matters, business and trade, civil law, international law, women and children
  - Conducting applied studies for drafting of legislations and bills
  - Conducting theoretical studies in the fields relating to judicial development
  - Conducting national and local surveys on various areas of judicial development
  - Evaluation of policies, programmes and the existing substantive and procedural laws
  - Research and evaluation of civil participation mechanisms for the implementation of judicial development programmes
  - Providing research and counseling services to different sections of the Judiciary on various areas of judicial development
  - Holding of seminars and conferences at national and international level on the subject of judicial development
  - Formulation of strategies, policies, and programmes for judicial development and helping in correct implementation of laws
  - Articulation of policies on crime prevention (paragraph 5 of article 156 of the Constitution)
  - Preparing an statistical system
  - Preparation and publishing of books, professional journals on the subject of judicial development
  - Cases referred to it by the legal and judicial development section

**Paragraph 6: The Center for Counselors Affairs**

87. The Legislator required the Judiciary to establish legal counselors institutes by issuing authorization to the graduates of law schools after confirming their eligibility. This requirement is in accordance with article 187 of the Law on the Third Economic, Social and Cultural Plan which seeks to protect right of people, to facilitate access to legal services, and to promote public good.

88. This center started its work with meager resources in keeping with the paragraphs 5, 13 and 17 of the overall judicial policies promulgated by the Leader to achieve the following goals: to increase the presence of lawyers, and legal counselors during court proceedings, to improve the quality of legal assistance and guidance services, to improve fair access of people to legal guidance and assistance services, to increase the number of legal counseling centers nationwide, and to provide greater support to lawyers.

89. These important objectives have been emphasized and great steps have been taken in putting into operation the comprehensive and operational five-year judicial development plan.

### **Paragraph 7: introduction of the Center for Response, Empowerment and Electronic Services of the Judiciary**

90. The Center for Response, Empowerment and Electronic Services of the Judiciary was inaugurated officially on 22 Azar 1384 with the strong emphasis by the Leader for the purpose of expanding and facilitating legal services for the citizens and development of citizens rights.

91. This center, while offering its services in three areas: responding, empowerment, and electronic services, hopes to take effective steps forward and raise the legal knowledge and awareness of the public, the officials and especially the youth. Citizens of Iran and some neighboring countries have the possibility of contacting telephone number 129 in Tehran and 09699 in other cities to choose the right services in the options available in the call menu (Direct contact of people with the legal counselors, and officials of the Judiciary and sending SMS to the Head of the Judiciary).

92. Presently 11 experienced counselors are working in this section. The working hours of the counselors are about 7 hours daily. On the average, each counselor answers about 45 calls. People can present suggestions and their complaints by choosing the right option in the call menu. They can also present private request concerning a particular case such as meeting with the Head of the Judiciary, requesting clemency or pardon, expedition of the court proceedings, and state grievances about violations of their rights.

93. If the information and response concerning a particular legal subject is what is intended, then they can dial 3 and present their queries and replies will be given in 48 hours.

### **Numbers of voice boxes of the officials of the Judiciary**

| <i>Number</i> | <i>Name of the official</i>                                       | <i>Number of the voice box</i> |
|---------------|---|--------------------------------|
| 1             | Head of the Judiciary   | 112                            |
| 2             | Deputy Head of the Judiciary                                      | 113                            |
| 3             | Prosecutor General  | 114                            |
| 4             | President of the Supreme Court                                    | 115                            |
| 5             | The Head of the Office of the Head of Judiciary                   | 116                            |
| 6             | Head of the Judges Disciplinary Court                             | 117                            |
| 7             | President of the Administration Tribunal                          | 118                            |
| 8             | Minister of Justice   | 119                            |
| 9             | Head of 129 Call Center   | 120                            |
| 10            | Deputy Head of Administration and Finance                         | 121                            |
| 11            | Deputy of Education   | 122                            |
| 12            | Deputy Head for Legal Affairs and Judicial Development            | 123                            |
| 13            | Head of General Inspectorate                                      | 124                            |
| 14            | Head of the Organization for Registration of Deeds and Property   | 125                            |
| 15            | Head of Prison Organization and Security and Correctional Affairs | 126                            |
| 16            | Head of Forensic Medicine Organization                            | 127                            |
| 17            | Head of the Center for Information Protection                     | 128                            |
| 18            | Director General for Legal Affairs, Documents and Translators     | 129                            |
| 19            | Director General for Public Relations                             | 131                            |

| <i>Number</i> | <i>Name of the official</i>  | <i>Number of the voice box</i> |
|---------------|--|--------------------------------|
| 20            | Director General of the Secretariat  | 132                            |
| 21            | Head of the Center for Legal Counselors, Lawyers, and Experts of the Judiciary | 133                            |
| 22            | Director General for Provincial Affairs  | 134                            |
| 23            | Disciplinary Prosecutor of Judges  | 135                            |
| 24            | Head of Judicial Organization of the Armed Forces                              | 136                            |
| 25            | Head of the Justice Ministry of Tehran   | 137                            |
| 26            | General and Revolutionary Prosecutor of Tehran                                 | 138                            |
| 27            | Director General of International Relations                                    | 139                            |
| 28            | Director General for Supervision and Follow-up                                 | 141                            |
| 29            | Head of Special Supervision  | 142                            |
| 30            | Head of Supervision Board on Citizens Rights                                   | 143                            |

#### **Total number of contacts broken down by year**

| <i>Month</i> | <i>Year 1385</i> | <i>Year 1386</i> | <i>Year 1387</i> |
|--------------|------------------|------------------|------------------|
| Farvardin    | 124 325          | 126 207          | 126 774          |
| Ordibehsht   | 156 547          | 168 543          | 158 470          |
| Khordad      | 174 240          | 156 726          | 203 522          |
| Tir          | 243 335          | 221 844          | 217 567          |
| Mordad       | 190 728          | 207 848          | 197 176          |
| Shahrivar    | 173 738          | 216 112          | 253 100          |
| Mehr         | 183 916          | 161 691          | 171 504          |
| Aban         | 145 990          | 163 217          | 136 872          |
| Azar         | 145 721          | 120 364          | 151 970          |
| Dey          | 142 126          | 162 612          | 156 068          |
| Bahman       | 136 775          | 165 149          | 163 822          |
| Esfand       | 137 142          | 131 815          | 156 073          |
| <b>Total</b> | <b>1 954 583</b> | <b>2 002 128</b> | <b>2 092 920</b> |

94. Surveys show that number of contacts in 1386 increased 2.43% compared to 1385, also in 1387 4.5% compared to 1386. This increase shows that 129 Call Center has succeeded in its mission.

#### **Total number of contacts with the head of the Judiciary**

| <i>Month</i> | <i>Year 1385</i> | <i>Year 1386</i> | <i>Year 1387</i> |
|--------------|------------------|------------------|------------------|
| Farvardin    | 42 848           | 183              | 1 148            |
| Ordibehesht  | 53 597           | 458              | 1 264            |
| Khordad      | 52 182           | 1 289            | 2 424            |
| Tir          | 69 004           | 2 059            | 3 274            |
| Mordad       | 66 293           | 1 630            | 3 149            |

| <i>Month</i> | <i>Year 1385</i> | <i>Year 1386</i> | <i>Year 1387</i> |
|--------------|------------------|------------------|------------------|
| Shahrivar    | 51 806           | 1 548            | 2 148            |
| Mehr         | 44 832           | 1 250            | 1 834            |
| Aban         | 39 872           | 1 130            | 1 562            |
| Azar         | 51 466           | 993              | 1 746            |
| Dey          | 56 677           | 1 190            | 1 482            |
| Bahman       | 51 659           | 1 463            | 1 651            |
| Esfand       |                  | 159              | 1 508            |
| <b>Total</b> | <b>580 236</b>   | <b>14 252</b>    | <b>23 190</b>    |

#### Statistics for the year 1385

| <i>Number</i> | <i>Subject</i>   | <i>Number of contacts</i> |
|---------------|--|---------------------------|
| 1             | Contacts with counselors                                 | 662 192                   |
| 2             | Contacts with the voice box of the head of the Judiciary | 577 328                   |
| 3             | Contacts with question and answer voice box              | 238 410                   |
| 4             | Contacts with other officials of the Judiciary           | 2 898                     |
| <b>Total</b>  |  | <b>1 480 828</b>          |

#### Statistics for the year 1386

| <i>Number</i> | <i>Subject</i>                                       | <i>Number of contacts</i> |
|---------------|--|---------------------------|
| 1             | Contacts with legal counselors                       | 126 563                   |
| 2             | Contacts with voice box of the head of the Judiciary | 14 288                    |
| 3             | Contacts with question and answer voice box          | 94 213                    |
| <b>Total</b>  |  | <b>235 064</b>            |

#### Statistics for the year 1387

| <i>Number</i> | <i>Subject</i>                                       | <i>Number of contacts</i> |
|---------------|--|---------------------------|
| 1             | Contacts with legal counselors                       | 128 791                   |
| 2             | Contacts with voice box of the head of the Judiciary | 16 826                    |
| 3             | Contacts with question and answer voice box          | 94 849                    |
| <b>Total</b>  |  | <b>240 466</b>            |

#### Total number of contacts for the year 1387, broken down by month

| <i>Number</i> | <i>Month</i> | <i>Total number of contacts</i> |
|---------------|--------------|---------------------------------|
| 1             | Farvardin    | 126 774                         |
| 2             | Ordibehesht  | 158 470                         |
| 3             | Khordad      | 203 522                         |
| 4             | Tir          | 217 567                         |
| 5             | Mordad       | 197 176                         |

| <i>Number</i> | <i>Month</i> | <i>Total number of contacts</i> |
|---------------|--------------|---------------------------------|
| 6             | Shahrivar    | 253 100                         |
| 7             | Mehr         | 171 504                         |
| 8             | Aban         | 136 874                         |
| 9             | Azar         | 151 970                         |
| 10            | Dey          | 156 068                         |
| 11            | Bahman       | 163 822                         |
| 12            | Esfand       | 156 073                         |
| <b>Total</b>  |              | <b>2 092 920</b>                |

### **Third discussion: supervisory and inspection agencies**

95. In light of the supervisory and oversight duties of the Judiciary as stated in article 156 of the Constitution, there are authorities and agencies that supervise the functioning of the Judiciary and the public can refer to them for redress of their rights. These authorities are in each of the three branches of the government:

- Supreme Court
- Prosecutor's Office
- Administration Justice Tribunal
- General Inspectorate Organization
- Judicial Organization of the Armed Forces
- Supervision and Evaluation of Judges
- Disciplinary Courts of Judges
- Special General Courts for Government Employees
- The Office of Supervision and Follow-up

#### **Paragraph 1: Supreme Court**

96. Supreme Court is the highest court of the land that according to article 161 of the Constitution the Supreme Court is formed for the purpose of supervising the correct implementation of the laws by the courts, ensuring uniformity of judicial procedure, and fulfilling any other responsibilities assigned to it by law.

#### **Organization of the Supreme Court**

97. The Supreme Court has two divisions, branches of the Supreme Court and the courts of the Supreme Court.

#### **Branches of the Supreme Court**

98. From its very inception the Supreme Court was divided into civil and criminal branches. This division, although being presently functional, the branches of the Supreme Court are dedicated to hearing civil, criminal and family cases. However, according to the law, the jurisdiction of the court is general and not limited to a special subject. The Court ordinarily exercises oversight duty over the correct implementation of the law in the courts by the appellate procedure.

### **Courts of the Supreme Court**

99. The courts of the Supreme Court are presided over by the Prosecutor General under the auspices of the Supreme Court. In addition to a number of deputies, these courts have a number of assistant prosecutors that carry out their legal duties under the supervision of the Prosecutor General. These courts are one indivisible unit, and decisions of the deputies and assistant prosecutors are in fact the decisions of the courts of the Supreme Court and the Prosecutor general. The important duty that has been assigned to the Courts of The Supreme Court according to the recent amendment of the Law on the Establishment of General and Revolutionary Courts of 2006 is the right of these courts to reject and abrogate the final rulings of the lower courts and branches of the Supreme Court by declaration to the Head of the Judiciary if the ruling is deemed to be contrary to the rule of Sharia.

### **Duties of the Supreme Court**

100. According to article 161 of the Constitution, the Supreme Court is formed for the purpose of supervising the correct implementation of the laws by the courts, ensuring uniformity of judicial procedure, and fulfilling any other responsibilities assigned to it by law. Moreover, according to the law, the President of the Supreme Court has other duties in addition to presiding over the administration of the Supreme Court and the General Board of the Supreme Court.

### **Paragraph 2: Prosecutor General**

101. According to the Constitution, the Prosecutor-General must be just honorable man and well versed in judicial matters. He is nominated by the head of the judiciary branch for a period of five years, in consultation with the judges of the Supreme Court. The Prosecutor-General presides over the Courts of the Supreme Court (Dadsara). The duties of the Prosecutor-General are as follows:

- Relations with the Judiciary
- Presenting consultative opinions of change of position or location of service of judges according to article 164 of the Constitution
- Receiving recommendation from the Chief of Prison Organization and Security and Correctional Measures for the approval of the head of the Judiciary
- Relations with the Supreme Court
- Attendance at the meetings of the General Board of the Supreme Court
- Requesting and agreeing to the trial resumption
- Relations with the Judges Disciplinary Court
- Ordering prosecution and inspection of the performance of judges to the Judges Disciplinary Court
- Settlement of disputes between the Prosecutor and Assistant Prosecutor of the Judges Disciplinary Court
- Relations with the General courts
- Agreeing to request for appeal to rulings from General Courts with the report of the General Inspectorate Organization in relation to the Revolutionary Courts
- Approval of death sentence rulings relating to illicit narcotic drugs according to article 32 of Anti-Narcotics Law, approve by the Expediency Council in 1367

- Revision of rulings on sentences relating to narcotics according to the latter part of Article 32 of the above-mentioned law
- Relations with military courts
- Requesting appeal according to articles 8 and 17 of the Law on Appeals
- Relations with Prisons Organization
- Right to enter the prisons
- Designating a representative for membership at the Board of Governors of the Society for the Support of Prisoners

### **Paragraph 3: Administration Justice Tribunal**

102. To put into operation article 173 of the Constitution, the Administration Justice Tribunal was established in 1360 in order to investigate the complaints, grievances, and objections of the people with respect to government officials, organs, and statutes. According to article 13 of the Law on Administration Justice Tribunal, the jurisdiction and the powers of the Tribunal are as follows:

- (a) Review of complaints and objections by real and legal persons;
- (b) Decisions and actions by government ministries, organizations institutions and government-and municipality owned companies, and revolutionary instrumentalities or affiliated organs;
- (c) Actions and decisions by the agents of these instrumentalities in matter relating to their duties;
- (d) Addressing protests and complaints against the rulings and decisions of the administrative courts, inspection boards and commissions such as the tax commission, Council on Workshops, Labour and Employer Settlement Dispute Board;
- (e) Commission on Article 100 of the Municipality, Commission on Article 56 of Law on Protection and Exploitation of forests and Natural Resources, exclusively in terms of violations of their rules;
- (f) Reviewing complaints by judges and government employees covered by Civil Service Law and other employees of the above-mentioned units and institutions in paragraph 1 and employees that the coverage of this laws requires mentioning the name, both civil and military, in matters relating to infringements of their employment contracts.

103. Below are some of the examples of the rulings by the General board of the Administration Justice Tribunal:

- (a) Cancellation of one of the protested rulings by the Tribunal and confirmation of the ruling concerning the illegality of the failure to recruit into official employment contract employees under the pretext of omission of the budget line (Number 77 dated 20/6/79);
- (b) Cancellation of the protested ruling and confirmation of the ruling by one of the branches of the Tribunal concerning exoneration of the employee of the Ministry of Education of administrative infringements (Number 78);
- (c) Cancellation of the protested ruling and confirmation of the ruling by one of the branches of the Tribunal concerning the restitution of the employment and cancelation of the termination order (Number 73 dated 20/9/73);
- (d) Cancellation of the ruling and approval confirmation of the ruling by a branch of the Administration Justice Tribunal concerning the illegality of more aggravated

punitive measure for requesting appeal on the basis of the Law on Administrative Violations (Number 68 date 2/5/69);

(e) Cancellation of the ruling and confirmation of the decision of the Tribunal concerning failure to employ an applicant due to not receiving a final reply from the Selection Unit after two years;

(f) Declaring contradiction on the ruling and confirmation of the ruling by a branch of the Tribunal concerning employment termination orders and imposition of penalties by the Administrative Courts before adoption of the Law on Rehabilitation of Human Resources dated 5/7/60 (number 68);

(g) Declaring contradiction on the ruling and confirmation of the decision concerning the fact that absence of validity is no reason for depriving the rights of government employees (Number 70 dated 11/9/71);

(h) Declaring contradiction on the ruling and confirmation of the decision on acquittal of a government employee of charges that led to suspension of payment of salary and benefit (Number 73 dated 26/3/75);

(i) Declaring contradiction on the ruling and confirmation of the decision by one of the branches of Administration Justice Tribunal that stated termination from a particular job was not employment termination (Number 73 dated 19/2/75);

(j) Declaring contradiction on the ruling and confirmation concerning cancellation of the decision of the repurchase of a government employee services does not preclude accounting the time spent as a conscript and service repurchase time in retirement (Number 74 dated 27/1/75).

104. Article 14 of the Law on Establishment of the Administration Justice Tribunal stipulates: if the decisions and actions that are the subject of a complaint cause forfeiture of the rights, the branch hearing the case should issue an order to abrogate the ruling or correct the effects of the ruling and require the other party to restore the rights of the complainant.

105. According to the Note to this article, after the issuance of the ruling on the basis of the above-mentioned law, the bodies hearing the complaint should enforce the ruling and are required to abide by its provisions in their future decisions and actions.

106. According to article 15 of the Law on Administrative Justice Tribunal, if the complainant during filing of the complaint or afterward claims that the implementation of the measures or decisions relating to the final rulings or refraining from carrying out their duties by persons or agencies stated in article 13 cause damage that is irreparable, the branch handling the case can, if proven to be urgent, issue temporary restraining order for the enforcement of the said measures and decisions and the rulings. Note: the temporary order has no effect on the original complaint and only if the complaint is rejected or the original request is expunged then it would be ineffective.

107. Article 19 of the Law on Administrative Justice Tribunal enumerates the scope of jurisdiction and powers of the Tribunal as follows:

(a) Hearing the complaints and grievances and protests by real and legal persons concerning by-laws, and other regulations of the government and municipalities in respect of their contradiction with the laws and rights of individuals in cases where these decisions or regulations, as the result of their inconsistency with the law, or incompetence of the body taking those measures or violation and transgression of the authority in the enforcement of the law and regulations;

(b) Issuing rulings concerning uniformity on a similar case where different rulings have been issued.

108. Note: Hearing the decision of the Judiciary and the decrees and directives of the Council of Guardians of the Constitution, Expediency Council, Assembly of Experts, National Security Council and Cultural Revolutionary Council are outside of the scope of this article.

109. According to article 20 of the Law on Administrative Justice Tribunal, the effects of decrees are from the time of issuance of the ruling by the General Board, unless the provisions of the decrees are contrary to Sharia or when the Board declares its effect to be from the time of approval in order to prevent violation of the rights of people. For example, mention could be made of the following examples from the rulings issued by the General Board of the Administrative Justice Tribunal:

(a) Cancellation of the decree by the Police concerning the search of vehicles without the court authorization (Number 79 dated 17/6/1380);

(b) Cancellation of a directive by the civil Aviation Organization concerning liberalization of air freight and passenger rates (Number 82 26/4/82);

(c) Cancellation of the directive by the Central Board of Student Selection and Central Disciplinary committee of Universities concerning finality and non-appealable character of the decisions of the Article 90 Committee of is contradiction with the Constitution (Number 74 dated 27/9/78);

(d) Cancellation of the Directive by the Ministry of Justice concerning Note 5 to Article 25 of the Law on Registration of Deeds and Property (Number 76 dated 22/4/78);

(e) Cancellation of a paragraph in the Directive of the Ministry of Health in favour of a graduate of medicine;

(f) Cancellation of the Directive by the Banks Supervisory Department of the Central Bank of the Islamic Republic of Iran in favour of issuer of a check concerning the possibility of issuing "stop payment" for one time only (number 79 dated 9/4/80);

(g) Cancellation of a Directive by the Ministry of Mines and Metals concerning setting the age of 45 for retirement (Number 62 dated 7/7/69);

(h) Cancellation of paragraph 5 of implementing Regulations on Urban Lands concerning change of zoning from farming to residential (Number 67 dated 20/9/67);

(i) Cancellation of the Directive by the Ministry of Educaion that was contrary to the law on rehabilitation of human resources arguing that the Standby situation of employees is actual employment and should not be regarded as a penalty (Number 64 dated 21/8/67);

(j) Cancellation of the directive by the finance Deputyship of the Ministry of Justice concerning deducting from salaries without the consent of the employee (Number 69 dated 30/9/71);

(k) Cancellation of paragraph (c) from Implementing Regulations on applying subscription of telephone line from the Telecommunication Company concerning the arrest of the telephone line (Number 70 dated 13/7/72);

(l) Cancellation of article 18 if the implementing Regulations of the Registration of Deeds and Property Organization and the Directive of the Prime Minister of the Islamic Republic of Iran concerning long-term educational programmes (Number 71 dated 11/4/76);

(m) Cancellation of the Directive by the Director General of the Ministry of Education in Isfahan dated 21/2/73 and cancellation of the Directive dated 20/2/73 by the Director General of Administration of the Ministry of Education concerning terminating

employment contracts of those pledged to be employed after graduation (Number 6 dated 23/10/76);

(n) Cancellation from Markazi Provincial Administration dated 3/6/75, because it was beyond its authority (Number 76 dated 30/11/76);

(o) Cancellation of article 15 of the Implementing Regulations of the Law on Ways of Applying Government Punitive Measure on smuggled goods and foreign currency, because it was beyond its authority (Number 75 dated 6/9/75);

(p) Cancellation of the directive by the Municipality of Mashhad dated 21/12/72 concerning value added levies. (Number 75 dated 21/12/72);

(q) Cancellation of one paragraph of the Minutes of the Meeting of the Board of Governors of Social Security Organization dated 12/6/1278 and directive issued concerning the right of workers in traditional dairy farms to benefit from Social Security insurance (the directive was beyond the authority of the Board of Governors) (number 79 dated 23/11/80);

(r) Cancellation of the directive by the Ministry of Power concerning the increase in electricity prices charged to general subscribers in years 1375, 1376, 1377, and 1378 (number 79 dated 21/11/80);

(s) Cancellation of the directive 4827 dated 1374 of the Government Punitive Measures Organization (number 77 dated 20/8/78), cancellation of the directive from the 83<sup>rd</sup> meeting in 1365, and 439<sup>th</sup> meeting dated 1377 of the Council of Cultural Revolution concerning depriving of the right to appeal and complain to a judicial authority by students (adopted in the meeting 439 dated 25/12/75 of the Administrative Justice Tribunal);

(t) Cancellation of the directive dated 1/11/1365 of the Ministry of Power concerning acceptable income and expenditures indicators relating to determining the fees for supervision which were outside the competence of the Ministry of Jihad and Agriculture, Council of Ministers, Ministry of Power, the Constitution and the legal authority of the Ministry of Power (Number 78 dated 1382);

(u) Cancellation of directive dated 22/2/1381 of the Tax Administration because it was clearly contrary to the letter of the law and outside of the authority of the Office of Adjustment and Supervision of Labour Relations (Number 81 dated 26/4/1382);

(w) Cancellation of the directive dated 10/9/1376 of the Police because it was contrary to the articles of the constitution and contrary to the laws on the necessity of obeying the instructions from judicial officers and was beyond the authority of the Police Commander to legislate binding rules (number 82 dated 11/6/82).

## **Paragraph 2: General Inspectorate Organization**

110. The General Inspectorate Organization was established on the basis of article 174 of the Constitution to supervise the proper conducting of affairs and the correct implementation of laws by the administrative organs of the government. It was established in 1360 and is under the supervision of the Head of the Judiciary who discharges the duties assigned to him in accordance with the relevant law. The Head of the General Inspectorate Organization is appointed by the Head of the Judiciary from among Sharia judges, or judges with judicial rank of 10 or 11.

111. According to article 2 of the law on establishment of the General Inspectorate Organization, its duties and powers are as follows:

(a) Continuous inspection and supervision over all ministries and over administrative and financial affairs of the Ministry of Justice, organization and agencies affiliated to the Judiciary, police, government owned companies, municipalities,

organizations affiliated to them, notaries public, charitable organizations, revolutionary organizations and agencies that all or part of their capital or shares belong to the government and all other instrumentalities for which the coverage of this law requires mentioning their names;

(b) Conducting special inspections and auditing according to the instruction from the Leader or the Head of the Judiciary, the president, Article 90 Committee of the Islamic Consultative Assembly, upon the request from relevant Minister or the official in charge of an executive agency or any case deemed necessary by the head of the Organization;

(c) Declaring the cases of violations administrative and financial misconduct in ministries, revolutionary organs, foundations to the President and in respect of government-owned companies to the relevant minister, and in respect of non-governmental institutions that receive government assistance to the relevant minister and in respect of municipal administration to the Minister of Interior, with respect to administrative and financial misconduct by agencies affiliated to the Judiciary or Ministry of Justice to the Head of the Judiciary and in matters where the case is referred by Article 90 Committee to that committee.

### **Structure and organization of the General Inspectorate Organization**

112. This organization has four line divisions in areas relating to Economy and Infrastructure, Production and Agriculture, Politics and Judiciary, Cultural and Social Affairs. It has 17 general departments that conduct the activities relating to supervision and inspection in the government agencies, it also has a division that is in charge of planning and resource management.

113. In order to facilitate access of people, expand communication and have timely presence in the important national and local events, to have the possibility to conduct professional inspections in view of the special economic, social, cultural and political conditions, to have better and easier relations with line and executive managers, and interact with the Organization to prevent violations, the Inspectorate has established General Departments in provincial capitals.

114. One of the characteristics of the Law on Establishment of the Inspectorate is the utilization of the capacities of non-governmental and community-based organizations and qualified individuals in the field of crime prevention, preventing waste of public assets and natural resources, protection of the environment, promoting healthy government, countering corruption, promoting rule of law and obtaining information and news, evaluations and proposals. For this purpose, the Inspectorate can benefit from skilled human resources of these organizations in conducting its inspection programmes, research and counseling as the need arises.

115. General Inspectorate Organization has taken important steps forward to institutionalize public participation and supervision, and to allow people have a way of filing complaints against government agencies. The Inspectorate has launched a telephone line 136 for his purpose.

### **The council for supervisory agencies**

116. In the governing system of the country and in the three branches of the government there are different supervisory agencies that directly and indirectly inspect and supervise over the activities of the government agencies. The existence of these many supervisory and oversight agencies demonstrate the importance of the framers of the Constitution attached to this matter. However, since the scope and purview of their activities have not been clearly defined and articulated, there are some parallel works and overlapping functions. This lack of coordination causes trouble for and annoys the managers and

agencies, and is the reason behind unnecessary inspections of some sectors and hardly any inspection of other sectors.

117. The Council comprises the General Inspectorate Organization, Administrative Justice Tribunal, Ministry of Intelligence, State Auditing Tribunal, and Auditing Organization. The Council has five working groups. These working groups are as follows: working group on legal matters and comparing directives and decrees of the government with laws, which is led by the Administrative Justice Tribunal, working group on new technologies and inspection, led by Ministry of Intelligence, working group on prevention and combating corruption, led by General Inspectorate Organization, working group on auditing and standardization, led by Auditing Organization, and working group on planning, education and research, led by the Head of State Auditing Tribunal.

118. Please see below for examples of different inspections and methods used by the Organization.

#### **Inspections and methods used by the organization**

| <i>No.</i> | <i>Type of inspection</i> | <i>Position of suspect</i>   | <i>Allegations</i>  | <i>Conclusions</i>  |
|------------|---------------------------|--|---|---|
| 1          | Case inspection           | Head of the Department of Educational services and students of Zabol University    | Violation of rules and unauthorized usages                                | Deprivation of appointments in management positions in government agencies                    |
| 2          | Case inspection           | Employee of Adimi Municipality   | Violation of rules and misuse of position                                 | Deprivation of appointments in management posts for five years                                |
| 3          | Case inspection           | Health officer in Zahedan  | Conduct contrary to status of employment                                  | Written reprimand recorded in personnel file  |
| 4          | Special inspection        | Expert in Agricultural Organization of the province                                | Violation of the rules and regulations an negligence in fulfilling duties | Reprimand, recorded in personnel file   |
| 5          | Case inspection           | Employee of Cultural Heritage, Handicraft and Tourism Organization of the Province | Violation of rules and negligence in duty                                 | Reprimand, recorded in personnel file   |
| 6          | Case inspection           | Employee of Railway Administration   | Multiple jobs   | 6 months suspension from service, return of the salaries and 3 months and one day prison term |
| 7          | Case inspection           | Municipality of Region One   | Abetting in building code violation                                       | 3 million rials pecuniary fine  |
| 8          | Case inspection           | Employee of Cooperative Fund   | Illegal taking of government property                                     | 2 million rials fine in place of 74 lashes and payment of 43,210,000 in damages               |

| <i>No.</i> | <i>Type of inspection</i> | <i>Position of suspect</i>   | <i>Allegations</i>  | <i>Conclusions</i>   |
|------------|---------------------------|--|---|--|
| 9          | Case inspection           | Director General of Road and Transportation of the Province        | Negligence in duty causing losses for the government, illegal taking of government property | In view of the fact that the money of he government was paid back, the arrest warrant was cancelled. |
| 10         | Case inspection           | Deputy Director General of Road and Transportation of the province | Negligence in duty causing losses for the government, illegal taking of government property | In view of the fact that the money of the government was paid back, the arrest warrant was cancelled |

119. Concerning complaints filed by the Organization against officials, the following are the examples of violations reported to the Judiciary:

(a) Referral of second lieutenant of the Police to the court on charges of receiving bribe and threatening to insult the good name of a person, and stealing a wireless transmitter (attachment 41);

(b) Dismissal and replacement of Shiite officials because of mistreatment of Sunnis (attachments 41/1 and 41/2).

#### **Paragraph b: Judicial Organization of Armed Forces**

120. Judicial Organization of Armed Forces is a part of the Judiciary and the only military court envisaged in the constitution of the Islamic Republic of Iran. It has its own prosecution services and courts.

121. According to article 172 of the Constitution of the Islamic Republic of Iran military courts are established by law to investigate crimes committed in connection with military or security duties by members of the Army, the Gendarmerie, the police, and the Islamic Revolution Guards Corps. They will be tried in public courts, however, for common crimes or crimes committed while serving the department of justice in executive capacity. The office of military prosecutor and the military courts form part of the judiciary and are subject to the same principles that regulate the judiciary.

122. Presently, jurisdiction of the Judicial Organization of the Armed Forces is as follows:

(a) Military and police offences committed by the members of the armed forces;

(b) Offences relating to the duties of the personnel of the Ministry of Intelligence, offences that are discovered during interrogations and review of military offences;

(c) Offences committed by Iranian prisoners of war abroad, or foreign prisoners of war in Iran.

123. Review of cases in the Judicial Organization of the armed forces takes place in two phases. First, after receiving a report or complaint by the relevant authorities or people, the dossier begins in the military prosecution office and initial investigations by the instigators and assistant prosecutors are conducted under the supervision of the Prosecutor. Second, if there is adequate corroborative evidence, the case is sent to the military court with an indictment for the trial.

124. The Judicial Organization of the armed forces has prosecution office and military courts in the capital city of all provinces. They have the responsibility of reviewing and investigating the offences committed in their jurisdiction. An example of the way a case is handled will be provided later.

**Paragraph 6: Prosecution Office and disciplinary Court of Judges**

125. Presently, the legal authority for disciplinary supervision over the conduct of judges is by the Prosecution Office of Judges which is located in Tehran. It comprises one prosecutor, number of assistant prosecutors and administrative staff. Judicial supervision and oversight is the responsibility of the Supreme Court.

126. The Disciplinary Prosecution with the Judges Disciplinary Court has three branches. The hearing of cases against the members of the Judges Disciplinary court takes place in the General Board of the Supreme Court. Negligence in fulfilling duties and violations of laws are considered infringements and the offender is tried and sentenced according to the provisions of the law.

127. The punitive measures for officials with judicial rank are as follows: 1. Written reprimand without recording in the employment file, 2. Written reprimand with recording in the employment file, 3. Deduction from salary, one-third monthly up to six months, 4. Suspension from 3 months to one year, 5. Reduction of grade, one or more, 6. Permanent termination of judicial service, 7. Permanent termination from the Ministry of Justice, 8. Permanent termination of employment in the government.

128. Duties of the prosecution Office of Judges are as follows:

(a) Investigation and discovery of violations and offences committed by the Judiciary employees;

(b) Investigation in respect to actions and behaviours that are contrary to the status of a judiciary official, disrepute of the judiciary employees and negligence in the conduct of duties;

(c) Whenever it is discovered during an investigation that a judge has committed an offence, and the Disciplinary Prosecutor of judges believes that there are adequate reasons and evidence to refer the case to the court, the Prosecutor request suspension of the judge until final ruling by the High Disciplinary Court. After reviewing the evidence the court issues suspension order and in case of acquittal, the time suspended from service would be accounted and commensurate remuneration is paid.

129. For the purpose of maintaining impartiality in fulfilling the duty and respecting the good repute of the judiciary, holders of judicial positions are not allowed to be a member of political parties or associations affiliated to them, or to publicize about a political party or publish political journals or newspapers.

130. Prosecution Office of Judges is required to investigate the complaints and evaluate the quality and quantity of the work of judges during regular inspections. They should propose to the Head of the Judiciary reward for meritorious services of judges, and if required issuing of letters of appreciation, awarding medal of justice, state Medal of Honor, and promotions.

131. Promotion is awarded with the approval of the High Disciplinary Court.

132. In addition to disciplinary prosecution of judges, the prosecuting authority for Members of the Board of Governors, the Prosecutor, inspectors for the Association of Official Experts of the Ministry of Justice in the Provinces is the Judges Disciplinary court. Moreover, the violations and offences by judges in the Tax Dispute Settlement Boards in

respect of the duties delegated to them by tax laws and regulations are by the Judges Disciplinary Court after declaration by the Tax Prosecutor.

133. During the appeal hearing the Prosecutor General should be personally present in the meeting of the board of appeals.

134. Presently, supervision and evaluation of the work of the judges takes place according to the Implementing Regulations that were approved by the Head of Judiciary in 8/4/1382 in 29 article and 3 notes. An example of the way this court functions is explained later.

**Paragraph 7: prosecution office and general courts for government officials**

135. The prosecution offices and courts of government functionaries are located in the capital and specifically deal with offences committed by government functionaries. For example, to try a judge for an offence, first the Judges Prosecution Office or Judges Disciplinary Court should issue an order for the temporary suspension of the judge in order to hear the case against the judge without any immunity. It is noteworthy that offences relating to all government functionaries in the three branches of the government are heard in these courts.

136. Concerning the trial of cases relating to government functionaries and judicial officials and law enforcement forces, below are some examples:

(a) Details of the case against the Governor of Minab on charges of illegal taking of government property (indictment number 49 dated 26/3/26);

(b) Hearing of the complaint against Tehran Power Company for failing to fulfill his legal duties that caused bodily harm (indictment number 91 dated 8/4/82);

(c) Hearing the complaint against two employees of Refah Bank on the charges of illegal taking of money from bank's account holders (indictment number 523 dated 29/11/81);

(d) Hearing the case against the employee of the Provincial Governorate on three manslaughter charges in driving accidents (indictment 25b dated 18/8/81);

(e) Hearing of the complaint against a judge of the General Court of Sarab on driving-related accident (Indictment 139 dated 12/5/1381);

(f) Hearing the complaint against representative of Darab at the Islamic Consultative Assembly on the charge of battery and assault of a soldier on guard duty at the airport (Indictment 470 dated 8/11/81);

(g) Filing lawsuit against a judge for material and psychological damages resulting from judicial decisions (indictment 3 dated 6/1/1381);

(h) Hearing the complaint against two employees of the Social Security Organization on the charge of bribery;

(i) Hearing the complaint against a military officer on the charge of unintentional homicide (indictment 226 dated 11/7/80);

(j) Hearing the complaint against the mayor of Tehran District 9 concerning charges of receiving payments outside of the legal regulations. (indictment 49 dated 11/2/1380);

(k) Hearing the complaint against the manager of the Saderat Bank and another employee concerning the charge of fraud. (indictment 415 dated 30/10/1381);

(l) Hearing a complaint against the Mayor of Varamin concerning the charge of unintentional homicide and negligence relating to safety in the factory (indictment 374 dated 5/12/1381);

(m) Hearing the complaint against police lieutenant colonel on the charge of preparing non-factual report (indictment 479 dated 14/12/1381);

(n) Hearing a complaint against two representatives of Langarood and Nahavand in the Islamic Consultative Assembly on the charge of insulting the representative of Koohdasht plus the appeal hearing (indictment 297 dated 6/7/1381);

(j) Sentencing of the manager of Power Company on charge of negligence that led to the death of a person as the result of electrocution (indictment 293 dated 15/10/1379);

(k) Hearing a complaint against employee of the Ministry of Justice on charges of negligence in keeping records (indictment 14 dated 23/1/1382);

(l) Hearing the complaint against the manager of publications of the Office of International Legal Services on the charge of embezzlement (indictment 61 dated 27/3/1382);

(m) Hearing the case concerning contaminated blood (HIV virus), against managers of Blood Transfusion Organization of Iran on the charge of establishing a pharmaceutical company without authorization, supplying contaminated drugs (indictment 379 dated 12/9/1380);

(s) Hearing the charge against a member of the City Council concerning illegal taking of money of the City Council of Tehran (indictment 1678 dated 16/11/1381).

137. Article 586 of the Islamic Penal Code stipulates: "If an offender for the commission of an offences stated in article 583 uses the name or fictitious title or name and insignia of a government functionaries in a deceitful way or presents a fake order shall receive the prison sentence for forgery and fraud in addition to the punishment stated in the said article."

138. The closing part of article 597 of the Islamic Penal Code states that the refusal of the judicial authority to discharge his legal duty entails punishment.

139. Any judicial officials for whom a complaint is referred to, and despite the fact that hearing such complaints is their duty, uses any excuse whatsoever, or maintains silence and refrains from hearing it or by issuing a ruling contrary to the law or postpones the case, or acts in contravention with the law, would be sentenced to 6 months to a year for the first time, and if repeated would be sentenced to permanent suspension from the judicial position. Under any circumstance, the judge at fault would be sentenced to payment of damages as well.

#### **Establishment of supervisory bodies**

140. The establishment of supervisory bodies is one of the mechanisms for elevating efficiency of management systems and identification and removal of weak points. This matter has not been neglected in the justice system. Some years ago it was decided to elevate the quality of supervisory functions and to have a clearer distinction in respect of responsibilities in order to prevent duplication and parallel works. For this reason, the following supervisory bodies have been established in the Judiciary:

- Supervision and evaluation of judges
- The Office of women's affairs
- The Office of the Head of Judiciary
- Council of Directors general of the Ministry of Justice

- The council for the Protection of public assets

### **Paragraph 1: supervision and evaluation of judges**

#### *Establishment of the Office for Supervision and Evaluation of Judges*

141. Pursuant to centralization of management as stipulated in the amended constitution and the new changes in the structure of the Judiciary, the office for supervision and evaluation of Judges was established in 1369 under the auspices of the Head of the Judiciary and all the past and confidential records of judges were handed over to this office.

142. The objectives of Supervision and Evaluation are as follows:

- (a) Careful evaluation of the performance of judges with Sharia and legal standards in various areas of behavior and actions;
- (b) Maintaining the respect, dignity and independence of judges by using Sharia and legal instruments in supervision and evaluation and refraining from any illegal ways;
- (c) Identification of competent and righteous human resources, especially judges with distinguished service and introducing them to officials of the Judiciary for optimal utilization of their talents and capability, paving the way for their advancement;
- (d) Identification of behavioural points of weakness of judges directors of the Judiciary and taking preventive and correctional measures for the improvement of their performance and efficiency;
- (e) Creating conducive climate for decision-makers on judges for the purpose of making the right decisions commensurate with their capability by systemic relation and providing reliable and correct information;
- (f) Building trust among community of judges concerning supervision activities by relying on professional, scientific and fair methods of evaluation and avoiding extremism or excessive tolerance.

### **Paragraph 2: The Office on Follow-up and Supervision**

143. With the approval of the law on 8/12/1378, fundamental changes were made in the duties and powers of Head of the Judiciary. The administrative position of the head of the Judiciary was changed into judicial position and he was given the authority to return rulings that are contrary to Sharia rules to the competent authority.

144. For this purpose and in order to facilitate access of people to courts, in the capital of each province a representative office from the supervisory section of the Judiciary has been established. After receiving a protest on a case, a local judge prepares a report and presents it in a commission comprising the judge that has prepared the report, the representative of the supervisory section of the Judiciary and Director General of the branch of the ministry of Justice in the province. The protest is reviewed and the majority opinion will prevail. If the said commission states that an error is made, the case is sent to the Supervisory Section of the Judiciary in Tehran, and the case will be reviewed by the legal counselors.

#### *Statistics*

145. From Azar 1382 to 1378 close to 174,963 letters were examined, and of this number 13,723 met with the Head of the Judiciary in 236 meetings. Of this number, 54 meetings with 1,679 persons were organized by video conferencing and 2 meetings with 31 persons by video conferencing from outside the country. Altogether, 9,483 persons received pardons or lower sentences, and 3,837 cases were reexamined and 403 cases received the

order for expeditious review of their case or stopping the enforcement of court rulings. The detailed account of the performance of this office is attached.

**Paragraph 3: Office for Women’s Affairs**

146. The Office of Women’s Affairs began its work in 13761 as the result of cooperation between the Judiciary and the Office of the President.

**Paragraph 4: establishment of offices for the protection of women and children**

147. The Department for the Protection of Women and Children in the Judiciary was established in Mehr 1383 in the General Department for social and Cultural Affairs and Protection of citizens Rights. According to the directive issued by the head of the Judiciary, the Directors General of the ministry of Justice in the provinces were required to establish these offices and recruit at least one judicial expert, two social works for these offices. The approach of this office to women and children is protective and these offices should supervise over the cases in which women and children are victimized and abused. This supervision should be in a way that assists the judges in the court proceedings. More detailed account of this office is in article 3.

**Paragraph 5: The Office for Article 142 of the Constitution**

148. According to article 142 of the Constitution the assets of the Leader, the President, the deputies to the President, and Ministers, as well as those of their spouses and offspring, are to be examined before and after their term of office by the head of the judicial power, in order to ensure they have not increased in a fashion contrary to law. For the implementation of this article, an office under the name of “The Office of Article 142 of the Constitution” was established in Judiciary.

**Paragraph 6: The Council of the Directors General of the Ministry of Justice in the Provinces**

149. This council comprises the highest justice officials in the provinces, deputies of the Judiciary, heads of affiliated organizations. It functions under the direction of the Head of the Judiciary and was established in Mordad 1379, and formally started its work in Azar 1380.

150. The most important functions of this council are:

- (a) Hearing the reports from branches of the Ministry of Justice nationwide, and reflection of inadequacies and shortcomings of the Judiciary to the head of the Judiciary and the Council with proposals and recommendations;
- (b) Determining the administrative and judicial priorities in different areas;
- (c) Presenting and reviewing general policies of the Judiciary at different junctures of time;
- (d) Expressing views on proposed bills of the Judiciary on recommendations for amending and legislation the required laws.

**Paragraph 7: The High Council for the Protection of Public Assets**

151. The Head of the Judiciary issued a decree in the latter part of 1383 on the establishment of a council for the protection of natural resources and national lands with the aim of combating illegal land grabbing.

152. After passage of two years, in view of the need to deal firmly with land grabbing, the Attorney General, the Head of the Judiciary, ministers of Housing and Urban

Development, Intelligence, Agriculture, and power, Head of Environmental Protection Department, Head of Deeds and Property Registration Organization established the High Council for the Protection of Public Assets. This council in its first meeting decided to establish a secretariat under the direction of the Attorney General.

#### **Fourth discussions: creation of a human rights body**

##### **Paragraph 1: creation of human rights headquarters**

153. In light of the fact that the Judiciary has certain responsibilities in respect of human rights in accordance with article 156 of the Constitution and for this purpose a centralized management can pave the way to achieve good results, therefore, for the purpose of finding practical ways that are compatible with the laws of the Islamic Republic of Iran, the Human Rights Headquarters was established with its own professional and specialized committees.

154. According to the Implementing Regulations of the Human Rights Headquarters, the members of this body comprise the Deputy Head of the Judiciary. The highest official in charge of international affairs, Director General of the Ministry of Justice for Tehran, the Head of General Inspectorate Organization, head of Prisons, Security and Correctional Measures Organization, the Head of the Office of Judicial Development Studies, President of the Supreme Court, representative of the General Prosecutor, plenipotentiary representatives of Ministry of Foreign Affairs, Ministry of Intelligence, Ministry of Interior, and Judiciary Committee of the Islamic Consultative Assembly.

155. Some of the duties of the Human Rights Headquarters include planning and articulating policies concerning issues relating to human rights, presenting human rights projects, presenting modalities for putting these plans into practice, reviewing resolutions issued by the United Nations Human Rights Commission, reviewing the reports by the special rapporteurs, and making decisions on this subject in presence of members of the Headquarters.

156. It is noteworthy that because of the importance of this matter and the fact that human rights are a national issue, the Human Rights Headquarters has come out of its frame in the Judiciary and has become a body that is beyond a particular branch of the government. It is still under the direction of the Head of the Judiciary, but has representatives from all agencies that directly have something to do with the question of human rights. These agencies are all required to have full coordination with the new headquarters of human rights.

##### **Paragraph 2: establishment of the supervision board for implementation of the law on respect for legitimate freedoms and protection of citizens' rights**

157. In view of the duties delegated to the Judiciary by the Constitution for the purpose of protecting the rights of people, the head of the Judiciary has issued a decree on citizens' rights on 20/1/1383 and presented a list of citizens' rights that should be protected by all agencies of the Judiciary. This decree became a law within a short time on 15/2/1383 in the form of a single-article act in 15 paragraphs by the Islamic Republic of Iran. The law was approved by the Council of Guardians on 16/2/1383 and promulgated by the President.

158. This law is also important from another aspect. Article 130 of the Fourth Economic, Social and Cultural Development Plan of the Islamic Republic of Iran (1384 to 1388) requires the Judiciary to draft bills, including the bill on protection and promotion of citizens' rights and protection of the privacy of people in keeping with article 20 of the Constitution. The issuance of a directive by the Head of the Judiciary on protection of citizens' rights was a step in the direction of putting into action this article in the constitution.

159. Article 1 of this single-article law guarantees the right to freedom and personal security by stating that discovery and prosecution of offences, investigations and the order to keep a suspect on remand custody should be on the basis of law and with the clear and transparent order of a judge and all forms of personal discretions, violence and longer unwarranted detentions should be avoided. In article and in relation to prohibition of violation of the privacy of individuals, it is stipulated that inspections and examinations on site, the arrest of fugitive suspect with all the tools for the commission of an offence should take place with full caution and infringements against other things that are not related to the offence or the suspect, or revealing of content of letters and family photos and films must be avoided.

160. In relation to enjoyment of due process, fair trial, presumption of innocence, the necessity of the transparency of laws and not using different sources to convict a suspect, article 2 states that conviction should be on the basis of legal formalities and principle of presumption of innocence is a valid principle and every person has the right to enjoy the necessary security under the law. All rulings and verdicts should be on the basis of rules of law and reliable Sharia sources.

161. Article 3 emphasizes the right of suspects in having legal counsel and states that the courts are required to respect the rights of suspects and victims and provide opportunity for using the services of lawyer and experts.

162. Article 5 stipulates that trial and legal proceedings should be conducted within a reasonable timeframe and without unwarranted delay, and further states that arbitrary arrests are unlawful and if such actions are required provisions of the law and due process must be applied. The case against arrested persons must go to the court within time limit allowed by law and the next of kin must be informed.

163. Paragraph 4 of this single-article law states that the right of arrested persons and their humane treatment must be adhered to, and Islamic and moral standards should be observed in dealing with those seeking justice, suspects, offenders and informers and witnesses.

164. Paragraph 6 of this law bans cruel, inhumane and degrading treatment of arrested persons and further underlines that in course of arrest and questioning, causing pain and humiliation such as blindfolding and other form of degrading treatment must be avoided.

165. Article 7 goes on to say that interrogators and investigating officers must not cover the face of or sit behind the head of the detainees, or take them to unknown locations. Paragraph 9 bans torture in an absolute way and states that all forms of torture for the purpose of forcing confessions or other acts are banned and confessions received by torture have no validity in view of the law and Sharia.

166. Paragraph 13 in this law states that courts and Prosecutors Offices must oversee the treatment of suspects by the guards and officer in charge of prisons and detention centers and encourage those who abide by the law and reprimand and prosecute the violators.

167. The law also has provisions concerning the legal and judicial climate. Paragraph 1 of the law states that investigations questioning must be on legal principles and professional methods. Necessary training should be given to the personnel in charge of these affairs. Any person who applies unlawful methods will be dealt with the full force of the law. According to paragraph 11 question from the suspects must all be clear and helpful and related to the charge or charges attributed to the suspect. Inquisition into the private life of an individual or his or her family and questions relating past offences must be avoided.

168. Paragraph 12 states that replies to questions must be recorded and written down without any change and read to the person questioned. Suspects that are able to write should to the extent possible write their own statements in order to avoid doubts and

ambiguity. Paragraph 14 continues along the same line stipulating that illegal taking of personal belongings and effects of individuals must be avoided and decided about after the issuance of a ruling by the court. Care must be taken in protecting them.

169. In this connection and according to paragraph 15 of the law, and for the purpose of supervising the implementation of the law, a team was designated to oversee the performance of this law on legitimate freedoms and rights of citizens.

170. To assist the team to discharge its duties, all agencies that are in some way connected to this law are required to cooperate with this team. This team is required according to the law to report the results of its work to the Head of the Judiciary. The team should report their observations of any violations and also try to correct methods and ways and make them compatible with the law.

171. According to Implementing Instructions for paragraph 15 of the law, respect for legitimate freedoms and protection of citizens rights that was approved on 15/2/1383 in a form of a by-law in 20 article, the Central Supervisory Committee comprising members of the Council of Deputies of the Judiciary shall assume the duties listed below.

172. In view of paragraph 15 of the Single-Article Law on protection of citizens rights, the Implementing Instruction on this law, as explained in article 19 and note 5, was approved by the Head of the Judiciary and promulgated to the relevant authorities. This is a prelude to valuable actions in the discussions and debate relating to legitimate freedoms and protection of citizens rights. Consequently, the secretariat of the Central Supervisory Board on protection of citizens rights was established under the direction of the Head of the Judiciary. This Board has taken the following measures to put this law into actual practice:

(a) Structural measures by the Secretariat of the Central Supervisory Board to implement the Implementing Instructions of the law on protection of citizens rights:

(i) Establishment of the Secretariat of the Central Supervisory Board for the enforcement of law on respect or legitimate freedoms and protection of citizens rights;

(ii) Establishment of Supervisory Boards for the law on legitimate freedoms and citizens rights in the provinces;

(iii) Establishment of the secretariat for the Supervisory Board on Protection of the rights of citizens in the provinces;

(iv) Designation special branches for offences relating to violation of citizens rights;

(v) Dispatching inspection teams by provincial boards to the relevant agencies;

(b) Actions by the supervisory Boards in protecting rights of citizens and hearing and examining complaints and reports of violations. Actions taken by the secretariat of the Supervisory Boards in respect of protecting the rights of citizens in paragraph "a" are:

(i) More than 7000 inspections of police and judicial bodies;

(ii) Receiving reports from people concerning treatment by the police officers and judicial and administrative officers of the Judiciary and reviewing them in the Supervisory Boards for rights of citizens;

(iii) Installing boxes for receiving complaints and suggestion in court buildings and prisons and examining these complaints by members of the Supervisory Boards for protection of the rights of citizens;

- (iv) Planning training courses on the rights of citizens for judges, personnel of the Judiciary and preparing programmes for public and grass-roots education on the rights of citizens;
- (v) Providing counseling and legal aid to those referring the Secretariat of the Supervisory Council, Participation in production of television programmes on the rights of citizens and on concepts relating to law;
- (vi) Conducting systemic inspections and supervision on the implementation of the law on legitimate freedoms in the courts and policing agencies in the country by inspectors and experts from the Secretariat of the Central Board;
- (vii) Explaining the duties and strengthening the position of the Supervisory Boards for Protection of the rights of citizens in the provinces;
- (viii) Using qualified administrative inspectors and experts who are qualified to conduct inspection on case-by-case and temporary basis and supervising and evaluating the performance of provincial Supervisory Boards on protection of the rights of citizens;
- (ix) Increasing legal aid activities for the purpose of protecting the rights of citizens and referral of those in need of legal aid to the legal counselors and official experts from the Judiciary as gratuitous lawyers;
- (x) Sending of complaints and reports to the relevant authorities and following them up until the final result;
- (xi) Planning for the purpose of raising public awareness by utilizing the experiences and capacity of the judges and academic and cultural experts;
- (xii) Planning for the implementation of research projects in the fields of citizens rights and supporting students' dissertations on the subject of citizens rights;
- (xiii) Establishing provincial inspection teams for presence in the courts, prisons and reviewing the court cases, records and visiting detention centers and prisons;
- (xiv) Conducting opinion polls and research on the behavioural aspects of judges and personnel of the Judiciary in Tehran province;
- (xv) Reviewing reports from Supervisory Boards and Inspection Boards of provinces and presenting proposals for incentives and punitive measures on the basis of the reports;
- (xvi) Preparing quarterly and semiannual reports for the implementation of the law in protection of the rights of citizens in the country every 3 months and 6 months.

### **Fifth discussions: changing ways and approaches**

173. The second part of the juridical development plan is for the purpose of increasing the efficiency of the judiciary machinery. These changes can be examined in two parts:

- (a) Correcting the penal approach in the judiciary, (restorative justice, decriminalization, using alternative dispute settlement mechanisms, crime prevention, judicial economy and preventing prolongation of proceedings, etc.);
- (b) Correcting the penal approach in the executing agencies (prisons, etc.).

**Paragraph 1: correcting penal approach in the Judiciary**

174. One of the areas that have been accorded high priority along with judicial development and changes in the ongoing legal debates in Iran is the need to correct penal policies. Visiting the evolving legal literature in the Judiciary over the past ten years, one will see the presence of concepts such as restorative justice, use of alternative dispute settlement mechanisms, decriminalization, crime preventing and judicial economy.

**Restorative justice**

175. One of the salient points in the plan for judicial development is the subject of restorative justice. According to the prevailing view in the Judiciary, major crimes such as violent conduct, terrorism, organized crime and other offences of the same nature need to be dealt with the punishments that fit the crime and restorative justice would not be helpful, for simpler and less important offences that generally entail violation of the rights of people, restorative justice can be beneficial, therefore the mandatory punitive punishments should change to voluntary and consensual measures for the purpose of promoting conciliation. In the course of implementation of judicial development plans, efforts were made to create the necessary cultural conditions that are compatible to restorative justice so that soft response to offences would not lead to more crime. Raising public awareness, explaining the negative consequences of crimes on the society, emphasizing the dignity and inherent worth of human beings, strengthening moral and religious values are among these programmes. Moreover, judges and members of the Conciliation councils should be trained to apply this method of justice after feasibility studies.

176. Despite all the efforts that have been made over the recent years to put restorative justice into actual practice, but because of the weakness of civil society institutions in our country, restorative justice faces formidable obstacles.

**Using alternative dispute settlement mechanisms**

177. Second pillar in reforming the penal policy and approach in the judiciary is use of alternative dispute settlement mechanisms. The instruction to re-visit laws and drafting of new bills in this connection is the first step. The bill relating to this approach and omitting some criminal titles from the laws are among the important measures and efforts in this connection. This new bill is intended to expedite hearing of court cases, preventing prolongation of cases and reducing the cost to government and society. The bill is also intended to provide opportunity for better control and allow more time for the Judiciary to deal with more important offences. Presently, some of the offences are referred to relevant institutions and organizations affiliated to the Judiciary. This is a policy that is being seriously pursued. In such cases, due to the clear provisions in law and less important character of the offences, cases are not examined by the Judiciary, but are sent to the relevant organizations and institutions for settlement or arbitration.

**Decriminalization**

178. In connection with the process of decriminalization, the policy of the Judiciary in connection with children and young adults is to change the attitude of court toward children and to adopt non-punitive attitude. Efforts are being made to convince the courts not to apply prison sentences for children and use alternative measures. In cases when incarceration is necessary court should send the juvenile offenders to correctional institutes. Judges are required to refrain from remand custody orders.

179. In the revised children and juvenile procedural code, that are certain provisions for decriminalization of some offenses. The new bill on this subject is widely welcomed by

many officials in the country, according to the new procedural code; judges can apply lighter sentences for juveniles at their own discretion.

180. Moreover, in respect of press offences, efforts are being made that to the extent possible to refrain from ordering stoppage of publication and to deal with press offences in accordance with the Press Law and other relevant laws. That is to say that first the offender is guided, and in the second phase the publication's manager is summoned and questioned and if necessary the publication is suspended. In third phase, indictment is issued and the manager in charge of the publication is sentenced in accordance with article 168 of the Constitution. Finally, if there is no other remedy, the publication is closed.

181. For the purpose of putting the decriminalization plan into operation and re-examination of law, the Decriminalization Committee under the auspices of the Deputy Head of Judiciary for Legal Affairs and Judicial Development was established. This committee formed six study groups to study and review criminal laws and regulations and to conduct theoretical and practical feasibility study on decriminalizing some offences:

- Decriminalization of economic offences
- Decriminalization of cultural offences
- Decriminalization of environmental offences
- Decriminalization of military, police and draft offences and traffic violations
- Decriminalization of offences against family rights and obligations
- Decriminalization of offences by trades, and offences relating to the ministries

182. The above-mentioned committees have prepared a list of offences that could be decriminalized.

### **De-penalization**

183. There is a much broader scope for activities in respect of de-penalization as compared to decriminalization. The legal institutions and bodies that exist in respect of *hodoood* (punishment that its degree and type has been determined by Sharia), *ta'azirat*, and even *qisas* can provide help in de-penalization. In *Ta'azirat* (a punishment that its degree and type is not been specified in the Shari'a and it is up to the decision of the judge), the sanctions, or punishments are not limited to imprisonment, flogging and pecuniary fine, but include also actions that in customary practice of the justice system can be considered as moral punishments. For example, a reprimand, chastising and lecturing or other similar actions can place at the disposal of the Judiciary a long list of sanctions that are not customarily regarded as punishment. They can be applied in light of the situation of the suspect or in cases when other element cause the waiver of *Hadd or Ta'azir*, such as repentance or denial after confessions in particular cases. They can be used as the cause or reason for waiver of punishments in a legal process, but not in a legislative process.

184. In matters relating to intentional injuries (tort cases) where the emphasis is on reconciliation, *diyeh*, financial punishment is a good substitute. Therefore "reconciliation" and arbitration bodies which are based on the consent of the parties are among institutions that can be used for De-penalization purposes. In such cases, "people's arbitration" can probably be used under the supervision of the Judiciary. For example, there are certain judicial customs among tribal communities that can be used as settlement mechanisms within a legal framework and under the supervision of the Judiciary.

### Judicial economy

185. In Iran the time spent on reviewing a case is long due to inadequacies in law, shortage of human resources, problems in processes and systems. Although much effort has been made to reduce the time, achieving international standards require serious determination and a lot more work and efforts. To approach the international standards, the second judicial development plan has placed the issue of judicial economy alongside other elements that were explained earlier. For this purpose, first a comprehensive study was conducted concerning the length of review and hearing by the court of first instance and the appellate court. In this study, more than 11,000 civil and criminal cases were sampled for survey. It became clear that of the total of 4,375 civil cases, 396 and of 4,375 criminal cases, 396 cases (total of 797 cases) were referred to the appellate courts.

### Comparative table for the average and the longest time (days) for hearing of civil and criminal cases in the courts of first instance and appeals

|                          | <i>Time from initiation of the case to ruling by the first court</i> |                | <i>Time from the first ruling to ruling by the appellate court</i> |                |
|--------------------------|--|----------------|--|----------------|
|                          | <i>Average</i>   | <i>Maximum</i> | <i>Average</i>   | <i>Maximum</i> |
| Civil cases              | 137  | 4 610          | 135  | 3 606          |
| Criminal cases           | 57   | 4 585          | 147  | 1 968          |
| Civil and criminal cases | 87   | 6 410          | 172  | 3 606          |

186. As can be seen in the table below, the cases referred to the appellate courts, in civil cases, average days from initiation to final ruling are 463 days. The number of days in the court of first instance is 328 days which is 2.5 times more than the time for all the cases handled by the courts of first instance.

### Comparative table of average and maximum days of adjudication for civil and criminal cases from the lower to appellate court

|                    | <i>The time from initiation of case to appellate ruling</i> |                |
|--------------------|---|----------------|
|                    | <i>Average</i>  | <i>Maximum</i> |
| Civil cases        | 463   | 4 367          |
| Criminal cases     | 274   | 3 313          |
| Civil and criminal | 367   | 4 367          |

187. This indicator for criminal cases in 274 days, 217 days in the lower court, and almost 3.5 times the time spent for all criminal cases in the court of first instance.

### Measure taken to improve time frame in legal proceedings

188. For the purpose of having more respect for the rights of people and facilitating recovery of rights through the justice system, the new proposed bill for procedures in civil and criminal trial endeavours to shorten the path of legal proceedings. The purpose of the framers of these procedures is to reduce the time for legal proceedings, reduce cases for interpretation of the procedures code to the minimum, to raise the independence of the judiciary, to improve sanction for enforcement of civil rulings and to pave the way for the abidance of judicial rulings by non-judicial agencies.

189. Moreover, for the purpose of presenting more examples of efforts to reduce the duration of legal proceedings, mention can be made of the revised Implementing

Regulations for the Law on Establishment of General Revolutionary Courts adopted on 15/3/1373 and subsequent amendments. For the purpose of ensuring hearing of cases in the courts that have the required jurisdiction, and to reduce duration of legal proceedings, the Revised Implementing Regulations for the Law on Establishment of General Revolutionary Courts dated 15/3/1373 and the subsequent amendments that include 43 articles and five Notes was approved on 16/11/1381. Article 4 of the revised implementing regulations states that upon the proposal of the Director General of the ministry of Justice of the province and approval by the Head of the Judiciary, branches of General Civil Courts and General Criminal Courts and Prosecution Offices should be allocated in each judicial district accordance to the needs and resources available for reviewing and hearing special offences and lawsuits.

190. The implementation of the rules concerning the mandatory presence of a lawyer in the court is another step to reduce duration of legal proceedings, which has been one of the priorities of the Judiciary from 1384.

191. These rules have 16 articles and six notes and according to these sets of rules all courts are required to refrain from accepting cases without presence of a lawyer.

192. This right is explicitly stated in the new Criminal Procedures Code in Article 5: The defendant must become aware as soon as possible of the charges against him/her and have access to a lawyer. Moreover, for the purpose of preventing waste of court's time and in accordance with article 3 of the revised law on establishment of the General and Revolutionary courts dated 18/7/1381, the Prosecution Office was revived and reinstated. It was decided that in each judicial district of a city a Prosecution Office to be established together with the court.

193. In this connection, article 2 of the same law states that in each judicial district that has more than one branch of the General Court, that branch should be divided into civil and criminal courts. The civil court should only deal with civil cases and the criminal court with criminal cases.

194. Furthermore, in order to prevent prolongation and waste of court time quasi judicial bodies have been established and they have been effective in reducing caseload by 30 percent. Dispute Settlement Councils and dadsaras have been very helpful.

195. Apart from reviewing of laws and ways of adjudicating disputes, one of the ways that have helped to reduce court and trial time over the past ten years is administrative automation and new technologies.

196. Article 6 in these new rules states that with the launching of a software for electronic communications in the Judiciary, the judicial units and affiliated agencies are required to create the necessary mechanisms and infrastructures for electronic communication and receiving queries through electronic media. With the launching of Judicial Terminal System and the software for court management system, the dissemination of information and notifications are done by emails, SMS and other electronic methods.

197. These new rules also emphasize that all judicial units are required to enter all complaints and statements seeking remedy via the Terminal, and send them for examination and review.

198. In the closing part of these rules, it is stated that in light of the need to standardize infrastructures for information and communication technology in the Judiciary, all administrative departments, affiliated organizations and branches of the Ministry of Justice are required to build Local Area Network according to standards by the ICT Council of the Judiciary and receive a certificate of compliance from this council.

### **Establishment of Legal Guidance and Assistance Department**

199. This department was established to empower the people coming to the judiciary, to make them content and to have their rights in mind. These objectives are met by providing guidance and assistance to people and to help them recover their rights and seek remedy, it also provides gratuitous legal counsel and provides answers to their queries. The duties of the Legal Guidance and Assistance Department are as follows:

- (a) Informing the public on the goals, duties and organization of the Judiciary, ways of initiating a claim or complaint, ways of concluding a contract, obligations under a contract, answering questions concerning way of recovering rights and seeking remedy, cooperation on establishing legal assistance offices in ministries, government agencies, municipalities, revolutionary organs and trade unions;
- (b) Providing guidance on ways of receiving legal aid and counseling;
- (c) Designating gratuitous lawyers for indigent people;
- (d) Referring people to agencies related to courts in order to expedite answers to queries and communications.

### **Sixth discussions**

#### **Paragraph 1: drafting of legislations and regulations**

##### *Human rights and public law*

200. Considering the direct relations between public law with the fundamental right of citizens, the Deputy for Legal Affairs and Judicial Development has two projects in the agenda.

##### *Administrative procedures code*

201. Parallel to the justice system as related to criminal and civil courts, there are several specialized forums and administrative courts with different organization and modus operandi, especially in the executive branch of government. They operate at two levels:

- (a) Disciplinary and police courts that are in charge of disciplinary matters relating to civil servants or members of particular trade or professional body;
- (b) Special institutions that are in charge of settlement of disputes between government and citizens with respect to enforcement of laws relating to municipalities, taxation, etc. Since millions of people come in contact with these two institutions, it is essential to have special mechanisms to recover their rights.

##### *Judicial control of government regulations in courts*

202. This concept is explained in article 170 of the Constitution, but the process is not clear, and therefore the modality of applying it and defending the right of citizens in the phases of legal proceedings need to be reviewed.

##### *Human rights and rights of victims*

203. The Deputyship for Legal Affairs and Judicial Development placed in its agenda in 1384 programmes to defend the rights of victims in the penal system. Among these programmes were:

- (a) Drafting of recommendations concerning protection of the rights of victims and guaranteeing their rights. These recommendations have been approved by the senior

judiciary officials and would be included in the draft of the legislation on new criminal procedures code;

(b) Drafting of legislation on compensation for victims of actions by the government;

(c) Plan to protect victims in substantive criminal law, as part of the project to amend the Islamic Penal Code.

204. Some other drafts of legislations are as follows:

- Draft of the bill on crime prevention
- Draft of the bill on social punishments as alternative to imprisonment
- Draft of the bill on strengthening family institution
- Draft of the bill on establishment of children and juvenile courts
- Draft of the bill on the new criminal procedures code
- Draft of the bill on changing the Prison Organization to Organization for Enforcement of Penal Sentences, Security and Correctional Measures
- Draft of the bill on Modality of Enforcing Pecuniary Sentences
- Draft of the bill on decriminalization and alternative disputes settlement mechanisms
- Draft of the bill on omission of prison records of rehabilitated persons
- Draft of the bill on the rights of citizens
- Draft of the bill on definition of political offences and separating them from other offences

*Other research projects*

205. Other research projects conducted by the Deputyship for Legal Affairs and Judicial Development are as follows:

- Research on qisas, inheritance, testimony by members of religious minorities and making them compatible with human rights standards
- Research on “Action Plan on Forced Disappearances”
- Research on “Capacity of the Judiciary in the field of Human rights”
- Research on “Right to health in Iran”
- Research on “Rights of the Child in Iran”
- Research on “Contradictions of Women’s Rights in Domestic and International Law”
- Research on “Fair Trials and Compatibility with National Standards”
- Plan to adjust civil and criminal policies in Iran
- Plan to promote environments free from crime in urban, rural and family structures
- Plan to protect people at risk of becoming victims

## Organization of judicial management

### Paragraph 2: holding of seminars, conferences and workshops

206. Organizing seminars on new subjects in law and justice system is an effective way to become familiar with the latest developments in the field of law. In Iran, this matter has been accorded high priority, and in cooperation with national governmental and non-governmental organizations, the Judiciary has carried out this mission in two ways. First, it has organized a number of such seminars in tandem with other governmental and non-governmental organization. Secondly, it has also organized scholarly event independently in order to provide a forum for gaining greater in-depth knowledge of law and the work of the judiciary. The judges and other officers and staff of the Judiciary have benefitted from these conferences to give greater depth to their experiences. Below are only a few of the conferences organized by the Judiciary:

- Conference of the Heads of the Judiciary of Islamic Countries, Khordad 1386
- Conference of Prosecutors General of Capitals of Islamic Countries, Khordad 1386
- National Conference for Judges, Ordibehesht 1385
- Holding of two national conferences on the subject of “Explanation of Objectives, Plans and Training Methods in 1380 and 1381
- Application of Human Sciences in Prisons, 29–31 Mordad 1374
- First national seminar on Modern Methods in Prison Management and rehabilitation of prisoners 16–17 Ordibehsht 1376
- Second national seminar by Prisons Organization on Prison, Punishment or Rehabilitation 16–17 Ordibehsht 1376
- Analysis of the consequences of new rulings in the Children’s Courts 4 Esfand 1379
- Fourth seminar on the role of sports in rehabilitation of prisoners 21 Aban 1380
- First International Seminar on Alternatives to Prison Sentence 18–19 Ordibehesht 1381
- Training Seminar for Secretaries of Research Council of Prisons, 4 Dey 1381
- The first meeting of the heads of prisons on Problems, consequences and Strategies, 8–10 Bahman 1381
- Seminar on Evaluation of Drug Abuse in Prisons 20 Khordad 1382
- Review of KAP Survey on Personnel of Prisons Organization, 5 Shahrivar 1382
- Training Workshop on Fair Justice for judges and social workers in provinces of Tehran, Fars, Gilan, West Azerbaijan, Khuzestan and Hormozgan, etc.

## IV. Article 3

207. The strategy of the Islamic Republic of Iran is to protect human rights, justice and trust which have their roots in Islamic and Iranian culture and based on non-discrimination and respect for human rights. Accordingly, many measures and legal facilities are put in place to promote human rights of women at individual, family and social levels.

208. The rights of women at individual level, relate to their personal rights. In addition to the Constitution, civil and judicial laws, the Charter on Women Rights and Duties in the Islamic Republic of Iran underline the importance of women’s rights.

209. The principal areas in individual rights relate to the immunity of life, property and dignity, freedom of thought and security in having beliefs and the right to decent life and health.

210. In policy formulation and legislations based on gender balance and equity, efforts are made at all three levels of individual, family and society to promote women's position to a desirable level.

211. The purpose behind national plans is to promote justice, and place individuals in their desired and proper status free from gender consideration. In this connection, mechanisms for the advancement of women have been designed and almost all agencies of the government have a section dedicated to women issues and work to achieve the goals of the government with respect to women.

212. In fact, gender equity can also include gender equality, but does not entail equality in all places. The strategy and policy of the Islamic Republic of Iran with respect to women and men is to prevent violence against and oppression of women. Consequently, at individual level, there is full equality between men and women in respect of law and women are regarded purely as human beings. At social and family levels, in matters relating to employment, political rights, participation of women underlines the importance of family and respect for all persons, be they men or women.

213. Rights of women at family level are two-way relationships with social and individual rights. Family rights, in view of executive agencies of the Islamic Republic of Iran, are based on prevention of social abnormalities and aberrations. This will ensure the individual health of women and children. In this connection, mention can be made of the right to alimony and the role of men as the provider of the economic life of women.

214. The rights of women at social level emphasize their position and status in interactions with the society and deal with such issues as employment, political rights, women's participation, women's health, public education, insurance and social security. These rights cover all cultural, political and the rights relating to the judicial process. Moreover, attention is paid to the situation of women among ethnic, racial and religious minorities that have been officially recognized. Members of the religious minorities are free to exercise their faith in matters relating to divorce, inheritance, and marriage.

### **Vision document and Fourth Development Plan on women**

215. In the Twenty-Year Vision of the Islamic Republic of Iran there are provisions concerning women and family, women and health, and well-being, food security, social security, equal opportunities, equitable income distribution, strengthening of family institution free from poverty, corruption and discrimination and enjoyment of a clean environment.

216. In line with the Twenty-year Vision, the promotion of women and family in the general five-year development policy in the Fourth Development Plan has been emphasized in the two following areas:

- (a) Status of women and family in social, political, defense and security affairs;
- (b) Strengthening of the institution of family and the status of women in the family and in social arenas, recovering the legal and Sharia rights of women in all areas, especially their constructive role;
- (c) Trying to achieve social justice and to create equal opportunities and enhance indicators such as education, health, food, per capita income and combating vice;

- (d) Creating a comprehensive system of social security for protection of the disadvantaged and oppressed and combating poverty and supporting public and private charity organizations by taking into view religious and revolutionary considerations;
- (e) Strengthening national identity of the youth in keeping with the ideals of Islamic Revolution;
- (f) Providing an environment for intellectual development and trying to end concerns and worries regarding employment, marriage, housing, and social risks for the youth;
- (g) Paying attention to the needs and requirement of young people;
- (h) Creating an environment and proper legal, judicial and administrative structures to achieve the goals of the Twenty-Year Vision;
- (i) Expanding and giving greater depth to spirit of public participation and cooperative thinking and making government more attractive to the immense talents and capacity of people;
- (j) Strengthening national security and power by emphasizing on scientific technological advancement, participation and political stability, creating better balance between the different parts of the country, consolidating unity and national identity, economic and defensive power, and elevating the global status of Iran;
- (k) Elevating the status and role of women in the economic arena. Concerning the elevation of the status of women in the economic arena, the following points are noteworthy:
  - (i) Achieving uninterrupted and stable economic growth in line with objectives in the Twenty-Year Vision for creation of gainful employment and reducing unemployment;
  - (ii) Creation of the right mechanism to increase productivity of factors of production with the support of entrepreneurship, innovation, technological potentials and research;
  - (iii) Supporting low-income and needy groups to buy home;
  - (iv) Increasing the capacity and the strength of the Cooperative Sector by facilitating access to resources, information, technology, communication and technological linkages, and their economic and financial power.

### **The law on Fourth Development Plan and its policies on women**

217. To achieve the goals envisaged in the Twenty-Year Vision and the general policies of the Fourth Development Plan, the following policies are envisaged concerning the situation of women:

- (a) Policies and guidelines for achieving social justice and human security for women:
  - (i) To benefit from health, well-being, food security, social security, equal opportunities, fair distribution, solid family institution free from poverty, corruption, tyranny and benefiting from healthy environment (Twenty-Year Vision);
  - (ii) Efforts to achieve social justice, creating equal opportunities, and elevating indicators such as education, health, nutrition, increasing per capita income and combating corruption (paragraph 12 in Policies);

- (iii) Actions such as preventive programmes and providing legal assistance and legislations to prevent violence against women (paragraph c of article 111);
  - (iv) Elevating mental health, expanding social workers network, strengthening family institution, empowerment of individuals and groups at risk (paragraph G of article 95);
  - (v) Protecting families of prisoners and executed persons through private charitable organizations and the societies for the protection of prisoners (paragraph b of article 132);
- (b) Policies and guidelines to improve quality of life, health and social security of women:
- (i) To benefit from health, well-being, food security, social security, equal opportunities, fair distribution, solid family institution free from poverty, corruption, tyranny and benefiting from healthy environment (Twenty-Year Vision);
  - (ii) Creating a comprehensive system of social security for protection of the disadvantaged and oppressed and combating poverty and supporting public and private charity organizations by taking into view religious and revolutionary considerations (paragraph 13 of Policies);
  - (iii) Supporting low-income and needy groups to buy home (paragraph 41 of Policies);
  - (iv) Universal coverage of basic medical insurance;
  - (v) Providing special insurance for the elderly and disabled women heads of household and individuals without guardians, especially children (paragraph c of article 96);
  - (vi) Increasing insurance coverage with special attention to rural population, tribal communities and urban population with no insurance coverage, in the same way that social insurance plans of rural and tribal population was executed with the participation of government, rural and tribal people after the approval by the government for the second year of the Fourth Development Plan;
  - (vii) Preparation and framing of the comprehensive plan for empowerment of women heads of household in cooperation with other relevant organizations and NGOs and its approval in the first half of the first year of the plan by the Council of Ministers (paragraph Y of article 97);
  - (viii) Designing special entrepreneurial, empowerment, community participation plans, teaching professional skills and life skills, especially for the population in the three lowest income deciles (paragraph f of article 95);
  - (ix) Elevating mental health, expanding social workers network, strengthening family institution and empowering individuals and groups at risk ( para. A article 97);
  - (x) Preparation and implementation of educational programmes for elevation of nutritional knowledge and culture of the society (para. B article 84);
  - (xi) Providing healthy and adequate food, in line with desirable food basket and guaranteeing free health and rehabilitation services, providing inexpensive housing, ensuring free public schooling for population under the age of 18 for households in the three lowest income deciles by more effective allocation of subsidies (paragraph f article 95);

(xii) Providing subsidies on financial charges for housing developers from private, cooperative and public sectors to build low-priced housing for lease and purchase contracts according to approved standards in small and medium-sized cities and rural areas of the country for low-income groups, labourers, clerical workers and women heads of household (para.c article 30);

(xiii) Providing proper facilities and resources to alleviate educational deprivation by expanding night schools, rural-based and dormitory-based schools, distance education and providing food, transportation, health services for students and costs relating to night schools, and building and expanding sports and athletic facilities and spaces and schools according to the needs of the region and implementing programmes for expansion of pre-elementary schools, especially in bilingual regions (paragraph s article 52);

(xiv) Planning for educational programmes toward better health and healthy life styles (paragraph T article 52) for the purpose of reforming physical fitness structures, promoting the culture of sports and exercise, qualitative and quantitative development of access to championship and public sports and athletics, developing the system for scouting talents, strengthening the presence of non-governmental sector, promotion of research and quality human resources in the Fourth Plan;

(xv) The ministries of Education, Science, Research and Technology, and Health and Medical Education are required to draft a programme in accordance with the document in paragraph 1 above to promote sports in schools, to promote sports in universities, to expand covered and open sports facilities and halls (priority for girls), to increase the hours for physical fitness, to establish sports clubs and to train human resources for the physical fitness and wellness sectors. After approval of the plan by the Council of Ministers, it can be executed. Moreover, the Physical Fitness Organization is required to carry out its plans according to the document mentioned in paragraph 1 above by using the services of experts in logistics and administrative departments (article 117 and paragraph A);

(c) Policies and guidelines for raising knowledge and awareness and productivity of women human resources for the purpose of promoting their effective presence in different arenas:

(i) Strengthening the institution of family and status of women in the family and in social arenas, and recovering the legitimate and legal rights of women in all fields and in light of their constructive roles (paragraph 14 of Policies);

(ii) Reforming system of education, including, technical and professional education, and to achieve effective higher education that can meet the needs of society for human resources required to realize the goals of the Twenty-Year Vision (paragraph 10 of Policies);

(iii) Taking necessary measures to reform the educational system of the country and the entrance examinations to the universities in view of the educational record and performance during secondary years, and encouraging involvement of universities in order to elevate innovation, creativity, entrepreneurship, and creating an independent spirit of learning and research among the young people (paragraph c article 43).

218. The government is required to ensure equal opportunities for access to education, especially in the less developed regions of the country, to promote knowledge, skills and to elevate productivity of human capital, especially for girls, to achieve qualitative and quantitative development of public education. The measures and actions that do not require legislation are as follows:

- (a) Development of the required areas for the implementation of “Education for All” programme;
- (b) Making education up to the end of Guidance (tenth grade) mandatory gradually in regions designated by the Ministry of Education in such a way that by the end of Fourth Plan this goal is achieved (article 52 paras. A and B);
- (c) On the job education matching the job for the purpose of elevating productivity and professional skills (especially for women) and particularly by short term programmes (para. A Article 54);
- (d) Policies and guidelines for creation of the required grounds for increasing the share of women in economy;
- (e) Promotion of social justice, creation of opportunities matching the potentials and capacity and interests of the society and elevating indicators such as education, health, food security, per capita income and fighting corruption (para. 12 of Policies);
- (f) Creating the required mechanisms for the growth of productivity of the factors of production such as energy, capital, workforce, water and soil, etc., supporting entrepreneurship, innovation, scientific and research talents (para. 37 of Policies);
- (g) To achieve a diverse economy dependent on knowledge and information, human capital and modern technology (para. 36 of Policies);
- (h) Providing the required provisions for optimal productivity of national capacity and that of the region in the field of information technology, biotechnology and micro technology, environment, aviation and space and nuclear technologies (para. C article 43);
- (i) Designing programmes for employment, empowerment, attracting social participation, teaching professional skills and life skills, especially to women in the lower three deciles of income (paragraph D article 59);
- (j) Reforming the laws and regulation to improve competitive capacity, to create conditions for greater participation of people, NGOs and professional and trade association in social, political, cultural and family arenas;
- (k) Strengthening the institution of family and status of women in social arenas and recording their legitimate and legal rights in all arenas especially in view of their constructive role (paragraph 14 of Policies).

219. The government is required to take the following measures with the view of strengthening the role of women in the society and family:

- (a) Preparation, adoption and implementation of comprehensive plan on women’s affairs and family, including review of laws and regulations to protect women and family, strengthening skills of women to match the needs of women and society and advances in technology, increasing structures for investments in entrepreneurship, better quality of life and increasing public awareness regarding their abilities;
- (b) Preparing and presenting bills relating to strengths of family institution for adoption by the relevant bodies;
- (c) Taking necessary measures, including preventing programmes and putting in place the required legal facilities to prevent violence and brutality against women and children;
- (d) Taking necessary measures to support qualitative development of community organizations, societies and charitable and Islamic institutions.

220. Note: all executing agencies are required to allocate the necessary funds for the legal obligations under this article and include it in the annual budget under the relevant programmes and make necessary coordination with the Center for Participation of Women and Family (article 111).

### **Rights of women at individual level**

221. Some of the rights stipulated in the Covenant on Civil and Political Rights are recognized as individual and inherent rights, and solely for the human dignity of women, apart from their gender. These rights include the right to life, prohibition of torture, cruel and inhuman treatment, and the right to be free and not be held in servitude, the right to have privacy and freedom of thought. These rights are part of the laws of the Islamic Republic of Iran and a number of strategies have been envisaged to give effect to these rights.

222. Article 20 of the Constitution states: All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria. Paragraph 6 of article 2 of the Constitution states: The Islamic Republic of Iran is a system based on the exalted dignity and value of man, and his freedom coupled with responsibility before God.

### **Right to life and inherent dignity of women**

223. The law concerning rights and duties of women in national and international arenas (adopted by the Islamic Consultative Assembly in 1385) places emphasis on the following rights:

Paragraph 2: the right to enjoy respect and the duty to treat others with respect.

Paragraph 1: the right to benefit from deserving life and physical health, and duty to protect it against diseases, accidents and violations.

Paragraph 5: immunity of the life, property and dignity of women and their private life against illegal violations.

Paragraph 6: the right to enjoy social justice in the enforcement of the law regardless of gender.

Paragraph 17: the right of girls to enjoy emotional and psychological needs, compassion from parents and immunity against domestic violence.

Paragraph 61: the right to have protection and immunity against verbal abuse by others and duty toward members of the society to refrain from verbal abuse.

Paragraph 72: the right to benefit from continuous supervision over cultural activities relating to women for the purpose of protecting the personality, dignity and human worth of women in cultural products.

Paragraph 81: the right and responsibility to enjoy a status deserving the role, standing and dignity of women in text books.

224. Article 22 of the Constitution: The dignity, life, property, rights, residence, and occupation of the individual are inviolate, except in cases sanctioned by law.

225. Article 21 of the Constitution: The government must ensure the rights of women in all respects, in conformity with Islamic criteria, and accomplish the following goals:

Create a favorable environment for the growth of woman's personality and the restoration of her rights, both the material and intellectual ... .

### **The right to freedom**

226. According to Article 23 of the Constitution: The investigation of individuals' beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief.

227. The Law on Rights and Duties of Women in national and international arenas are as follows:

Paragraph 3: The right to freedom of thought and immunity from violations and mistreatments because of a belief.

Paragraph 4: The right of an individual to enjoy his/her faith and to preserve and advance it spiritually in respect of beliefs and behaviours.

Paragraph 9: The freedom of women followers of Islamic faiths and official religious minorities in exercising their religious ceremonies and teachings and matters relating to personal status according to their faith within the limits of law.

Paragraph 10: Freedom of Iranian women in using indigenous and local costumes and dresses and dialects, and exercising their traditions, provided they are not contrary to good morals.

228. It is noteworthy the freedom to adhere to local traditions are to the extent that they do not violate the law, or even contradict good morals. Therefore, if local traditions and practices in any way violate the rights of women or are contrary to good morals, they are forbidden.

229. For this reason, whenever the matter relating to observance of hijab for women is raised, according to the rights of citizens and the requirements that societies apply through their governments, the Islamic Republic of Iran has put in place certain regulations in view of the Sharia criteria and Islam as the official religion of the county for public order and good morals. One of these regulations is the requirement for women to cover themselves properly in public. Therefore, all Iranian women and men are required to observe certain dress code in accordance with the Sharia. Needless to say, this requirement is for presence in public, and people are free in their private space like their homes.

### **The right to have a name**

230. Paragraph 7 of the Law on Rights and Duties of Women in national and international arenas emphasizes the right to have a name, to keep it and to change it. In accordance with Article 97 of the Civil Code of Iran: Every person must possess a family name.

### **Rights of citizens**

231. Paragraph 8 of the Law on Rights and Duties of Women in national and international arenas recognizes the right of citizenship for every Iranian woman and renouncing of citizenship by her. Article 41 of the Constitution: Iranian citizenship is the indisputable right of every Iranian, and the government cannot withdraw citizenship from any Iranian unless he himself requests it or acquires the citizenship of another country. Because of frequent questions regarding this matter, explanations are provided below.

### **Change of citizenship as the result of marriage**

232. Majority countries of the world have accepted that for the sake of preserving the unity of the family, wife and husband should have one nationality. Therefore, if a woman and a man who want to be married have two different nationalities, usually the nationality of the husband is imposed on wife. Otherwise, the wife would be deprived of the advantages and rights enjoyed by the husband because of his citizenship rights and face many problems. There have been much debate on this subject and there are those who argue that today's women are equal to men in all rights. But we all know that citizenship is a political matter, and not a legal matter relating to private law, thus the governments are free to decide as they choose.

233. The Civil Code of Iran in paragraph 6 of Article 976 states that every woman of foreign nationality who marries an Iranian husband is regarded as Iranian citizen. Therefore, the choice of the woman has no bearing on this matter. If the government of the woman's nationality continues to regard her as its citizen after the divorce, then the woman would have citizenship.

234. It can be deduced from paragraph 6 of article 976 that the marriage should have taken place legally. That means that the marriage should have been registered in accordance with article 9033 of the Civil Code by an Iranian Consulate office.<sup>1</sup>

235. A woman who acquires Iranian citizenship as a result of marriage with an Iranian man is regarded an Iranian citizen as long as she maintains the marital relationship, and needless to say there are no limitations in respect of ownership of immovable property.

236. In case of divorce or death of the husband, the woman (wife) continues to possess her Iranian nationality, but has the right to revert to her former nationality by giving a notice to the Ministry of Foreign Affairs and presenting the certificate of divorce or death of her husband.<sup>2</sup> If the dissolution of marriage is as a result of the death of the husband, according to article 986 of the Civil Code of Iran and the widow who has children from her former husband cannot take advantage of this right so long as her children have not attained the full age of 18 and according to article 1171 of the Civil Code, the mother retains the custody of the child. If that was not the case, when the woman reverts to her former nationality, it is possible that she would take the minor child out of Iran or leave the child without any guardian in Iran. In both situations, the best interest of the child and Iranian society would be at risk.

### **Change of nationality of the wife of a person who has acquired Iranian nationality**

237. In most countries of the world that believe in single nationality, when a man acquires the citizenship of that country, his wife also becomes the citizen of that country. For example, in the Civil Code of Iran, article 984 states: The wife and minor children of those who obtain Iranian nationality in accordance with this Act will be recognized as Iranian nationals but the wife can submit, within one year of the date of issue of nationality papers to her husband, and the minor children can submit, within one year after reaching

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<sup>1</sup> According to article 1051 of the Civil Code the Government can make the marriage of certain Government servants and officials and students supported by the Government with a female foreign national dependent upon special permission.

<sup>2</sup> According to article 5 of the Iranian Citizenship Code these women need to complete a written declaration (specimen 6) and after notarization submit it to the Ministry of Foreign Affairs.

the full age of 18, a written declaration to the Ministry of Foreign Affairs accepting the former nationality of her husband or the father as the case may be.

238. Therefore, according to article 984 of the Civil Code, the wife can only revert to former nationality of her husband, and if she wants to revert to her original nationality which is different from the former nationality of her husband, the law is silent on this, but the Ministry of Foreign Affairs in practice accepts this change of nationality.

239. According to the Citizenship Department of the Ministry of Foreign Affairs, the important point in article 984 is the recognition of the right to choose nationality, not what government she chooses. The latter is a secondary matter and is not of essential importance in view of the government of Iran.

### **Family rights of women**

240. Women have different rights and duties inside the family in view of their role as a wife and mother. The rights of women as wives are considered at three stages of marriage and formation of family, the marital life, and dissolution of marriage. These rights are explained in details in article 23. According to the Laws on Rights and Duties of Women in national and international arenas, the rights of women in the family are as follows:

Paragraph 21: The right and duty of women in consolidating the foundation of family and enjoyment of the required legal protection in order to prevent disagreements and reducing the number of divorces.

Paragraph 22: The right to use cultural, social and economic facilities to facilitate marriage at the right age, while abstaining until marriage.

Paragraph 23: The right to be aware of the rights and duties of the couples and to know the art of being a good spouse.

Paragraph 24: The right to know the standards and criteria of choosing a spouse.

Paragraph 26: The right to stipulate the prenuptial conditions within the framework of Sharia, and having sanction for these conditions.

Paragraph 27: The right to register marriage, divorce and resort to official and legal recourse.

Paragraph 28: The right of women to benefit from financial rights during marital life.

Paragraph 29: The right and duty to provide, dedicate, to be healthy and clean in sexual relations with the spouse and the right to initiate a protest in case of defects in these areas.

Paragraph 30: The right and duty to have common residence, good cohabitation, security and safety in relations with the spouse, the right to protest and initiate a complaint in case of abusive behavior by the spouse.

Paragraph 40: The right to separate from spouse in case of irreconcilable differences after resorting to court and presenting justifiable evidence, and the duty to respect the rules of divorce.

## Judicial rights and duties of women

241. According to article 3 of the Constitution in order to attain the objectives specified in Article 2, the government of the Islamic Republic of Iran has the duty of directing all its resources to the following goals:

Paragraph 9: The abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all, in both the material and the intellectual spheres.

Paragraph 14: Securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law.

242. Article 12 of the Constitution: The official religion of Iran is Islam and the Twelver Ja'fari school, and this principle will remain eternally immutable. Other Islamic schools are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status (marriage, divorce, inheritance, and wills) and related litigation in courts of law. In regions of the country where Muslims following any one of these schools constitute the majority, local regulations, within the bounds of the jurisdiction of local councils, are to be in accordance with the respective school, without infringing upon the rights of the followers of other schools.

## Statistics on women employed at the Judiciary

243. Concerning the number of women working in the Judiciary branch affiliated agencies that have professional and executive positions, the last statistics for the month of Khordad 1388 are in the table below:

### Statistics on women working in the Judiciary branch affiliated agencies that have professional and executive positions, month of Khordad, 1388

| <i>Organizational posts</i>  | <i>Number</i> |
|--|---------------|
| Assistant General and Revolutionary Courts prosecutors                               | 414           |
| Judicial counselors  | 83            |
| Deputy of Judicial Complex   | 14            |
| Advisors to Appellate Courts and Deputy for Legal Affairs                            | 14            |
| Judicial Deputy to Director General of the Ministry of Justice – Province of Tehran  | 3             |
| Judicial Deputy to Director General of the Ministry of Justice – Province of Isfahan | 1             |
| Advisor to the General Legal Department and Legislations                             | 3             |
| Advisor to the Office of Judicial Research and Studies                               | 1             |
| <b>Total</b>   | <b>533</b>    |

244. For comparison, the number of women judges in 1382 was 161, or Deputy of Judicial Complex was only 4. It is noteworthy that women legal advisors in the Appellate courts have equal powers as men in issuing verdicts and rulings.

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**Statistics on women occupying professional and administrative positions**


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| <i>Administrative personnel of the Judiciary – officers</i>                  | 263  |
| Administrative staff – heads of department                                   | 7  |
| Administrative staff – heads of group  | 2  |
| Administrative staff – in charge of social aid                               | 1  |
| Administrative staff – in charge of nutrition                                | 1  |
| Administrative staff – deputy heads of department                            | 9  |
| Administrative staff – advisers  | 21   |
| Administrative staff – social workers  | 70   |
| Administrative staff – planners  | 1  |
| Administrative staff – physician   | 10   |
| Administrative staff of prisons organization                                 | 163 doctors, specialists and experts                         |
| Administrative staff-managerial positions in prisons organization            | 24   |
| Staff of the Forensic Medicine Organization                                  | 9 heads of departments and heads of medical group            |
| Staff of forensic Medical Organization                                       | 113 doctors and 26 specialists, 42 experts, 78 other experts |
| Staff of Taazirat Organization who issue rulings                             | 9  |
| Administrative staff of Deeds Registration in managerial positions           | 946 experts and Officers In charge                           |
| Staff of Deeds Registration Organization in managerial positions             | 7 heads of departments, 18 deputy heads of department        |
| Administrative Staff with managerial positions in the General Inspectorate   | 20 experts, 1 head of department                             |
| Women with License to serve as judicial advisors                             | 335  |
| Women who need to complete judicial advisors classes and receive the license | 2 565  |

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245. According to article 21 of the Constitution, the government must ensure the rights of women in all respects, in conformity with Islamic criteria, and accomplish the following goals:

1. Create a favorable environment for the growth of woman's personality and the restoration of her rights, both the material and intellectual.

246. The following rights are in accordance with the Law on Protection of Women's Rights and Duties in National and International Arenas:

- Article 131. The right of women to benefit from legal education.

132. The right of women to benefit from judicial protection and legal remedies to prevent crime and brutality against women in family and society, taking action to end abuse against women.
133. The right to have access to special family courts to protect privacy, to bring reconciliation to her family and to facilitate reconciliation of differences.
134. The right to have access to women police and judiciary officers in cases of violence, being a victim of a crime or charged with commission of an offence.
135. The right of women to occupy legal and judicial positions according to the law.
136. The right to initiate a claim or complaint and defend in the courts of law or other legal bodies.
137. The right to use an attorney or legal counsel in courts.
138. The right to have the full support of the judiciary in combating factors behind violence against women and commission of crimes by women.
140. The right of women to be exempted from sentencing, if there are reasons to waive criminal responsibility.
141. The right to restore the dignity of women that has been as a result of wrongful judgment by and receiving moral and material compensation.
143. The right to benefit from lawful commutation of sentencing in terms of severity or being exempted or the modality of its enforcement in case of remorse and repentance and in time of pregnancy, lactation and illness.
143. The right of women to have visitation by parents, children and husband in time of incarceration according to the laws of the country.
144. The right of women to benefit from proper health, cultural, educational facilities while in prison for the purpose of rehabilitation and return to normal social life.
145. The right of young women to benefit from correctional centers with proper conditions.
146. The right of women to initiate complaints against government regulations, judicial and governmental officers in order to recover their rights.
147. The right and duty to give testimony in the court according to rules of Sharia and law.
148. The right to benefit from judicial support by the Prosecutor in claims against legal guardian and others who abuse their rights.

## **The newest amendments and legal decrees that are beneficial to women**

### **Share of inheritance from the estate**

247. According to a single-article bill proposed by the representatives of the Islamic Consultative Assembly, and in light of the fitwa by the Leader, women take inheritance from the entire estate of their deceased husband like other heirs. In the past, the wife took inheritance from the price of the buildings and trees not the land. But with the new amendment, she takes inheritance from the land as well.

### **Equal blood money (Diyeh) for men and women in all religions and mandatory insurance**

248. According to Note 2 to article of the Law on Compulsory Liability Insurance for owners of motor vehicles against the third parties, adopted 1378, the insurers are required to pay the damages to the third parties up to the ceiling of the insurance contract regardless of the gender. The sum of blood money above the contract that has been ruled by the court shall be paid as accident insurance.

249. For more information on the content of the law on Protection of Women and Children without the Guardian, refer to the attachment number ... This law is for the protection of widows, elderly women, women and children without guardian. Financial, educational, and social assistance is provided to them.

250. The Directive 1/78/6933 dated 10/7/1387 calls on criminal courts to refrain from sentencing women, children, young adults and those without prior prison record to prison and to the extent possible and in view of the conditions and regulations change prison sentences of these groups of people into pecuniary and other punishments.

### **Indicators for the realization of article 3 of the Covenant in view of the general interpretation of this article by the Committee on Human Rights**

251. According to the Constitution of the Islamic Republic of Iran all citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.

252. Article 44 of the Constitution: The economy of the Islamic Republic of Iran is to consist of three sectors: state, cooperative, and private, and is to be based on systematic and sound planning. The cooperative sector is to include cooperative companies and enterprises concerned with production and distribution, in urban and rural areas, in accordance with Islamic criteria. Ownership in each of these three sectors is protected by the laws of the Islamic Republic, in so far as this ownership is in conformity with the other articles of this chapter, does not go beyond the bounds of Islamic law, contributes to the economic growth and progress of the country and does not harm society.

253. To support and underline this inalienable right of women, the Law on Rights and Duties of Women in paragraph 109 states: the right to participate in economic policy-making and to create and manage commercial and economic institutions and membership in them.

254. Moreover, in view of the Constitution, access to employment opportunities for men and women should be equal. Article 28 of the Constitution states: Everyone has the right to choose any occupation he wishes, if it is not contrary to Islam and the public interests, and does not infringe the rights of others. The government has the duty, with due consideration of the need of society for different kinds of work, to provide every citizen with the opportunity to work, and to create equal conditions for obtaining it. In the Islamic Republic of Iran, women in addition to their right to have proper employment, have the right to

participate in economic policy-making. This right is divided into two parts at macro and micro levels.

255. At the micro level, women participate actively in drafting of economic implementing regulations in the organizations, ministries and governmental and non-governmental institutions in which women serve in decision-making and managerial positions.

256. At the macro level, women participate in the decisions of the government and legislations by the Islamic Consultative Assembly that relate to the economy. The laws and rule in Iran recognize this right of women.

257. Creation and management of economic institution and membership in them is also another right of women. Cooperatives are important economic and commercial institutions involved in production, distribution and services. The cooperatives play an important role in the economy of the country.

258. In keeping with one of the important articles of the Constitution, Social and Cultural Council of Women as the high authority in policy-making on women issues had the employment policy on women adopted by the High Cultural Revolutionary Council on 21/5/20:

Article 1: in view of the sanctity of the status of motherhood and cultivation of the future generation, management of homes and in light of the importance of women's role in the process of cultural and economic development, the moral and material value of the role of women and their work at home need to be considered.

Article 2: employment of women in cultural, social, economic and administrative professions and occupations are among the requirements for realization of social justice and progress, and need to be accorded high priority.

Article 3: cooperation and collaboration of the members of families with each other for optimal management of the affairs of the home and for the purpose of discharging social responsibilities is essential.

Article 4: conditions and environment of social activities of women should be provided in a way that it would lead to their professional development and would not harm their faith and mental and physical health.

Article 5: in view of the role of women in the social progress and economic development as half the population, necessary facilities should be provided to employment of women by the government. Moreover, necessary plans according to their priority need to be put in place and special legislations and resources dedicated for the employment of women up to the level that needs of the society for professions in paragraph A and B could be met. Concerning jobs in Paragraph C, women should be able to acquire the jobs of their choice without discrimination.

A: Professions that are recommended for women in Sharia, like midwifery, some fields of medicine and teaching.

Occupations that are more proper, mentally and physically, for women, such as laboratory sciences, electronic engineering, pharmaceutical industry, social work, and translation.

Professions that have no advantage or primacy for men or women and choosing them happens naturally and the criteria is simply experience and expertise, not gender, (unskilled workers in other technical and service fields).

Article 6: encouraging educated, experienced and skilled women to acquire management positions for the purpose of utilizing their productivity in higher executive positions.

Article 7: in view of the fact the educated and skilled human resources are the most valuable assets of any society and substantial resources have been spent on them:

First, to the extent possible women should be able to choose fields and disciplines of studies that better match employments of women.

Second, necessary facilities should be provided for utilizing the capacity of educated women and experts and efforts should be made that their role in the family would not deprive them from social activities.

Article 8: the mass media and public broadcasting services should present their programmes in line with the policies on employment of women to pave the way for the attraction of women to cultural, social, service and production activities and to correct the social perception concerning employment of women and promote the idea on the necessity of the presence of women in the advancement and development of the nation.

Article 9: in determining the value of work under equal conditions, at least equal wages and salaries should be envisaged.

Article 10: in light of the importance the Islamic Republic of Iran attaches to the consolidation of foundation of family and the constructive and educational role of women at home, the required rules and facilities have been envisaged to help women discharge their role as mothers. For example, there are special leaves with pay and without deduction from the working hours, retirement benefits, job security, social security in times of unemployment, old age and disability.

Article 11: facilities should be provided for professional and vocational education and proper employment opportunities with priority for deprived segments of women heads of households.

Article 12: proper employment opportunities for mothers who are homemakers to work at home near their children, without any time limitation and by paying wages against work and providing Cooperative facilities.

Article 13: administrative and employment Affairs Organization (civil service) and Ministry of Labour and Social Affairs are required to work with Social and Cultural Council of Women to prepare and drafting rules and directives for the implementation of these policies. For the future drafting of rules and directives, and amendment of past policies, these policies should be taken on board and the results communicated to the High Cultural Revolution Council.

259. For more support to women in economic arenas and raising their economic status, the Law on Rights and Duties of Women has paid special attention to this important matter as explained below.

### **Economic rights and duties of women**

260. According to the Charter on rights and duties of women, approved by the Islamic Consultative Assembly, these rights are as follows:

Article 89. The right to benefit from alimony in permanent marital relationship, in accordance with the status of the woman, by the husband or by father and children if needed by the woman and in view of her capacity.

90. The right to have a share from the estate of the deceased and his will in accordance with the Islamic laws.
91. The right to make endowment, to accept endowment and to inspect it.
92. The right to act as agent of a principal and make wills.
93. The right to determine the amount of nuptial money, to receive it and to dispose of it as she wishes.
94. The right to benefit from pension in case of the death of father, husband, or the child according to the law or contract.
95. The right of the legal heirs to benefit from retirement salary of the deceased woman employee.
96. The right to accept the financial guardianship of children and the duty to respect economic rights of children.
97. The right of women and girls to benefit from the required assistance in case indigence, divorce, disability, not having a guardian, and creating possibility for their rehabilitation and self-reliance.
98. The right to receive wages from husband in lieu of housework if demanded, and the right to have support for the impact of women's work at home on household economy and on national income.
99. The right to own personal property and to use the property within the confines of Sharia and law.
100. The right of women to conclude contracts and agreements.
101. The right to have employment after reaching the legal age and freedom to choose occupation of choice, to use personal capital and the duty to observe rules of Sharia in earning income and using it.
102. The right of women to benefit from education , acquiring skills and other requirements of employment for finding proper occupation, and the right of women heads of household to benefit from support.
103. The right of women to benefit from professional job placement counseling by women.
104. The right to have equal pay and benefits for equal work compared to men and other women.
105. The right to benefit from job and moral security, and safety, and duty to observe rules of decency at the workplace.
106. The right of women to be exempted from forced labour, and dangerous and harmful work at the workplace.
107. The right to benefit from proper facilities and regulations matching the family responsibility of women (as mothers and wives) in recruitment, placement, promotions and retirement.
108. The right to benefit from social security and economic facilities.
109. The right of women to participate in economic policy-making, creation and management of economic enterprises and membership in them.
110. The right and duty to receive and pay blood money and financial punishments according to rules and regulations.

111. The right to enjoy proper and effective legal support for the purpose of preventing exploitation and trading of women and preventing the use of women and girls in illicit and illegitimate work.

261. These laws and policies are the primary reason for the continued increase in economic participation of women from 1365 to 1386. During this period, the level of participation of women has gone up by 72 percent, while economic growth rate relating to men has come down by 10 percent during the same period. Moreover, during 1365 to 1386, despite the increase in economic participation by women, reflecting in a way increase of demand for work, the employment rate has increased, to the extent that ratio of employed women to the total persons employed in 1385 was estimated to be 13.6 percent, which is 12.3 percent greater than ten years ago.

262. The Center for Women and Family Affairs affiliated to the President's Office has allocated 21 percent of its programmes and projects to economic activities of women, and 11% of the total budget is spent on supporting women cooperatives. This center has concluded more than 70 contracts and projects in the following areas to increase the economic participation of women:

- Supporting women cooperatives and promoting the establishment of these cooperatives
- Generating employment and entrepreneurial skills of women
- Promotion of employment through women rural cooperatives
- Enhancing the capacity of women for employment
- Increasing the employment skills of women

263. It is noteworthy that the cases mentioned here are only summary of the efforts made by one agency of the government to increase employability of women.

#### **The level of women participation in political affairs**

264. According to article 3 of the Constitution of the Islamic Republic of Iran, the government is required to direct its resources to attain the following goals: ...The participation of the entire people in determining their political, economic, social, and cultural destiny.

265. Accordingly, the Law on Rights and Duties of Women in chapter 4 relating to the political rights and duties of women states:

Article 112. The rights and duties of women in participation, raising their awareness, and playing their role in the destiny of the country for the consolidation and protection of the Islamic System.

113. The right and duty to participate in social affairs, to oversee them in order to direct the society toward moral goodness and spirituality and to cleanse the society of moral and behavioural aberrations.

114. The right to freedom of expression and assembly by respecting the rules.

115. The right to establish political parties and other political institutions and to be active in them by respecting the independence of the country, national unity, and the interest of the Islamic system.

116. The right to participate in elections and to be elected in parliament or local councils, participate in preparation of government plans and to occupy senior executive positions by observing the prevailing standards.

117. The right and duty to be aware of political events and issues facing the world, especially the Islamic world.

118. The right to develop and exchange constructive political information among women in Iran and the world by observing national interests and rules of law.

119. The right and duty to have active and effective presence in Islamic forum, regional and international forums, especially in respect of issues facing women by observing rules of law.

120. The duty to work toward stronger solidarity among Muslim women and to support the right of deprived women, children and the oppressed of the world.

121. The right of women refugees in the Islamic Republic of Iran to enjoy security, health and the possibility of returning to their country.

122. The right of women citizens of Iran to have the support of their government vis-à-vis women of other nationalities within the limits of law.

123. The right of Iranian women to benefit from legal protection in respect of marriage and formation of family with non-Iranian men, within the limits of law.

266. These kinds of support for political participation of women have prompted more women to contest for the election of the Islamic Consultative Assembly in the 8th parliament. The number of women candidates increased to 585 which is 8.18 % of the total number of candidates. This is a seven-fold increase compared to the first parliament. The number of women representatives in the 8th parliament has doubled compared to the first parliament. The number of women in the local council in cities and rural areas has increased to 4,911, which shows 8.44% increase compared to the first council elections. Moreover, in addition to the cases above, the presence of advisors on women affairs in 40 ministries and government agencies and in provincial administrations in 31 provinces, and more than 250 advisors to governors and 400 assistant village administrators are all only a part of the presence of women at the high level of political decision-making. The number of women serving as assistant village administrators over the past two years has risen 156%. They are chosen by the members of the Village Council who are elected by the people.

### **Third indicator: education**

267. In view of article 3 of the Constitution concerning the requirement on the part of the government to provide free education for all at all levels and to facilitate and promote higher education, there also provisions in the Law on the Rights and Duties of Women on education:

Article 76. The right to literacy for all, to promote education and benefit from educational facilities for women.

77. The right to have access to higher education at the highest levels.

78. The right to acquire skills, and specialized education both in terms of quality and quantity at the highest levels.

79. The right of women and girls in the deprived areas of the country to benefit from special support in respect of education.

80. The right and duty in drafting of educational syllabus and texts.

82. The right to participate in policy-making and decision-making and educational management and active presence in cultural and scientific forums in Iran and abroad.

83. The right to recognize, support and to benefit from the capacity of talented of women and their duty to meet the needs of the society.

83. The right of physically and mentally disabled women to benefit from the required support in respect of education, access to higher education, and vocational training matching their talents and level of disability.

268. The Islamic Republic of Iran has been able to increase the level of secondary and higher education of women by adopting the policies and legislations explained above and by numerous executive strategies and measures as explained below.

269. According to statistics for the year 1385, the rate of literate women, compared to the total population of women above the age of 6 increased. The number of girl students in 1378 was more than 6,791,000, which has increased 126% compared to 30 years ago. It is also to be noted that about 63% of students at pre-university level are girls. The girls participating in the national university entrance exam in 1378, was 63.19 % of the total participants and their number, compared to 25 years ago, has gone up by 5.7 times.

270. The number of women accepted to the government higher education institutions in 1386 was 20 times more than the number 30 years ago. In this year, the number of girls, compared to the total number of entrants to undergraduate level was 44.27% and 63.4% at graduate level (master's degree) and 44.7% at doctoral level. The number of women students at government higher centers of education in 1385, compared to 30 years ago, increased 6.7 times.

## V. Article 4

271. According to article 79 of the Constitution as a general principle proclamation of martial law is forbidden. But under exceptional circumstances, the government has the right to impose temporarily certain necessary restrictions, with the agreement of the Islamic Consultative Assembly. This is one of the important provisions in the Constitution for the purpose of protecting freedoms, because is perfectly clear the proclamation of marital law is the tool to restrict freedoms of people, especially freedom to assemble, freedom of press and expression. The constitution has been very careful in preventing those in power from abusing their power and imposes marital law under the excuse of protecting law and order. This sensitivity has been demonstrably shown in article 9. Article 79 of the constitution bans imposition of martial law and regards imposition of certain restrictions under special circumstance with the agreement of the Islamic Consultative Assembly. Article 79 states: The proclamation of martial law is forbidden. In case of war or emergency conditions comparable to war, the government has the right to impose temporarily certain necessary restrictions, with the agreement of the Islamic Consultative Assembly. In no case can such restrictions last for more than thirty days; if the need for them persists beyond this limit, the government must obtain new authorization for them from the Assembly.

## VI. Article 5

272. As stated in this article and in the broad interpretation by the Committee, the government of the Islamic Republic of Iran has not misinterpreted the articles of the Covenant, and on the contrary in many cases by adopting legislations, policies and taking actions has tried to protect the human rights of the citizens living within its territory without any discrimination and even has gone beyond the Covenant to promote human rights. Some of the examples of these measures and actions are as follows.

## VII. Article 6

273. Concerning the punishment of death sentence, article 22 of the constitution of the Islamic Republic of Iran states: The dignity, life, property, rights, residence, and occupation of the individual are inviolate, except in cases sanctioned by law. Crimes for which death sentence are envisaged are as follows:

- Smuggling of a definite amount of illicit narcotic drugs
- Armed robbery (article 186 of the Islamic Penal code)
- Acting to overthrow the government by armaments and explosive materials (article 188 of the Islamic Penal Code)
- Adultery with one's consanguineous relatives (close blood relatives forbidden to each other by religious laws)
- Adultery between a non-Muslim man and a Muslim woman, in which case the adulterer (non-Muslim man) (article 82 of the Islamic Penal Code)
- Military offences with defined severity and degree

274. The Islamic Republic of Iran as an accountable and committed member of the international community regards membership in international treaties on prohibition of weapons of mass destruction as a strategic principle in its foreign and defense policy. Iran cooperates in a transparent fashion with the international bodies and our sincerity has been confirmed by these forums.

275. The Islamic Republic of Iran was among the first group of countries that signed NPT and Chemical Weapons Convention. Iran is also a state party to 1948 Geneva Convention and to prove its good faith has consistently adopted a positive approach toward based on full cooperation. This approach has been exemplary in the volatile region of the Middle East.

276. It is also noteworthy that in the Islamic Republic of Iran death sentence is only applied for certain crimes. With respect to intentional homicide, there is provision in the law for death sentence, but it is applied when demanded by the "owners of blood" and agreement of the Valieh Amr or his representative (article 219 of the Islamic Penal Code). Otherwise, if the complainant forsakes, the offender can be set free after spending 3 to 10 years in prison and payment of blood money (article 275 of the Islamic Penal Code).

277. There are more stringent legal proceedings for death penalty and the ruling by the court of appeals has to be confirmed by the Supreme Court. For this reason, the death sentence ruling by the lower courts are difficult to get confirmation.

278. Therefore, in the case of qisas in intentional homicide, it is part of the personal rights of people, and there is no possibility for commutation. Only when the complainant expresses consent, can the offender be safe.

### **Special courts for serious crimes**

279. Criminal Courts are established in accordance with the Constitution and the basis of Amended Law on Establishment of General and Revolutionary Courts of 1381. These courts hear cases in presence of five ranking judges. According to article 4 of the aforesaid law, these courts have jurisdiction over case for which the sentences are: qisas, amputation, life sentence, and death penalty. In these courts rules of court proceedings are strictly observed.

280. Therefore, Provincial Criminal Courts are for cases that carry the sentence of qisas, death sentence, and stoning and life sentence. Of the five judges (one chief judge, 4 advisors), or alternate prosecutor assistants, in the provincial appellate courts, deal with offences that carry the penalties of qisas of limbs, and political and press offences. These provincial criminal courts have one chief judge, and two advisors or alternate prosecutor assistants (Note 1 of article 20 of the Law on Establishment of General and Revolutionary Courts of 1381).

281. The hearings of these courts cannot take place without the presence of lawyer. The ruling without the presence of lawyer is ineffective.

282. The rulings issued in this connection are appealable in the Supreme Court and for the purpose of ensuring the rights of the defendant; there is also provision for receiving the approval of the Valie Amr before the final ruling and its implementation. Gradually and with the passage of time, implementing regulations have been prepared on enforcement of these rulings. These regulations have been progressive and have eliminated the previous defects. All the rights of the defendants in these cases are taken into view. There are possibilities to request commutation, stay the execution due to illness, pregnancy (death sentence is applied for pregnant woman until her child reaches two years of age). Moreover, there are provisions for medical examinations, opportunity to perform religious ceremonies, meeting with relatives, writing of wills, acceptance of the cost of the enforcement of the ruling by the Judiciary.

### **Commutation of death sentence**

283. Article 24 of the Islamic Penal Code states: Pardon or commutation of convicted persons is allowed within the Islamic rules and after recommendation by the head of Judiciary to the Leader. Offences that carry death penalty are pardonable, but commutation is on only for ta'aziorat and deterrent punishments that are applied under certain conditions.

284. Noteworthy that the investigating judge at the time of issuing a ruling applies the commutation. Concerning commutation of punishment, article 22 of the Islamic Penal Code states: The court can, if mitigating circumstances are shown, commute deterrent or taaziri punishments or change it into another punishment that is more proper to the convicted person.

### **Suspension of punishments**

285. Article 25 of the Islamic Penal code states: in all taaziri convictions and deterrent punishments, the judge can suspend a part or the entire punishment from two to five years by observing the following conditions:

(a) The convicted person should not have past record of the following convictions:

- Hodood conviction
- Conviction of amputation
- Conviction carrying prison sentence of more than one year
- Conviction of pecuniary penalty more than 2 million rials

(b) The court takes into view the social situation and background of the person and the circumstances leading to the commission of the offence and then suspends a part of the entire sentence.

286. Note: in non-deterrent punishments, suspension is not allowed, unless for cases prescribed by Sharia or law.

### **Probationary release**

287. In regard to probationary release, article 38 of the Islamic Penal Code, states: Any person who is convicted to prison sentence for commission of an offence and has spent half of the prison term, the court that issued the original indictment can issue an order for probationary release provided:

- The convicted person has shown good behavior during incarceration
- If it could be safely anticipated from the circumstances of the convicted person that he/she will not commit another offence after release from prison
- If to the extent that can be afforded by the convicted person compensation is paid to the victim or the wrong against him/her is redressed or promises to pay later, and pay the pecuniary penalty impose with the prison sentence or with the agreement of the head of the Judiciary District make arrangements for payment

288. The duration of probationary release at the discretion of the court shall not be less than one year or more than five years (refer to attachment 46/2).

### **Execution in public**

289. On the basis of the directive of 9 Bahman 1386 by the Head of the Judiciary, implementation of death sentence in public will only take place with the agreement of the Head of the Judiciary and due to social exigencies.

### **Central Pardon and Clemency Commission**

290. The Central Pardon and Clemency Commission meets at least once a week on a regular basis to review and examine cases and to give its opinion the requests for pardon and clemency.

291. This commission is made up of five judges who are versed in subjects relating to law and Sharia and have judicial rank of 10 and above. They are appointed by the Head of the Judiciary for five years. The Head of the Judiciary appoints one of the members as the chairman of the commission for five years and the quorum for the meeting of the commission is three judges.

292. Moreover, the Director General for Penal Legalization serves as the secretary of the commission, and has the responsibility to follow up the administrative matters relating to parson and clemency.

293. Recommendations for pardon in relation to cases carrying death sentence and non-death sentence case and personal requests that have been received by different places, and instructions by the Head of the Judiciary in relation to article 20 of the Implementing Regulations, are first registered and then examined by the experts from different departments. If the request matches the provisions of the Implementing Regulations and possible flaws are redressed, then on various occasions envisaged in regulations of the Commission the request for pardon and clemency is announced. Those occasions are:

- The auspicious birth of the twelfth Imam
- The Auspicious birth of Prophet of Islam

- The day Prophet began his mission
- Eid Fitr

294. The decisions on pardon and clemency are presented by the Director General of Legalization and the Secretary of the Commission. The members of the Commission express their views take into account the severity of the offence, past record of convictions, past record of pardon, social standing, financial and economic situation, the circumstance of the offence, number of dependants, the age and possible illness of the convicted person. Each member presents his opinion in the special column in the “pardon form”. The list of prisoners eligible for pardon is also prepared in two parts:

- Prisoners are eligible for pardon that would lead to release
- Eligible prisoners that will receive reduction in sentence or alternative sentence

#### Statistics on pardon and commutations in recent years

| No.          | Occasions                 | 1380          | 81            | 82            | 83           | 84            | 85           | 86            | 87            | Total          |
|--------------|---------------------------|---------------|---------------|---------------|--------------|---------------|--------------|---------------|---------------|----------------|
| 1            | Birth of prophet          |               | 348           | 627           | 616          | 3 631         | 2 432        | 1 535         | 905           | <b>10 114</b>  |
| 2            | Mission of the prophet    | 685           | 741           | 639           |              | 7 788         | 3 092        | 3 971         | 3 067         | <b>20 037</b>  |
| 3            | Birth of Imam Mehedi      | 126           | 63            | -             | 1 660        |               |              |               |               | <b>1 849</b>   |
| 4            | Eid Fitr                  | 385           | 341           | 428           | 1 053        | 2 185         | 1 526        | 1 915         |               | <b>7 806</b>   |
| 5            | Eid Khom                  |               |               |               |              |               |              |               | 1 943         | <b>1 943</b>   |
| 6            | Anniversary of revolution | 36 311        | 36 599        | 26 533        | 3 164        | 3 220         | 2 418        | 4 630         | 1 167         | <b>114 042</b> |
| 7            | Birth of Fatima           | 1 438         | 119           | 1 522         |              |               |              |               |               | <b>3 079</b>   |
| 8            | Third od Khordd           | 350           | 583           | 629           | 451          |               |              |               | 3 502         | <b>5 515</b>   |
| <b>Total</b> |                           | <b>39 268</b> | <b>38 794</b> | <b>30 452</b> | <b>6 944</b> | <b>16 824</b> | <b>9 468</b> | <b>12 051</b> | <b>15 084</b> | <b>164 385</b> |

#### Statistics on pardon and commutations, 1387

| No. | Occasion                  | Date of the occasion | Number of death penalty victims pardoned | Number of ordinary convicts pardoned | Total number |
|-----|---------------------------|----------------------|--|--------------------------------------|--------------|
| 1   | Liberation of Khoramshahr | 3/3/87               | 185                                      | 3 317                                | <b>3 502</b> |
| 2   | Mission of prophet        | 9/5/87               | 99                                       | 2 968                                | <b>3 067</b> |
| 3   | Khom Eid                  | 17/9/87              | 157                                      | 1 785                                | <b>1 842</b> |
| 4   | Revolution anniversary    | 22/11/87             | 195                                      | 971                                  | <b>1 166</b> |
| 5   | Birth of prophet          | 25/12/87             | 106                                      | 799                                  | <b>905</b>   |

#### Prohibition of *Qisas* of pregnant women

295. According to article 262 of the Islamic Penal Code, “pregnant women who are sentenced to *Qisas* should not executed prior to delivery, and if execution of *Qisas* causes the death of the child, it should be delayed until the threat of death of the child no longer exists”. Moreover, according to article 288 of the Criminal Procedures Code, the sentence of flogging shall not be applied in the following cases:

- For women who are pregnant or going through menstruation
- Lactating women during the times the child is breastfed, up to two years

- Ailing persons whose ailment would aggravate or healing is delayed as diagnosed by the trusted physician or the coroner

296. There are interesting changes and amendments in the new bill on Islamic Penal code (submitted to Majlis).

### **Prohibition of death penalty for persons under the age of 18**

297. Concerning death penalty for persons under the age of 18, the Law on Islamic Penal Code of 1370 in its Note 1 to article 49 states that a child is a person who has not reached the age of Sharia maturity. Thus, the mature persons are separated. But the Law on Protection of Children and Juveniles of 25/9/1381 adopted by the Islamic Consultative Assembly in its article 1 states that all children and juveniles under the age of 18 are covered in this protection by law. Anyway, according the prevailing practice by the Children's courts over the recent years, persons under the age of 18 are not sentenced to death.

298. According to the new proposed legislation by the Deputyship for legal Affairs and Judicial Development, new standards have been drafted for the protection of children and juveniles. Death sentence for all age groups of children and juveniles under 18 has been omitted. The new proposed legislation is under the title of "Review of offences by delinquent children and juveniles". It is to be noted that the bill is still in the Islamic Consultative Assembly and has not been ratified yet after some years. The new bill has different provisos in respect of punitive measures against children and juveniles.

## **VIII. Article 7**

299. Article 38 of the Constitution of the Islamic Republic of Iran stipulates: All forms of torture for the purpose of extracting confession or acquiring information are forbidden. Compulsion of individuals to testify, confess, or take an oath is not permissible; and any testimony, confession, or oath obtained under duress is devoid of value and credence. Violation of this article is liable to punishment in accordance with the law.

300. Article 36 of the Constitution also states: The passing and execution of a sentence must be only by a competent court and in accordance with law.

301. Although torture is forbidden according to the law, there has been no definition of the offence of torture in the Iranian law. Nevertheless, penal laws consider certain actions that are in a way torture as punishable offences. Article 578 of the Islamic Penal Code states: Any employee or officer of the Judiciary and non-judiciary that compels a suspect to confess or physically mistreats him/her in addition to Qisas and financial penalty is liable to be sentenced 6 months to 3 years in prison. If a person orders such a treatment, only the person ordering is punished, but if the victim dies as the result of abuse, the punishment of the doer and the ordering person shall be the punishment for murder.

302. For example, there was a ruling concerning the conviction of the police commander of a station who was sentenced to 95 days in prison and payment of financial penalty to the complainant on charges of torture and causing bodily pain to force confession, aiding and abetting in preparation of a false report, using offensive language, and threatening to kill.

303. Article 579 of same law states: if an officer of the government punishes a convicted person harder than the punishment prescribed in the ruling or applies a punishment that is not part of the ruling, he/she is liable to be sentenced 6 months to 3 years in prison and if the action was carried out as he result of the order of a superior, only the person ordering

shall receive the aforesaid sentence. If this action leads to commission of another offence, the punishment for that offence shall also be applied.

304. Article 587 of the Islamic Penal Code states: If the offender of the aforesaid offences threatens arrested or incarcerated or hidden persons to death or inflicts torture and bodily pain, in addition to Qisas or payment of financial penalty, he/she is liable to be sentenced to 1 to 5 years in prison and termination of government employment.

305. The provisions of these laws make it clear that torture is forbidden and regarded as a punishable offence. If a government functionary or any other person commits the act of torture, he/she is liable to be prosecuted as a result of a complaint or by the Prosecutor. There are many examples of cases of this nature that the culprits were prosecuted.

306. Violations by police and security officers in the Judicial Organization of the Armed Forces are prosecuted and violations by government functionaries and judges are heard by courts dedicated to government employees. Some rulings with respect to such violations include:

(a) Violations by the judiciary officers:

(i) The ruling number 705-84 of the Branch 2 of the Military Court of Khorasan Razavi and conviction on the charge of extortion and abetting in the offence of extortion (refer to attachment 50);

(ii) Ruling number 85/86 of the Appellate Branch of the Branch 2 of the Military Court of Tehran on the charge of extortion by two military personnel (attachment 50/10);

(iii) Ruling number 14/86 of the Branch 2 of the military Court of Tehran concerning extortion and bribery charges by a number of uniformed personnel, including one police officer, and their conviction. (refer to attachment 50/3);

(b) Violations by judges:

(i) The ruling number 33 concerning the change of ruling release on bail to custody on remand by a judge without justifiable reason and the conviction of the judge (attachment 51);

(ii) Ruling number 12 and 13 concerning the warrant of arrest for a suspect and referring him to the police instead of prison, conviction of the judge. (attachment 51/10);

(iii) Ruling number 66 concerning the notification of arrest order to the suspect and sending him to an illegal detention center, (refer to attachment 51/2);

(iv) Ruling number 352 concerning the sending of a suspect to the detention center of the Intelligence Ministry instead of prison and conviction of the judge (attachment 51/4);

(v) Ruling number 196 concerning referring a suspect to police station instead sending him to prison, and keeping the suspect in a state of uncertainty. ( attachment 51/4).

307. It is noteworthy that the following matters relating to the right of the suspect and due process are explained in a number of articles, including articles 10 and 14:

- The right to visit physician, lawyers, and members of the family of the arrested person
- Torture as a punishment or solitary confinement
- Explaining the rights of arrested persons

- Registration of incarceration places and temporary holding places
- Prohibition of keeping persons in illegal prisons
- Treatment of death row convicts
- Prohibition of abuse by prison staff
- Non-acceptability of forced confessions
- Complaints against police and security forces

308. The latter one is explained in other article, including in articles 10 and 14.

## **IX. Article 8**

309. The constitution of the Islamic Republic of Iran underlines the rejection of all forms of oppression and tyranny, and accordingly its article 2 while emphasizing on the exalted dignity and value of human person, negates all forms of oppression, both the infliction of and the submission to it, and of dominance, both its imposition and its acceptance, and insists on justice and equity.

310. Also, in view of the possibility of abuse of soldiers by military officers, article 148 of the Constitution states that all forms of personal use of soldiers as servants, personal chauffeurs and the like are forbidden.

311. Concerning the prisoners, in addition to the explanations mentioned below, article 10 of the Covenant; you can also refer to the attachment 58/4.

312. The government of Iran has acceded to a number of conventions relating to slavery:

- Paris and Geneva international treaties concerning criminal treatment of women and children on 14/10/1310
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

313. Moreover, the Law on Combating Human Trafficking was adopted in 1380. Article 1 of this law relates to trafficking of humans from and to country or illegal transit of persons from borders of Iran by force or coercion by threats or deception or by abuse of power and position or taking advantage of the situation of the person for the purpose of sex trade, using body parts, slavery and marriage. The second part of article 1 relates to delivery transfer or concealment or abetting in the concealment of aforesaid persons after crossing of the border.

Article 2. The following actions are regarded as human trafficking:

- Setting up or managing groups or gangs for the purposes stated in article 1
- Trafficking, transporting or transferring, in authorized or unauthorized fashion of person(s) in organized manner for prostitution or other purposes, as stated in article 1, even with their consent
- Trafficking (crossing, entering or transiting), and unauthorized transporting of persons for the purpose of sex trade, even with their consent

Article 3. If the action of “human trafficking” is one of the examples mentioned in the Islamic Penal Code”, the offender is punished according to the penal provisions of the Code, otherwise is sentenced to prison sentence of 2 to 10 years and payment of pecuniary penalty equivalent to twice the revenue or the value of

assets derived from this act or the money or assets promised to be paid by the victim of the offence or a third party.

Note 1. If the victim of trafficking is less than 18 years of age and the offence is not an example of “*moharebeh or corruption on earth*”, the offender shall be condemned to the maximum punishment stipulated in this article.

Note 2. A person who initiates the offence stated in this article, but the consequences are realized without his/her volition, shall be sentenced from 6 months to 2 years in prison.

Note 3. The sentence of abetting in the offence of human trafficking shall be sentenced to 2 to 5 years in prison according to the circumstances of the case, and pecuniary penalty equivalent to the revenue or assets earned from commission of the offence or the value of the assets that have been promised by the victim of the offence or third party.

Article 4. Whenever a functionary of the government or institutions, companies, agencies and instrumentalities affiliated to the government, armed forces, public institutions and non-governmental organizations or Islamic Revolution organs or generally an employee of the three branches of government in any way is involved in the commission of the offence stated in this article, in addition to the punishments stipulated in this law, he/she shall be dismissed from government service temporarily or permanently.

Article 5. If a private institutions or companies are established for the purpose of committing this offence, even if established under fictitious name, in addition to the stipulated punishments, the license for the operation shall be annulled and the company shall be closed by the order of a judicial authority.

Article 6. If human trafficking is accompanied by another offence, the offender(s) shall be sentenced for the other offence as well, in addition to the offence of human trafficking.

Article 7. An Iranian national who commits one of the offences stated in this law outside of the Iranian territory, he/she shall be responsible by this law.

Article 8. All the vehicles and instruments that are intentionally or unintentionally used in the commission of the offence of human trafficking shall be seized by the government.

314. The above-mentioned law which comprises 8 article and three notes was approved by the Islamic Consultative Assembly on Sunday, 27 Tir 1383. The Guardian Council did not give its opinion on this law within the time frame stipulated in article 94 of the Constitution.

315. A new bill has been drafted concerning the protection of children victims of crime that focuses more on trafficking of children (please refer to article 24).

## **X. Article 9**

316. According to article 37 of the Constitution innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court. Moreover, article 32 of the Constitution states:

No one may be arrested except by the order and in accordance with the procedure laid down by law. In case of arrest, charges with the reasons for accusation must, without delay, be communicated and explained to the accused in writing, and a provisional dossier must be forwarded to the competent judicial authorities within a

maximum of twenty-four hours so that the preliminaries to the trial can be completed as swiftly as possible. The violation of this article will be liable to punishment in accordance with the law.

317. This article makes it clear that arrest can only take place in accordance with procedures laid down by law, and law enforcement officers cannot detain a person more than 24 hours, except by an order from a competent court.

318. There are other articles in Criminal Procedures code that ensure justice in judicial proceedings. Article 29 states:

The suspect who is in detention shall appear in court accompanied by officers. After formally commencing the hearing, the judge should first ask the identity of the claimant or complainant and then hear the claim or the complaint. Afterward, he inquires about the identity of the suspect according to article 129 of the Criminal Procedures Code and warns the suspect and other persons present in the court not say anything that is contrary to the truth, rules and etiquette of the court during the hearing. Next the court informs the suspect of the claim, the charges or the complaint against him/her, and then hearing begins.

319. Article 127 of the same code does not allow the detention of the suspect for more than 24 hours and may sentence the offender.

320. Article 575 of the Islamic Penal Code states: If a judicial official or other competent officers of law detain or order the arrest and prosecution of a person contrary to the rules of law, the offender shall be dismissed from judiciary position and barred from government employment for five years. For example, the following are past precedence for such cases:

- Conviction and suspension of an investigating judge in Fars Province on the charge of ordering illegal detention and intentional assault and battery (attachment 52/10)
- Conviction of the Deputy Warden of Qizel Hesar Prison on the charge of dealing an Afghan prisoner more than stipulated time (attachment 52/2)

321. Article 583 of aforesaid law stipulates: Any officer or functionary of government or the armed forces that orders arrest or detention of a person without an order from competent authority or in cases other than those laid down by law, or conceals him/her by force shall be sentenced from one to three years in prison or pecuniary fine from 6 to 18 million rials.

322. For better understanding, refer to the following cases.

### **Violations by law enforcement officers**

323. Examples of rulings include:

(a) Ruling number 253/88 of the Khuzestan Military Court concerning assault and battery charges and abetting in the illegal arrest of an individual by two military personnel is in attachment 52/3;

(b) Ruling number 475/88 of the Branch 1 of the Military Court on charges against two military personnel concerning illegal arrest and unauthorized use of government property, unauthorized entry into a house, unauthorized possession of weapons and extortion 9 attachment 52/4);

(c) Ruling number 381/87 of Branch 2 of the Military Court of Tehran concerning illegal arrest and assault and battery charge (attachment 52/5).

## Violations by judges

324. Examples of rulings include:

(a) Ruling number 249 concerning conviction of a judge in violating the rules and unwarranted arrest of persons (refer to attachment 52/6);

(b) Ruling number 23 concerning the change of order for bail to order for arrest by a judge without any justification, and his conviction (attachment 52/7).

325. According to the criminal procedure code, indictment (official accusation of the suspect) should take place without delay and charges read to the suspect and the necessary information should be given to the suspect, and with respect to cases that a person is on remand custody, trial should take place as soon as possible.

326. The provisions of the laws in Iran are compatible with article 9 of the International Covenant on Civil and Political Rights and article 34 of the Constitution states that every citizen of the country has the right to seek justice through the courts:

- Ruling 837 and 838 concerning the delay giving notice to the suspect about the charges and refusing to issue bail are noteworthy (attachment 52/10)
- Ruling number 318 concerning the delay in issuing the order to release after the acquittal ruling (attachment 52/10)

327. Concerning arrest of persons and delivering them to authorized authorities article 123 states: The suspect, from the time of serving the warrant of arrest to the time appearing before the judge should be under protection and custody.

328. Note: Officers of the law are required to deliver the arrested suspect immediately to the judicial authorities and can only arrest when there is justifiable fear that the suspect may flee or destroy the evidence. The suspect cannot be detained more than 24 hours without the authorization of a judicial authority.

## Violations by the enforcers of law and failure by the judge to report

329. Ruling numbers 3, 6, and 5 and 6 concerning juridical enforcers and failure by the judge to report can be seen in attachment 53/1.

330. The judge cannot order the arrest or summon of persons. Article 1134 of the Criminal Procedure Code states: The judge should not summon order the arrest of a person, except when there is adequate reason for arrest or summon.

331. Refer to the ruling 147 and 148 concerning conviction of a judge for disregarding regulations relating to the arrest of a suspect (attachment 53/2). Ruling number 617 concerning violation of arrest without the summon and placing improper bail. (attachment 53/3).

## Prompt trial

332. Concerning the obligations under article 9 paragraph 3 of the International Covenant on Civil and Political Rights, article 127 of the Criminal Procedure Code states: The judge is required to begin the hearing of charges against the suspect immediately after appearance in the court and if not possible, within maximum of 24 hours, otherwise the arrest is regarded unlawful and the offender is punished according to the law.

333. Ruling numbers 901 and 902 concerning not informing the arrested person of charges against him/her, detention more than 24 hours, error by the judge are other examples of investigation of violations by the judges.

### **Failure to inform the suspect of charges**

334. See:

- Ruling number 12 concerning the failure to inform the arrested person of the charges or the reason for the arrest and violation of rules of legal proceedings (attachment 53/5)
- Ruling number 116 concerning failure to inform the arrested person of charges (attachment 53/6)
- Ruling 127 concerning failure to question the suspects individually and violation by the judge (attachment 53/7)

### **Maximum time of review of criminal cases in general criminal courts broken down by type of offence**

| <i>No.</i> | <i>Subject of the case</i>                                       | <i>Maximum review and trial time</i> |
|------------|--|--------------------------------------|
|            | Unintentional homicide   | 3 months                             |
|            | Group Fight (brawl)  | 4.5 months                           |
|            | Embezzlement   | 4.5 months                           |
|            | Bribery  | 3.5 months                           |
|            | Forgery and using forged documents                               | 6 months                             |
|            | Fraud  | 6 months                             |
|            | Use and sale of property of others                               | 6 months                             |
|            | Breach of trust  | 4.5 months                           |
|            | Stealing and trade in stolen goods                               | 3 months                             |
|            | Unlawful occupation, causing nuisance and obstruction of justice | 3.5 months                           |
|            | Illegitimate sexual relations                                    | 2 months                             |
|            | Unintentional bodily assault                                     | 3 months                             |
|            | Vandalism  | 3.5 months                           |
|            | Issuing checks without sufficient funds                          | 2.5 months                           |
|            | Drinking alcoholic beverages                                     | 1 month                              |
|            | Purchase, sale and possession of alcoholic beverages             | 1.5 months                           |
|            | Insulting and propagation of lies                                | 2.5 months                           |
|            | Abduction  | 4.5 months                           |
|            | Usury  | 2.5 months                           |

| <i>No.</i> | <i>Subject of the case</i>                         | <i>Maximum review and trial time</i> |
|------------|--|--------------------------------------|
|            | Pimping and setting up prostitution houses         | 3.5 months                           |
|            | Threatening with firearms and weapons              | 3 months                             |
|            | Disturbing public peace and order                  | 3 months                             |
|            | Causing nuisance by telephone                      | 2 months                             |
|            | Causing injury by knife                            | 3.5 months                           |
|            | Use and unlawful possession of government property | 4 months                             |
|            | Breaking seals                                     | 2.5 months                           |
|            | Medical, medicine and food offences                | 3.5 months                           |
|            | Driving without license                            | 15 days                              |
|            | Pick pocketing                                     | 3.5 months                           |
|            | False reporting                                    | 3 months                             |
|            | Hiring of illegal aliens                           | 2 months                             |
|            | Violation of labour law                            | 2 months                             |
|            | Illegal entry and residence of foreign nationals   | 2.5 months                           |
|            | Disobeying court order                             | 3 months                             |
|            | Escaping from prison                               | 3 months                             |
|            | Gambling   | 1 month                              |
|            | Panhandling  | 1 month                              |
|            | Loitering  | 1 month                              |
|            | Extortion  | 1.5 month                            |
|            | Concealment of evidence of crime and the criminal  | 2 months                             |
|            | Disclosure of examination questions                | 2 months                             |
|            | Throwing acid                                      | 4 months                             |
|            | Excavation and trade in stolen antiques            | 4 months                             |
|            | Cutting trees                                      | 2 months                             |
|            | Unlawful hunting                                   | 2 months                             |
|            | Change of land use                                 | 1 month                              |
|            | Forced entry                                       | 2.5 months                           |
|            | Unlawful grazing                                   | 2 months                             |
|            | Unauthorized eavesdropping                         | 3 months                             |
|            | Disturbing the economic system                     | 3.5 months                           |

| <i>No.</i> | <i>Subject of the case</i>                           | <i>Maximum review and trial time</i> |
|------------|--|--------------------------------------|
|            | Intimidation to force confession                     | 2 months                             |
|            | Use of forged trade arms                             | 2.5 month                            |
|            | Use of forged unofficial written document            | 3 months                             |
|            | Violation of foreign currency rules                  | 3 months                             |
|            | Violation of safety regulations                      | 3 months                             |
|            | Baying stolen goods                                  | 6 months                             |
|            | Loss of official documents                           | 1 month                              |
|            | Waste of government property                         | 3.5 months                           |
|            | Computer offences                                    | 5 months                             |
|            | Offences relating to Labour Law                      | 3.5 months                           |
|            | Offences relating to environment                     | 2 months                             |
|            | Destruction of historical and cultural assets        | 3 months                             |
|            | Unlawful arrests                                     | 20 days to 2 months                  |
|            | Photography of forbidden sites                       | 1.5 months                           |
|            | Drilling unlawful wells                              | 2 to 4 months                        |
|            | Unauthorized disassembling of vehicles               | 1.5 months                           |
|            | Refusal to return a child                            | 1.5 months                           |
|            | Producing counterfeit domestic or foreign bills      | 3 months                             |
|            | Fraud and falsification in business                  | 2 months                             |
|            | Installing and using forged license plates           | 1 month                              |
|            | Insulting people                                     | 1.5 months                           |
|            | Theft with <i>hadd</i> punishment                    | 3.5 months                           |
|            | Theft with <i>taazir</i> punishment                  | 3.5 months                           |
|            | Wrongful use of titles and positions                 | 1 month                              |
|            | False testimony                                      | 2.5 months                           |
|            | Procuring and distributing fake coins                | 2.5 months                           |
|            | Destroying or obliterating seals                     | 1.5 months                           |
|            | Possession and sale of satellite equipment           | 1 month                              |
|            | Abetting and assistance in an unintentional homicide | 6 months                             |
|            | Refusal to fulfill a legal duty                      | 1 to 3 months                        |
|            | Harbouring convicted persons or suspects             | 3 months                             |

| No. | Subject of the case  | Maximum review and trial time |
|-----|--|-------------------------------|
|     | Offences by government officials and functionaries         | 4.5 months                    |
|     | Disobeying officers of law while carrying out their duties | 2 months                      |

### Types of pretrial release in criminal cases

335. There are five types of guarantees for pre-trial release that the court demands according to the circumstances. Article 132 of the Criminal Procedure Code states: For the purpose of having access to the suspect and guaranteeing his appearance before the court, and when necessary and to prevent fleeing of the suspect or colluding with others, the judge is required to demand one of the following guarantees:

- The requirement to appear by pledging and the word of honour
- Requirement to appear by depositing a guarantee fund until the end of trial and enforcement of the ruling
- Receiving secured bond
- Receiving a form of guarantee in the form of cash, bank guarantee or movable or immovable property
- Custody on remand according to the rules laid down by this law

336. Concerning what type of guarantee should the judge order to ensure appearance before the court, article 132 of the Criminal Procedure Code states:

The type of guarantee depend on the seriousness of the crime and severity of the probable sentence, reasons for the charges, the probability of escape by the suspect and disappearance of the evidence, past criminal record of the suspect, health condition, age and social standing of the suspect (please refer to the same attachment 53).

337. Article 138 of the aforesaid law stipulates another reason for the arrest of individuals: A suspect for who is released on *kefalat* or on surety, if unable to introduce a *kafil* (guarantor), he/she shall be detained by payment of the amount of bail.

338. Concerning the order of *kefalat* and the fact that such orders are appealable, article 147 of the Civil Procedure Code stipulates:

The suspect should be informed of the bail order, and if the order leads to the detention of the suspect, the type of bail should be mentioned in the order for detention. If the suspect is detained due to possibility of collusion with others, the reason should be mentioned as well.

339. Note: If the pre-trial order is appealable, the suspect should be informed and the matter recorded in the dossier. Needless to say, most of the times the suspects are released on bail. For example, the number of prisoners who are released on *kefalat* or other forms of pre-trial release are in the following table. The number of prisoners released from 1370 to 1373 clearly show that there has been substantial increase compared to the two years prior to that. The acquittal verdicts have also increased in from 1371 to 1373, compared to 1370.

### Statistics on pardons and acquittals, 1370–1373

| Year | Release of prisoner |           |                     |           |            | Total          |
|------|---------------------|-----------|---------------------|-----------|------------|----------------|
|      | Pardon              | Acquittal | Stop<br>prosecution | By surety | By kefalat |                |
| 1370 | 9 912               | 7 244     | 15 406              | 31 478    | 68 587     | <b>132 629</b> |
| 1371 | 5 293               | 10 567    | 22 648              | 52 597    | 101 087    | <b>192 192</b> |
| 1372 | 20 463              | 11 587    | 22 371              | 61 252    | 100 744    | <b>216 417</b> |
| 1373 | 19 374              | 11 077    | 16 806              | 61 167    | 104 230    | <b>212 654</b> |

340. Concerning prohibition of forcing the suspect to answer questions, article 197 of the Criminal Procedure Code states:

The court shall ask questions from the suspect, witnesses and informed persons to remove and make clear ambiguities, in case the suspect does not wish to answer, the court shall continue its hearing and review of the case without forcing the suspect to answer.

341. Concerning the stages of hearing the charge against a suspect, Article 193 of the aforesaid law stipulates:

- Hearing the statements by the claimant and the respondent or their lawyers, witnesses, expert witnesses that have been introduced by the claimant or respondent.
- Questioning of the suspect whether he/she accepts the charge or not. The answer by the suspect is recorded in the transcript of the court.
- Hearing the statements by the defendant, witnesses and experts that have been introduced to the court by the defendant or his/her lawyer.
- Examining the tools and instruments used in the crime and hearing the statements and submissions of the lawyer.
- Examining the new evidence and arguments submitted by the defendant or his/her lawyer.

342. The court is required to reflect in the transcript of the hearing all the submissions and arguments of the two parties and statements of one party that are used by the other party. Furthermore the court should also record the statements by the witnesses and experts. After the completion of the pleadings, submissions and rebuttals by the two sides, the court allows the defendant (suspect) or his/her legal counsel to present the last defense arguments and then closes the hearing.

343. Furthermore, Article 194 of the Criminal Procedure Code requires the judge in the matter relating to the suspect confessing or not confessing as follows.

344. Whenever, the suspect admits commission of an offence and his/her admission leaves no doubt and the circumstantial evidence also confirm the admissions, the court issues a verdict, but in case of the silence of the suspect and denial or if there is doubt concerning the admissions or admissions contradict evidence, then the court begins questioning and examining the witnesses and the suspect and the evidence.

345. Article 213 of the aforesaid law requires the judge to release the suspect immediately when the ruling on his/her acquittal has been issued.

346. The Head of the Judiciary in Directive 1/77/1054 of 9/2/1377 refers to the problem arising in the examination and hearing some of the cases. As the result of negligence in

setting the date for hearing and correspondence of hearing date with public holidays and the rescheduling of the hearing, the Directive stipulates:

Matter of this nature naturally cause waste of the time of the parties and distrust for the Judiciary and may delay justice, therefore, for the purpose of preventing negative consequences arising from resumption of hearings, the offices of the courts are required to pay more attention to scheduling of hearings by checking the calendar dates, the judges and the prosecutors should also coordinate with their judicial districts in using their holidays and vacation time and if possible appoint an alternate during their time off from work.

## **XI. Article 10**

347. In 1378 there were more than 180,000 prisoners in Iran and this number goes up by 20% every year. Because of crowding and congestion, there is on the average 42 square centimeters of space in prisons. After the passage of 8 years from the beginning of the judicial development plan and the policy of applying alternative sentencing instead of prison, prison population has declined by 30%. As the result of better organization of prison leave system for prisoners relating to less dangerous crimes, and not involved in security and organized crimes, armed robberies, narcotic trafficking, more than half of the prisoners go on leave alternately. 47% of prisoners have convictions relating to drugs, 19.36% theft, 3.92% are women, 1.2 % children between 15 to 18.

### **Optimization and education of human resources**

348. In order to improve the educational level of prison staff, a comprehensive plan has been designed to offer on-the-job training to raise the professional skills and educational level. In this connection, a school complex has been built for the personnel with no secondary level education. A memorandum of Understanding has been signed with the Applied Sciences University and ten teaching units have been established in the capital of provinces. These schools have increased the skill-training of the personnel from 10% to 30%.

### **Improving the health of administrative system**

349. With the establishment of the Committee on Administrative Health and drafting a comprehensive plan to combat corruption, in line with the main mission of the Prison Organization, 7 main axes and 27 indicators that were in the major corruption channels were identified in order to deal with and a have better supervision over the workplace. The plan has succeeded to reduce administrative violations in the Prison Organization.

### **Some of the activities of prison organization**

#### **Programmes and activities concerning statistics and informatics**

350. In keeping with the advance in information communications technology, the Prison Organization over the past years has designed a comprehensive informatics plan and accorded high priority to analysis of statistics and information. The Prison Organization has achieved the following objectives:

- Equipping all prisons of the country with high-speed MPLS lines

- Designing and launching comprehensive information system the increase the accuracy of information and data of the provinces 86% in 1379 to 99.3 percent in 1387
- Launching of administrative automation system that leads to more orderly circulation of communications and expedite answering queries by the people and as a result saving in time, paper and increase the satisfaction of people
- Installation and launching of portal system
- Launching of mechanized system of visitations
- Launching of Data Center
- Video conferencing system between the Prison Organization, affiliated departments, and judicial authorities
- Installation and launching of IP telephony at the Administration Building of the Prisoners Organization connecting to General Departments of Prisons in the provinces
- Designing and implementing the mechanized system of e-prison

#### **Transfer of dilapidated prison outside of urban areas and building new prisons**

351. The Council on Harm Reduction in prisons started its operation first as a campaign against drug abuse in prisons in 1386, and then after reorganizing began its activities in other areas. It is active in all prisons, and despite its short life, it has succeeded in producing good results.

#### **The council for payment of *Deyeh* (financial penalties)**

352. This is a grass-root organization helping the prisoners in matters relating to payment of *Deyeh*. It is a charitable organization paying or helping in the payment of financial penalties to secure the release of prisoners who are not able to pay *Deyeh*, the financial penalty sentenced by judge in respect of bodily injuries, deaths resulting from traffic accidents.

#### **International successes of the prison organization**

353. International successes include:

- Declaration Triangular Prison Project of Kermanshah as the best prison by the East Mediterranean Office of the World Health Organization
- Confirmation of health and treatment activities of the Prison Organization by the international observers and receiving quality certificate of ISO for prisons in Kerman and Rajaie Shahr
- Receiving certificate for putting in place the quality system of ISO 90012-2000
- Visits by more than 80 human rights groups to prisons of the country
- Receiving the second rank award for the best government agency to put into operation the system of meritocracy
- Receiving intentional award for management of prisoners and paving the way for social reintegration
- Receiving AA ranking among the research centers affiliated to the government
- Receiving international award in management of prison health

- Positive interactions with international agencies and organizations, including United Nations Office on Drugs and Crime, World Health Organization, NODC, and UNDP
- Selection of Prison Organization as one the 20 drug rehabilitation and treatment center among many center in the world by the Office of the United Nations on Drugs and Crime in Vienna
- Participation in drafting country strategic programme for phase 1 and 2 of AIDS control and treatment
- Presence of the wrestling team of Tarbiat Club in the international tournaments for Galisai Cup in Spain on behalf of the Islamic Republic of Iran and winning the second championship cup
- Sending a boxing team to Trabzon, Turkey
- Implementation of a plan on drug abuse in prisons of Iran with the support of the United Nations Office on Drugs and Crime that produced valuable results which were reflected in the country report and helped the planning efforts of the Organization
- Signing a memorandum of understanding with UNICEF and UNODC on joint research

#### **Reduction of prison sentencing for targeted reduction of prison population**

354. With the implementation of paragraph 14, adopted by the Expediency Council and article 130 of Law on Fourth Five-Year Development Plan concerning using alternatives to prison sentencing, the Policy and Planning Council for the reduction of prison population was established in the Prison Organization. The number of entrants to the prisons in the year 1385 was 616,000, which declined to 432,000 in 1387. If the five percent growth rate of prison population had continued, it would have reached 240,000, and per capita space would have declined to 2.5 square meters, but with the measures that have been taken, the prison population has come down and per capita space for prisoners has increased from 6.5 square meters in 1378 to 9 square meters in 1387.

#### **Objective goals of the strategy to raise efficiency and efficacy of prison services, during Third Judicial Development Plan – 1389 to 1393**

|  |   |                             |                           |
|--|---|-----------------------------|---------------------------|
| Reduction of prevalence of AIDS                        | Percentage of AIDS patients in inspected locations                                | 1.85                        | 1%                        |
| Education of mortality of prisoners                    | Mortality in every 1,000 prisoners  | 6                           | 4                         |
| Objective goal: more active triangular clinics         | Aims of triangular clinics in center with more than 300 persons                   | Benchmark No.<br>77<br>1388 | Target No.<br>110<br>1393 |
| Increasing Quran, religious classes                    | Percentage of prisoners under coverage  | 40%                         | 70%                       |
| Increasing classes for literacy                        | Percentage of passing grades fro illiterate prisoners and those with low literacy | 50%                         | 85%                       |
| Expanding athletic programmes, early morning exercises | Percentage of prisoners covered   | 50%                         | 80%                       |
| Gymnastics training                                    | Percentage of prisoners covered by advanced training                              | 15% <sup>^</sup>            | 40%                       |

|  |   |        |        |
|--|---|--------|--------|
| Technical and vocational training  | Percentage of inmates covered   | 45%    | 85%    |
| Higher education   | Percentage of prisoners covered   | 15%    | 40%    |
| Classic Education  | Percentage of prisoners covered   | 15%    | 40%    |
| Increasing employment  | Percentage of prisoners covered   | 30%    | 60%    |
| Health and mechanized washing systems of blankets                                  | Percentage of centers with over 500 prisoners equipped with mechanized washing machines for blankets and clothing | 70%    | 100%   |
| Improvement of nutrition   | Percentage of prisoners able to meet their nutritional needs  | 60%    | 90%    |
| Expansion of drug treatment  | Number of addicts seeking help  | 30 000 | 40 000 |
| Improvement of health conditions and methods of garbage collection and disposal    | Percentage of prisoners benefiting from improved garbage collection and disposal                                  | 60%    | 95%    |
| Improved public health, disease control at the time of entry                       | Percentage of units with health care units in centers with more than 300 prisoners                                | 55%    | 100%   |
| Improvement of hygiene and percentage of prisoners connected to urban water system | Percentage of prison with urban water   | 74%    | 85%    |

#### Comparison of quality indicators of the prison organization during third and fourth development plans (1378 to 1387)

| <i>No.</i> | <i>Indicators</i>  | <i>Reference year</i> | <i>Target year</i> |
|------------|--|-----------------------|--------------------|
| 1          | Reduction of return of prisoners   | 37%                   | 19%                |
| 2          | Increase per capita physical space in square meter   | 6.65                  | 10                 |
| 3          | Increase in employment of prisoners  | 7%                    | 30%                |
| 4          | Increase in the number of prisoners attending job training course                                | 6 000                 | 56 000             |
| 5          | Increase in the number of prisoners participating in cultural activities                         | 30%                   | 83%                |
| 6          | Increase in number of needy prisoners families covered by the Society of Protection of prisoners | 3 000                 | 14 000             |
| 7          | Increase in literacy level of eligible prisoners   | 40%                   | 95% <sup>^</sup>   |
| 8          | Increase in counseling services on mental health (persons covered)                               | 400                   | 18 000             |
| 9          | Number of prisoners covered by employment loans (managed funds)                                  | 0                     | 12.000             |
| 10         | The ratio of prisoner population to the prison personnel   | 47                    | 10                 |
| 11         | Increase in the ratio of specialist personnel to the total prison employees                      | 10%                   | 36%                |
| 12         | Reduction of number of prisoners to total population of the province for every 100,000           | 241                   | 226                |
| 13         | Increase in per capita financial allocation for the improvement of the prison conditions (rials) | 9 402                 | 43 000             |

### **Observing rights of citizens in prisons**

355. With the drafting, approval and promulgation of the directive on the establishment of citizens' rights units in prisons (note 4 to article 44 of the Implementing Regulations of the Prison Organization) and the launching of these units in prisons, most General Departments of Prisons have taken the following measures:

- Preparation of a brochure on citizens rights of the prisoners and placement of the instructions on citizens' rights in the office of the warden of the prison and the office for the enforcement of court rulings
- Preparing educational software and brochure on teaching rights and duties of prisoners
- Giving health packages to the new entrants to prisons
- Establishing telephone contact line during certain hours of the day for answering questions of prisoners and their families
- Using experienced teachers who are familiar with the rules of law in classes for legal counseling on a weekly basis inside the prisons
- Distribution of local newspapers with high circulation inside prisoners and installation of television in every room and earphone radios for every bed in some prisons
- Supervision over monthly payment of wages to employed prisoners
- Regular and customary inspection by the Citizens Rights Units of penal institutions
- Holding training classes to teach personnel about citizens rights
- Holding question and answer sessions between seekers of help and the wardens of prison
- Installation of complaint and suggestion boxes mentioned in the Implementing Regulations of the Organization in order to reflect the problems and demands of the prisoners to the management
- Organizing waiting and visiting rooms for the meeting between prisoners and their families
- Setting up special rooms for the meeting between the lawyers and their clients in the prison at the prisons in the capitals of provinces in order to allow the lawyers to pursue the cases their clients
- Facilitating transfer of prisoners requesting transfer to the place of residence of their families to make it easier for prisoners to receive financial support
- Selection and introduction of 250 experienced personnel of the Organization to serve and legal assistants to the prisoners

### **Reform of laws relating to prisons**

356. In order to have a rule-based, orderly and systemic administration of prisons and detention centers and other penal institutions, and observing the human dignity and rights of prisoners, prisoners cooperate with the Society for the Protection of Prisoners and a number of other institutions to amend statutes and regulations. A draft on rules and laws required for the purpose of better administration has been drafted. A number of recommendations have already been approved and some were rejected, it is noteworthy that some of the proposals are being studied by the experts that will be explained in two separate parts.

(a) *Part 1: laws and rules that have been approved*

- Implementing Regulations for Temporary Detention Centers, 30/8/1385
- Implementing Regulations for Security Detentions, approved on 30/8/1385
- Implementing Regulations on Dividing and Classifying Prisoners, approved 9/9/1385
- Instructions on establishment of Citizens Rights Units, approved 5/9/1385
- Amending Implementing Regulations on acceptance and review of recommendations
- Implementing Regulations on Transfer of prisoners outside of urban areas

(b) *Part 2: Laws and rules pending review for adoption*

- The bill on social punitive measures
- The bill on clearing past records of reformed prisoners
- Amending the Implementing Regulations on Correctional Institute

**Temporary detention centers**

357. Plans are being considered for building of temporary detention centers in the capital of 30 provinces and 17 other large cities.

358. Setting an standard of 8 square meters per capita as the space required for each prisoners and having it approved by the Planning and Management Organization.

359. Consultation with Planning and management Organization and receiving a budget line for building and commissioning 47 temporary detentions centers.

360. As the result of efforts and perseverance of administrative managers in the provinces, there are at present 19 temporary detention centers that have achieved the following:

- Reducing the prison population: after the commissioning of these centers with the capacity for holding 6,350 prisoners, there has been a reduction of prison population by more than 180,000 every year
- Protecting human dignity and social status of persons: The time spent in these temporary detention centers would not counted as part of criminal record
- The adverse consequences of prison sentence for suspects with less than 30 days of incarceration are reduced
- Supervision over the judicial situation of the suspects and taking action to expedite their release

**Prison police**

361. In 1382, a Guards Unit began its activity as a policing organization in the Prison organization. Although we need more time to reach the desired level, effective actions have been taken after the establishment of this unit:

(a) Establishment of rapid deployment forces in the prisons: This unit has been established to react quickly to any kind of rioting, mutiny and disorderly conduct in prison;

(b) Conducting unannounced rotational inspections of prisons: The Guards Unit conducts various types of inspection on rotational and unannounced basis that usually lead to discovering hand-made dangerous items;

(c) Dispatching prisoner: Prisoners are not always kept in closed environments, the guard unit transfer them to courts, hospital and other locations;

(d) Continuous control of entries and exits: preventing entry of banned and dangerous items into the prisons, identification and inspection of persons entering the prisons, controlling the exit of government property and assets and documents;

(e) Training of the conscripts: the Prison Organization receives 15,000 conscripts annually, ordinary soldiers and those with secondary education diplomas. They are given the necessary training relating to prison protection. They are used in the outer layers of the prison for reception and release of prisoners.

### **Sustained supervision**

362. The Prison Organization received the recognition of excellence in rest for people and for consent of our clientele in the year 1386.

363. The Organization received the second rank award in putting in place the system of merits among affiliated organizations and institutions.

364. The Organization received the ninth rank recognition for its performance in special and general indicators of performance among the organization and institutions affiliated to the Ministries.

365. Achievements included:

- Cutting duration time for the regular inspections of the General Prison Departments of the country
- Large-scale and synchronized inspections and evaluations of the General Prison Departments of the country for the first time and comparative assessment of their performance on the basis of indicators and priorities of the Prison organization
- Reducing the review and reply time of complaints of prisoners, their families, and other legal and real persons to the extent that the average time was cut from three months to 15 days
- Continuous improvement of systems and methods, the quality of services and answering complaints
- Actual application of the results of performance evaluation, inspection and answering complaints
- Increasing the accuracy of examination of complaints
- Increasing accuracy of inspection and evaluation of performance

### **Statistics on prison inspections, 1383–1387**

| No. | Type of inspection | Number of inspections annually |       |       |       |       | Percentage of increase in 1385 compared to 1381 |
|-----|--------------------|--------------------------------|-------|-------|-------|-------|---|
|     |                    | 1383                           | 1384  | 1385  | 1386  | 1387  |   |
| 1   | Rotational         | 862                            | 1 156 | 1 261 | 1 592 | 1 445 | 68  |
| 2   | Special case       | 1 018                          | 1 262 | 1 423 | 1 809 | 4 167 | 309   |

| No. | Type of inspection | Number of inspections annually |       |       |       |       | Percentage of increase in 1385<br>compared to 1381 |
|-----|--------------------|--------------------------------|-------|-------|-------|-------|--|
|     |                    | 1383                           | 1384  | 1385  | 1386  | 1387  |  |
| 3   | Without notice     | 1 957                          | 2 158 | 2 441 | 2 971 | 4 255 | 117  |
| 4   | Night inspection   | 470                            | 810   | 1 052 | 1 838 | 1 432 | 205  |

### Humane treatment in prisons

366. In line with the implementation of article 39 of the constitution of the Islamic Republic of Iran, and article 44 of the Implementing Regulations of the State Organization for Prisons, Security, and Correctional Measures relating to the promotion of the foundations and principles of the rights of citizenship in prisons, detention centers, and institutions under the oversight of the organization, as well as the observation of human and Islamic rights of prisoners, the Office for the Protection of the Rights of Citizens with respect to Prisoners was established under the direct supervision of the Prisons Organization. In accordance with paragraph B of the related guidelines, any physical or psychological mistreatment, or denigration of prisoners is forbidden. In addition, given that prisoners, fearful of retribution by prison officials, may refrain from presenting reports of violations of citizenship rights bearing their names and signatures, and given that in other laws it is mainly stated that reports not bearing a name will not be investigated, in article 7 of the above guidelines it is stated that lack of a signature will not prevent any report from being covertly investigated by the units for the protection of rights of citizens.

367. In addition to several paragraphs of the Single Article Law on respect for legitimate freedoms and protection of citizenship rights, dated May 9, 2004, and the Implementing Regulation on social services of the State Organization for Prisons, Security, and Correctional Measures, which underscores respect for human dignity, as was indicated previously, article 39 of the Implementing Regulation on the State Organization for Prisons, Security, and Correctional Measures states: "The officials of rehabilitation facilities are obligated to align all measures, activities, programs, and material and moral facilities at their disposal toward the rehabilitation and reacclimation of inmates, such that the outcome of their measures will be a reduction in the monthly and annual rate of recidivism and an increase in the release of inmates."

368. In regard to the human dignity of individuals, the chief of the judiciary, while acknowledging certain shortcomings on the part of judges in this connection, issued circular No. 1/79/10618, dated October 13, 2000, which states:

"Judges, in the course of discharging their grave responsibilities, must be cognizant of the fact that their appropriate, lawful, and astute actions can leave a positive impact on the clients and arouse their respect toward the lofty institution of justice and the hardworking staff of judicial institutions, and, ultimately, result in the admonition, correction, and purification of the guilty. Thus, my expectation from honorable judges is to seriously avoid taking sides or confrontation with the accused persons, setting inappropriate bails, unjustified arrests, sentences of solitary confinement, prevention of the prisoner's access to counsel or other individuals permitted by law, summoning over the telephone or arrest of individuals without the knowledge of their family, creation of expectations in or asking favors from clients, or contacts outside of the work environment. They must also refrain from any action that is in contravention of the ethics and rites of judicial conduct and professional dignity, or one that undermines the judicial system and is a violation of the law. At all times, by considering the personal rights of individuals, and impartial

adjudication of complaints and claims, they must gain the public's trust regarding a judicial process informed by fairness and absence of any personal feelings, and lay the ground for increasing respect and elevation of the judiciary."

### **Protection of the right to respectful and humane treatment**

369. In addition to the establishment, in the organization, of the Office for the Protection of Citizenship Rights, the Office for Performance Evaluation, Inspection, and Response to Complaints is tasked with dealing with cases of injustice against inmates. Based on the case and after sufficient investigation, in case a report is validated and the subject of the complaint is a crime, the issue is reported to judicial authorities, and in case the violation is established, it will be reported to the committees for the investigation of administrative violations of government employees. In any event, this in no way precludes the inmate's option to file a complaint with judicial authorities, as explicitly stipulated in articles 34 and 159 of the constitution.

### **Supervision over the behavior of prison officials**

370. Though, the appointment of those in charge of prisons and detention centers is done with a view to their personal characteristics, conditions, and competencies, none the less, the organization, through the offices of Performance Evaluation, Inspection, and Response to Complaints; Security and Information; and Protection of Citizenship Rights; and by making use of all available facilities and staff; enforces supervision over the performance of prison and detention center officials. This has recently been augmented through the installation of closed circuit cameras, some of which are linked to the headquarters, as a means of more accurate supervision.

### **Holding of prisoners**

371. All prisons, detention centers, and penal institutions under the supervision of the Prisons Organization are considered as public places and are clearly identified and their addresses are known to the public. All courts and judicial institutions throughout the country are obligated to refer the accused and convicted persons to these centers under the supervision of the Prisons Organization using an official letter of introduction.

372. In addition, in accordance with article 48 of the Implementing Regulation of the Prisons Organization, the acceptance of the accused or convicted persons by the centers affiliated with the organization is contingent upon the issuance of an official note signed and sealed by the judicial authority who has issued the warrant or sentence and containing the full particulars of the accused or convicted persons.

### **Registration of names**

373. In accordance with article 49 of the Implementing Regulation of the Prisons Organization, every convicted person upon arrival at the reception must be fingerprinted and photographed. All correspondence, in addition to containing the convict's number as indicated in general ledgers and those for the registration of warrants and sentences, shall contain the number of the photograph. Also, all quarantine units at prisons and detention centers are equipped with public phones so that prisoners can inform their families as soon as possible regarding their presence in the prison or detention center. In case the prisoner's family members come to the prison or detention center, they will be provided with all required information.

**Segregation**

374. In light of the importance of the matter of segregating and classifying prisoners, a special Implementing Regulation, titled the Implementing Regulation on the Method of Segregation and Classification of Prisoners, was approved by the honorable chief of the judiciary, on May 21, 2006, in accordance which prisoners are segregated based on sex, age, type of crime, legal status, and health condition. In light of the sensitivity of this matter, the issue has been placed on top of the agenda of the Prisons Organization. The regulation, given the available facilities and physical space, has been implemented in the majority of prisons in the country.

375. Also, in regard to the segregation of the accused from the convicted persons, article 4 of the Implementing Regulation of the State Organization for Prisons, Security, and Correctional Measures, approved in 2005, states:

(a) “The detention center is a place for the holding of the accused persons who are referred there through the written order of a judicial authority until the issuance of a final verdict”;

(b) Note 1 – Until such time that the detention centers referred to in the regulation are constructed, based on the classification within prisons, a separate section shall be devoted to the holding of the accused persons;

(c) Note 2 – After the implementation of the plan for the regional organization of the country’s prisons, that will be determined and notified by the organization, those convicted of short-term sentences of up to 6 months may be held in detention centers.”

376. The Prisons Organization has announced that these requirements are met with a view to the conditions of convicts and as much as possible.

**Rehabilitation**

377. In today’s world, training and skill acquisition and, in turn, employment, play a key role in the development of every country. As a result, correctional policies have placed heavy emphasis on the issue of vocational training and employment of prisoners as an important element in their rehabilitation. Work therapy, as a cultural and educational instrument, plays a prominent role in the rebuilding of the characters of prisoners and their acceptance by the society. It bolsters their confidence in returning to the social fold and establishing a respectable life after their release from prison.

378. Therefore, in recent years, the organization, with a view to formulating appropriate strategies for creating employment for prisoners through vocational training, has established the Planning Office for Employment and Vocational Training, within the Policy Making Department. Through these strategies, vocational training and employment have continuously increased in prisons.

379. Implemented measures:

- Establishment of Entrepreneurship and Employment Councils in prisons
- Establishment of the Council for Promotion of Technical and Vocational Training
- Allocation of required funding for training in 2006, for the first time
- Ongoing negotiations to conclude a cooperation agreement with the Cultural Heritage, Handicrafts, and Tourism Organization
- Conclusion of an agreement with the Technical and Vocational Education Organization, and a cooperation agreement with the ministry of labor and social affairs

- Provision of banking facilities for the establishment of quick-profit-making small businesses, with 100 million rials per employment opportunity and interests rates lower than the banking system, based on a point scheme
- Securing of 1,100 million rials of credit facilities from the Presidential Office Center for Woman and Family Affairs, based on a mutual agreement
- Securing of 900 million rials of credit facilities, for young people between the ages of 14 and 19, from the National Youth Organization, based on a mutual agreement
- Cooperation with the National Forests and Pastures Organization, regarding sand stabilization and deforestation programs
- Communication and cooperation with industrial companies and the private sector with a view to the promotion of employment, prisoner training, and entrepreneurship
- Receiving of 70 and 20 car engines from SAIPA and Iran Khodro automotive companies, respectively, to be used in training shops
- Cooperation and coordination in organizing a prisoner handicraft exhibition at Tabriz International Exhibition, and several other seasonal provincial exhibitions

### **Assistance**

380. Support and assistance programs in prisons and security centers have a long history, and have continued to expand over the years. Changes implemented in the areas of equipment, facilities, and human resources, on the one hand, and policy making, planning and implementation, and supervision, on the other hand, have contributed to the promotion of assistance and social services in state prisons in a novel and scientific manner and in line with the latest methods. The principal aim of this assistance policy is the individual and social empowerment of prisoners. Other objectives include the following:

- Mitigation of the impact and consequences of imprisonment
- Satisfaction of plaintiffs, the next of kin of the murdered, etc., and increase in the number of releases
- Prevention of recidivism
- Protection of the victims of crime
- Preparation of ground for the acceptance of newly released prisoners by the society
- Reduction in the number of repeated returns to prison
- Promotion of public participation in the affairs of the newly released prisoners and their families
- Creation of employment for the newly released prisoners and their families

381. The list of prisoner assistance programs and measures is provided in the main Appendix 42.

### **Mistreatment**

382. Article 38 of the constitution of the Islamic Republic of Iran states: "All forms of torture for the purpose of extracting confession or acquiring information are forbidden. Compulsion of individuals to testify, confess, or take an oath is not permissible; and any testimony, confession, or oath obtained under duress is devoid of value and credence." Violators are subject to prosecution by law.

383. It should be noted that, given that the accused or convicted persons, following the stages of investigation, are granted bail or issued a verdict and sent to prison, the subject of interrogation of prisoners or their torture, in order to extract confession, in prisons or any other correctional facilities affiliated with the Prisons Organization is devoid of any relevance.

384. In accordance with article 169 of the Implementing Regulation of the organization, the use of any harsh treatment, insult, profanity, or corporal punishment against the accused and convicted persons, or the imposition of harsh, arduous, or derogatory punishment in institutions and prisons is prohibited. Also, as indicated previously, solitary cells are single-person units in prisons, wherein a prisoner who has committed a violation may be held up to a maximum period of 20 days as a disciplinary measure upon the approval of the prison's disciplinary council.

385. In addition, in accordance with note 1 of article 235 of the aforementioned Implementing Regulation, "the use of handcuffs in the above instances (transfer, transportation, or seeing off of the prisoner) on the accused and convicted persons is prohibited, except as deemed necessary by the prison warden and in cases of crimes that are determined by the guidelines issued by the organization." Paragraph 6 of the Single Article Law on respect for legitimate freedoms and protection of citizenship rights, in line with the implementation of article 123 of the constitution of the Islamic Republic of Iran, dated May 9, 2004, underlines the same subject.

386. Also, the chief of the judiciary, through the issuance of a circular, prohibited any use of torture or insult against those brought before a court, and considered their perpetrators worthy of dismissal and punishment. The circular states: "According to the constitution, the use of any torture or insult or defamation of those who, in accordance with law, have been arrested, detained, imprisoned, or exiled is prohibited and punishable by law." In this connection, the general penal code, indicates such judges to be worthy of dismissal and harsh punishment.

### **Solitary confinement**

387. In light of the amendment to the Implementing Regulation of the organization, approved in 2001, and the elimination of solitary cells in the newly approved regulation, solitary confinement has been eliminated as a form of disciplinary punishment, and in accordance with paragraph 4 of article 175 of the regulation, holding of a prisoner in a single-person cell up to a maximum period of 20 days upon the approval of the overseeing judge of the prison (the prosecutor's representative) is a type of disciplinary punishment that is envisioned for special circumstances as a method of punishment and prevention of the repeating of certain prison violations.

### **Visitations**

388. The topic of visitations is extensively covered in chapter 1 of section 3 of the Implementing Regulation, articles 180–197, which include the following categories:

- Cabin visitations
- Face-to-face visitations, including meetings with family members, judicial authorities, lawyers, and consular meetings of foreign nationals
- Shar`i visitations, i.e., private visitation with spouses

### **Culture and education of prisoners**

389. In accordance with article 151 of the Implementing Regulation of the State Organization for Prisons, Security, and Correctional Measures, dated December 11, 2005,

“Every prison, whenever possible, is to provide sports and physical exercise equipment and facilities for individual and group sports, such as a cadre of sports trainers, indoor arenas, outdoor courts, and other necessary facilities.”

390. Also, in regard to educational, cultural, and training activities, article 136 of the Implementing Regulation states:

“In order to educate and increase the level of knowledge of inmates and to prevent their time from being wasted, as well as to strengthen their will and develop their thought and potential talents, in all institutions and prisons, technical, vocational, and religious education are to be provided, under the supervision of the related sections in the prison, by related ministries, educational and scientific, and technical and vocational institutions, that are governmental or affiliated with the government, charitable organizations, or the Literacy Movement.”

391. Article 137 states:

“Convicts, during the course of their stay in prison, with a view to the length of their sentence and the quality and type of available scientific, religious, technical, and vocational programs in prisons, shall be engaged in continuing their scientific, religious, and vocational education.”

392. Article 138 states:

“Teaching in scientific, technical, and vocational prison schools is to be provided in collaboration with ministries, and scientific, technical, and vocational organizations and institutions, and by professional trainers, in accordance with programs drawn up by related sections in prisons.”

393. In regard to study and research activities, article 138 of the Implementing Regulation states:

“The convicted person, with the approval of the prison warden, and as individual and extracurricular activity, in addition to regular educational programs, may individually conduct university, technical, vocational, and research studies in prison, and may procure the required supplies, within the internal regulations of vocational and employment centers and prisons, through personal funds and, whenever possible, through government funds, via the prison personnel in charge of educational programs.”

394. In regard to the establishment of libraries in prisons, article 144 of the aforementioned regulation states:

“All institutions and prisons, through the cooperation of ministries, organizations, and bodies, are to establish well-equipped libraries with a view to the number of inmates, and to provide scientific, religious, ethical, and technical books to prisoners, within their needs. The convicted persons may study in the library, within allotted times, and borrow books with the permission of the librarian, and return them in clean and intact condition.”

395. Also, article 146 of the regulation allows the use of legal magazines and newspapers within prison.

396. Article 147 of the same regulation states:

“Audio and video educational aids for the use of prisoners are to be procured through the support and cooperation of related institutions.”

**Minorities**

397. In regard to the performance of religious rites of non-Muslims, article 148 of the aforementioned regulation states:

“At the time of admission of the convicted person, his official religion is noted on the questionnaire, and with a view to strengthening and consolidating the religious foundations of the convicted persons and the performance of the religious customs and rites, prison officials, through the support of the ministry of culture and Islamic guidance, are to provide the necessary facilities, within the prison, for the performance of their religious obligations.”

398. Article 149 of the Implementing Regulation of the Prisons Organization states:

“Any convicted person adhering to one of the official religions of the country may keep a copy of his scripture, prayer book, prayer carpet, and prayer *mohr*, in order to perform the obligations of his religion.”

399. In the same connection, article 150 states:

“Any convicted person adhering to one of the official religions of the country, in case of necessity, may place a request, to be approved by the prison warden, to have the representative of his religion to come to the institution or prison in order to provide guidance on the performance of rites and religious issues.”

400. In regard to prisoners’ sports and health, articles 151–153 state:

(a) “Every prison, whenever possible, is to provide sports and physical exercise equipment and facilities for individual and group sports, such as a cadre of sports trainers, indoor arenas, outdoor courts, and other necessary facilities”;

(b) “With a view to the health of the body and soul of prisoners, performance of morning exercises in prisons is mandatory for prisoners capable of performing the exercises. Based on programs drawn up for them, they must perform a minimum of 30 minutes of outdoor exercise per day.”

401. In regard to prisoners’ leisure time, article 155 of the aforementioned regulation states:

“The screening of educational and ethical films under the supervision of the office of rehabilitation of the institution or prison, with support and cooperation from related bureaus and organizations, and in accordance with the previous article, is permissible.”

402. Article 156 states:

“The convicted persons, in their leisure time and in an orderly manner and within the allotted program, may use radio and television programs.”

403. Article 159 of the Implementing Regulation of the Prisons Organization refers to other prisoner rights:

“The convicted persons may receive news of the country through the media available within the prison, such as radio and television, and at least one widely circulated newspaper.”

**Post**

404. In regard to postal parcels, article 198 of the same regulation states:

“The accused or convicted person who is not prohibited visitations, may mail a maximum of two letters per week, addressed to spouse, children, parents, official

counsel, other family and friends, or judicial authorities, and a maximum of one letter per month to state officials; which are written within the bounds of the shariah and law. The prisoner shall place his signature and fingerprint on the letter in the presence of the prison official in charge of correspondence and the latter must certify and seal the letter.”

### **Prisoners’ employment**

405. In accordance with article 123 of the Implementing Regulation of the State Organization for Prisons, Security, and Correctional Measures, dated December 11, 2005, “the organization, in order to promote rehabilitation programs, reduce the harms and shortcomings of the prison system, assist in resolving the material and moral problems of the convicted persons and their families and achieving self-sufficiency, shall allocate sufficient funds for vocational training and employment of the convicted persons, from the income of the Cooperative and Vocational Education Fund, public donations, charitable organizations, or income from the industrial, agricultural, service, and cultural institutions under its supervision and within its approved budget”.

406. Article 126 states:

“The accused and convicted persons shall be employed in vocations that require the undergoing of training courses to acquire skill and proficiency and that are determined by the organization, such that over time they will be able to undergo various stages of training and receive technical certification in a particular field.”

407. Note 1 of article 127 states:

“In case the convicted person is incapable of furnishing the required supplies and equipment through personal funds, these supplies and equipment shall be provided to him by the prison or the Society for the Protection of Prisoners. In this case, after deducting the cost of supplies and equipment, one quarter of profits is deposited into the account of prison’s fund or that of the Society for the Protection of Prisoners, and the rest into the account of the prisoner.”

408. The State Organization for Prisons, Security, and Correctional Measures makes use of addicts, as assistance seekers, in industrial shops, alongside their participation in cultural, corrective, and educational programs.

409. In accordance with circular 1/82/6139, the prohibition of using prisoners in administrative and service sections has been underlined by the chief of the judiciary. In the circular, he notes: “Employing qualified prisoners in institutions other than industrial, agricultural, and service institutions referred to in the legal bylaws and Implementing Regulation of the organization will be deemed as the violation of provisions and less than appropriate management. Therefore, in line with the philosophy of establishing open and semi-open prisons with a view to rehabilitation, education, vocational training, and employment of prisoners, the need to supervise conduct and behaviors ... from using prisoners outside of the said institutions and their contact with unauthorized individuals, ... arrangements shall be made to return these prisoners to prison, and end such practices.”

410. In light of the fact that the note on article 62 of the Implementing Regulation of the State Organization for Prisons, Security, and Correctional Measures makes the employment of prisoners outside of the prison’s parameters contingent upon the related judicial authority, circular 1/81/7788, dated July 22, 2002, requires the judges of general, revolutionary, and military courts to cooperate with the Prisons Organization, and to give priority to the convicts with financial crimes (i.e. debtors) so as to reduce congestion in prisons.

411. The chief of the judiciary in 2003 noted: “The main goal in establishing vocational training and employment within prisons is the rehabilitation and education of prisoners and provision of vocational certification to prisoners who have learned a trade during their incarceration and generation of some minor income for prisoners.”

412. Based on the statistics released by the public relations department of the Prisons Organization of Tehran, in 2005, some 5,000 prisoners were provided with technical and handicraft trainings, 3,000 of who succeeded in related examinations and were awarded technical, vocational, and handicraft certifications.

#### **Prisoner leave**

413. In the past, in accordance with circular 1/76/13628, dated March 14, 1997, the chief of the judiciary had given permission to judges throughout the country to grant leaves to prisoners on the occasion of the New Year holiday. The managers and heads of prisons, upon the approval of the supervising judge of the prison, could grant leaves of 3 to 7 days, as per rules and regulations, to the requesting prisoners whose conduct were acceptable and whose return to the society during their leave did not disturb public order, or result in confrontation or private complaints, and who provided sufficient guarantee regarding their return to prison.

414. Currently, article 213 of the aforementioned regulation states the following in regard to prisoner leave:

“In cases of marriage, death of blood and non-blood first-degree relatives of the first class or their sickness such that they become incapable of movement for a long period of time, or any unexpected event or emergency that requires a leave, the convicted person may be given a one week leave upon providing appropriate bail as determined by note 2 of article 124.” (Based on the previous regulation, the duration of the leave was 24 hours and it was contingent upon the opinion of the prison warden or the supervising judge of the prison.)

#### **Assistance in returning prisoners to society**

415. In regard to assistance activities and measures to be adopted regarding the return of prisoners to the society, article 237 of the aforementioned regulation states:

“In order to facilitate the return of convicted persons to the society, attempt shall be made to maintain family relations and inclinations. Therefore, social workers stationed in prisons are obligated to maintain regular contacts with prisoners so as to secure their trust and be able to resolve their problems and meet their and their families’ material and moral needs through the assistance of related bureaus, such that they can be instrumental in the establishment of good relationships between prisoners and their families. Contacts by other prison officers with families of prisoners are prohibited and are subject to disciplinary and administrative prosecution.”

#### **Assistance to sick and needy prisoners**

416. In regard to sick and needy prisoners, article 241 of the regulation states:

“The sick and needy convicted persons who are released during their illness shall be placed under the protection of societies for the protection of prisoners until such time as they regain their health and are able to work. In case they are disabled or handicapped, they shall be protected by the society within its capabilities and in accordance with regulations.”

### **Assistance in the pardoning and freeing of prisoners**

417. The highest judicial authority of the country — in order to ensure that requisite measures are adopted in regard to the freeing of those who have committed intentional murder or first degree murder and, in accordance with the Islamic Penal Code, are sentenced to life in prison — in accordance with the circular, dated May 3, 2001, in regard to the committers of intentional murder who, in accordance with the old General Penal Code and after commuting, have been sentenced to life in prison or first degree murder and are serving their sentence, stipulates:

(a) “In case the commuting of the sentence is not due to forgiveness on the part of private plaintiffs, and the next of kin of the murdered have not received any *diyyeh* (blood money) as restitution for the crime, arrangements shall be made, in these types of criminal cases, to secure the satisfaction of the next of kin of the murdered so as to free those convicted of such murder imprisonments. For the payment of *diyyeh* asked by the next of kin of the murdered from the convicted persons whose financial inability is established, necessary documentation shall be provided to the judiciary’s Department of Finance, Administration, and Support (currently, Department of Administrative and Financial Affairs) for the implementation of requisite measures;

(b) In regard to others who are sentenced to imprisonment in spite of the forgiveness of private plaintiffs, and who, in regard to the general aspect of the crime, have remained in prison in excess of the time prescribed by current law, a proposal for pardon of the remaining length of imprisonment shall be made to the General Bureau of Pardon, Forgiveness, and Penal Agreements, to be examined and acted upon.”

418. The topics of the culture and education of prisoners, respect for the rights of minorities, issues relating to the employment of prisoners, leave, assistance in returning prisoners to the society, assistance to sick and needy prisoners, and assistance in the pardoning and freeing of prisoners are contained in the main Appendix 43.

### **Other responsibilities**

419. A number of responsibilities of prison officials as per article 18 of the aforementioned regulation are as follows:

- Creation of necessary and appropriate means and facilities for rehabilitative activities, such as correction, guidance, education, and reacclimation
- Provision of consultation services and assistance in solving the problems of prisoners and their families
- Preparation and recommendation of the list of prisoners eligible for conditional release and its submission to the supervising judge of the prison
- Preparation and recommendation of the list of prisoners eligible for pardon and its submission to the pardoning committee
- Planning for post-release supervision of inmates, in collaboration with related organizations

### **General policies of the prisons organization**

420. In addition to the above items, mention may be made of the following general policies and measures that, in the past 10 years, have been and continue to be placed on top of the agenda of the organization:

- Institutionalization of the idea of planning in the decision makings of the organization

- Establishment of the important and effective institution of post-release monitoring centers in all provinces in the country
- Promotion of social work activities in prisons
- Promotion and continuation of psychotherapy and consultation in prisons throughout the country
- Improvement of the conditions of human resources and the training of the staff
- Establishment of vocational training and employment camps
- Activation of the Cooperative Firm for Prisoner Vocational Education, and the institutionalization of self-sufficiency in prisons
- Reforming of prison regulations, and emphasis on the cultural and educational affairs of prisoners
- Segregation of children and juveniles from the country's prisons, and the establishment of juvenile correction centers in the majority of provincial capitals
- Strengthening of the Educational and Research Center of the Prisons Organization, with a view to the training of a professional cadre, and the institutionalization of the idea of research in prisons, and tens of other programs
- Improvement of the esthetic dimensions of prison interiors, and a move toward self-sufficiency in prisons
- Decentralization of the management system of prisons and devolving of authorities to provincial and local managers
- Implementation of paragraph 14 of the judicial decision of the Expediency Council regarding a reduction of sentences of imprisonment
- Classification and segregation of prisoners
- Respect for the human dignity and citizenship rights of prisoners

#### **Control over officers and staff**

421. On behalf of the offices of the Protection of Citizens' Rights; Security and Information; Performance Evaluation, Inspection, and Response to Complaints; the provincial general managers; and supervising judges of prisons; complaint boxes have been installed in all sections of prisons such that prisoners can easily report cases of mistreatment to be investigated by the authorities. In addition, given the freedom of prisoners to correspond with officials and legal and judicial authorities, their right to complain is protected; a matter that is underlined by article 198 of the Implementing Regulation of the organization.

422. In addition, all prisons and affiliated penal institutions are equipped with close circuit cameras that are linked to and are continuously monitored by general bureaus of prisons throughout the country as well as by the headquarters of the organization.

#### **Method of investigation of complaints**

423. Immediately upon receiving a complaint, the Office of Performance Evaluation, Inspection, and Response to Complaints examines the complaint and in case of establishment of its validity, if the subject is deemed to be a violation, it is reported verbatim to the committees for investigation of administrative violations, or to other competent judicial authorities.

424. The cases that have been investigated by these committees, to date, indicate the effectiveness of the process.

425. To date, there have been cases that have resulted in changes in the locations of employment of staff members, or application of punishments stipulated in article 9 of the Law of Investigation of Administrative Violations. In case of criminal violations, cases are referred to judicial authorities.

#### **Treatment of prisoners on death row**

426. The treatment of prisoners on death row is in accordance with Islamic ethics and kindness, and principles of humanity.

427. Upon request, the prisoner may visit with his family, relatives, and friends, as well as with a clergy or representative of his religion.

428. In addition, in case the prisoner is sentenced to death due to having committed murder, efforts are carried out until the last minute to secure the satisfaction of related authorities in order to prevent *qisas (lex talionis)* from being carried out.

#### **The society for protection of prisoners**

429. The societies for protection of prisoners are grassroots, non-governmental, and legal entities that have existed in Iran for over 70 years. These societies have legal charters and bylaws. Their boards of directors comprise the prosecutor, the general director of prisons, the provincial governor, the prison warden, and three trustees who are credible, pious, and philanthropist. The members serve on a voluntary basis. These societies are established at all locations where there exists a prison.

430. Currently, 175 of these societies exist throughout the country. Their objectives include correction and resocialization of prisoners, prevention of crimes and misdemeanors, reduction of social harms resulting from imprisonment, and protection of the family, especially children, of assistance seekers from the consequences of crimes and misdemeanors. Currently, all societies have social workers who focus on resolving the problems of assistance seekers. Some of their activities include:

- Formation of social work files
- Meeting with prisoners
- Holding of consultation sessions
- Interview and consultation with assistance seekers
- Home visits
- Design and execution of support programs
- Arrangement and referral to support and medical centers
- Provision of life skills programs
- Arrangement for meetings between inmates and their children
- Provision of funds for rental deposits
- Provision of marriage loans to children of prisoners
- Provision of financial assistance for transportation
- Provision of financial assistance for back pay
- Provision of non-financial assistance

- Provision of medical financial assistance
- Visits to courts, in order to secure the satisfaction of plaintiffs, and request for pardons, leaves, and transfer for prisoners (To date, the society's social workers have had 16,304 visits to courts, sections of execution of sentences in prisons, lawyers, experts, and legal advisors; 5,678 actions to secure the satisfaction of plaintiffs; 3,814 actions to secure pardons; 4,198 actions for transfer; and 11,511 actions to secure leaves.)
- Collection of donations from philanthropists and charitable organizations

431. The societies, also, carry out extensive activities in regard to entrepreneurship and employment, education and research, assistance and social work, and, most importantly, protection of the citizenship rights of the families of prisoners. Other activities include providing assistance to the families of prisoners, the rebuilding of characters of prisoners and their correction and guidance, assisting prisoners in regard to vocational education, assisting prisoners in finding employment upon their release, contributing to the health and medical improvement of prisoners, and promotion of cultural, sports, vocational, and educational activities.

432. To date, the society has succeeded in providing valuable contributions in terms of securing the satisfaction of plaintiffs, commuting the sentences of prisoners, and release of prisoners in need of financial assistance. Based on the statistics of the years 1379–1387 HS (2000–2008), through persistent follow-up, 8,238, 21,521, and 1,057 prisoners were freed, respectively, through securing the satisfaction of plaintiffs, financial assistance of the society, and donations of philanthropists and charitable organizations.

#### **Juvenile correction centers**

433. In accordance with article 44 of the Implementing Regulation of the State Organization for Prisons, Security, and Correctional Measures, dated December 11, 2005, “in order to promote the foundations and principles of the rights of citizenship in prisons, detention centers, and institutions affiliated with the organization; respect Islamic and human rights; and facilitate the process of de-incarceration and reacclimation of the convicted persons; in all institutions under the supervision of the organization, offices under the title of the Office for the Protection of Citizenship Rights shall be established under the oversight of the organization comprised of sufficient number of specialists.” Such an office has been established and is operating in the Tehran Juvenile Correction Center. In order to ensure the realization of these objectives and humane conditions, a booklet has been compiled, titled *The Citizenship Rights of Assistance Seekers*, which contains all their rights and obligations. The booklet is provided to all assistance seekers. The Office for the Protection of Citizenship Rights is tasked with ensuring the implementation of the rights contained in the booklet.

#### **Legal measures to ensure respectful and humane treatment**

434. In accordance with articles 5 and 6 of the Law of Protection of Children and Young Adults, dated December 22, 2002, any mistreatment of children and young adults is to be reported to judicial authorities. The establishment of special children and juvenile *dadsaras* (broadly; prosecutor's offices) and courts have guaranteed humane treatment of this group. As a result, the juvenile correction center requested provincial judiciaries to establish related special sections. Today, these special sections exist in the *dadsaras* and courts of all districts.

435. Supervision over the conduct of law officers and detention center staff is carried out by three bodies:

- (a) The Office of Evaluation of Performance, Inspection, and Response to Complaints, of the general bureau and the organization;
- (b) The Office of Respect for Client and Citizenship Rights;
- (c) The State General Inspection Organization.

436. In addition, the head of the general bureau of Tehran province, supervises the conduct of staff via digital monitoring and snap inspection of premises.

437. Circular 1/80/7487, dated July 18, 2001, in regard to the requirement for regular supervision over the implementation of imprisonment and detention sentences and attention to the problems of inmates, draws the attention of supervising judges of prisons to the following points:

- In order to improve supervision over the implementation of imprisonment and detention sentences resulting from financial convictions or penal provisional remedy, arrangement shall be made for regular and cyclical inspections of prisons such that judges can gain information regarding the mode of implementation of sentences and conditions of inmates and their possible problems and be able to, within the confines of regulations, assist in resolving them
- In visits to prisons, attention must be given to complaints by inmates and responses must be made to their questions

#### **Holding of detainees in well-known locations**

438. In accordance with article 17 of the Implementing Regulation of the State Organization for Prisons, Security, and Correctional Measures, dated December 11, 2005, the juvenile correction center is a facility for holding children and young adults under the age of 18, with the aim of correction and education. The center was established in 1964 and is the only center in Tehran for the holding of children and young adults who are detained or deprived of freedom.

#### **Registration of detainees and their place of detention in books and access to this information by their relatives**

439. Upon their arrival, all assistance seekers are taken to the section for reception and identification. All their personal, judicial, physical, psychological, and family information are immediately registered in their judicial, medical, and personality files. Access to this information is available to their families and lawyers.

#### **The Juvenile Correction Center**

440. Iran's Juvenile Correction Center is a successful model of dealing with children and young adults deprived of freedom. Many requests are made by other countries in regard to visits, cooperation, and adoption of methodologies. All foreigners who have visited the center have admired the conduct and performance of the personnel.

441. In accordance with article 11 of the Implementing Regulation, the center comprises a manager and three deputies, as well as one person responsible for each of the following sections: correction and education, the detention house, reception and identification, and children. In accordance with article 2 of the Implementing Regulation of the Juvenile Correction Center Organization, the center comprises three sections:

- (a) Temporary detention;
- (b) Correction and education;
- (c) Prison.

442. In each section, children are classified based on age, and record of crimes and their type. There are separate boys and girls sections. In regard to the activities of the center relating to delinquent children and young adults, mention may be made of the following items.

#### **Creation of a personality profile**

443. The creation of the personality profile is carried out with the help of psychologists and social workers. It contains personal, family, education, intelligence, personality, and psychological information, as well as a record of the behavior of the assistance seeker during his stay in the correction and education section, as observed by the staff.

#### **Reception and identification**

444. Upon arrival, the assistance seeker is housed in the reception and identification section. The following actions are carried out for him within a maximum period of 7 days:

- Primary health measures, such as provision of tooth brush, tooth paste, shampoo, towels, underclothes, and uniforms
- Creation of a judicial file, by the section for the implementation of sentences
- Creation of personality and social profile, by the psychologist and social worker
- Creation of a medical file, by the center's physician
- Vaccination and medical checkup
- Assessment of vocational and educational aptitude
- Classification and housing in the appropriate dormitory

#### **Housing**

445. The center has 9 separate locations for housing children: The dormitory and area for the holding of boys and girls and children under the age of maturity, the section for reception and identification (for the newly arrived), and the detention house (for the holding of serious offenders and delinquent assistance seekers).

446. The location for the holding of assistance seekers is determined by the Classification Council.

#### **Segregation of delinquent children and young adults**

447. Assistance seekers in the Juvenile Correction Center are classified based on age, gender, physique, and personal characteristics. They are classified into six groups for boys and one group for girls. Assistance seekers take part in the daily programs of the center as a means of responsibility education and social rehabilitation in order to prepare them for returning to the society.

448. It should be noted that corporal punishment and solitary confinement in the center are strictly prohibited. In fact, there are no solitary cells in the center.

449. All assistance seekers have access to telephone, upon their arrival, and can stay in contact with their families. They are given pre-paid phone cards. In case the assistance seeker does not wish to contact his family, in consideration of human dignity, a social worker contacts the family or the closest relative and informs them of the condition of the assistance seeker. Assistance seekers are also allowed to correspond with whomever they wish.

450. Through coordination between the center and judicial complexes, the cases of children and young adults are examined in the shortest time possible. Any delay in their trial is reported to several authorities, including the judiciary's Office for Protection of the Rights of Women and Children.

#### **Health, medical care, and nutrition**

451. These include:

- Prevention, including vaccination and control of communicable diseases
- Provision of medical care to patients, in the form of outpatient, inpatient, and under-supervision care
- Referral of needy patients to advanced medical facilities outside of the center
- Cooperation with the national health system as a means of promoting the level of health in the center
- Provision of consultation for preparing the nutritional program of children
- Supervision and action in regard to personal levels of health and the health of the center's environment
- Provision of dentistry and psychiatry services, family control education, injections, triage, and pharmaceuticals

#### **Cultural and educational**

452. These include:

- Organization of classrooms, at all levels, and examinations
- Studying in technical high schools under the supervision of the ministry of education
- Establishment of the technical and vocational complex under the supervision of the technical organization of the ministry of labor

#### **Recreational**

453. These include:

- Organization of recreational, pilgrimage, and tourist camps; such as nature camps, and visits to historical sites and battlefields of the Holy Defense
- Sports competitions between assistance seekers and the city youth, within and outside of the center, with a view to healthy competition and creation of a positive image in the society
- Use of pool and sports arena
- Use of media (see appendix 54/10)

#### **Psychological measures**

454. The psychological bureau employs several male and female psychologists. Based on statistics, there is one psychologist for every 32 assistance seekers.

455. Psychological measures include:

- Identification of personality traits, intellectual aptitude, and behavioral and psychological disorders, through psychological tests and interviews

- Consultation, guidance, and assistance in adaptation of children with the environment of the center
- Consultation and guidance on assistance seekers' problems with their families
- Personal and group psychotherapy for assistance seekers
- Identification of psychological patients and their referral to psychiatrists
- Provision of professional opinions to courts and other judicial authorities regarding children
- Identification of delinquent inclinations in children through collection of information and scientific tests
- Provision of professional opinions to the court regarding assistance seekers, referred by the court, prior to the issuance of the verdict
- Follow-up on personal and social therapy
- Referral to consultation and psychotherapy centers after release from the center
- Preparation of assistance seekers for effective understanding and dealing with social phenomena
- Job placement and employment of assistance seekers, in line with their aptitude and preferences
- Follow-up of educational, vocational, and family affairs
- Creating harmony between the assistance seeker, his family, and the society

**Social work**

456. The bureau of social work employs several social workers. Based on statistics, there is one social worker per 28 assistance seekers.

457. Social work services include:

- Empowerment and strengthening of the potentials of assistance seekers in facing hardships
- Identification of the social and family characteristics of assistance seekers, through interviews with family members as well as home visits
- Establishment of professional and sympathetic relations with assistance seekers, and personal and family consultations aimed at empowerment and enablement to face hardships
- Contacts with social service and medical centers, such as the welfare organization, hospitals, and the supervision bureau of the judiciary, among others
- Maintaining of regular contacts between assistance seekers and their families, through visits, telephone conversations, and correspondence
- Securing satisfaction of private plaintiffs

**Visitations**

458. Every week, under the management of the bureau of social work, assistance seekers meet with their families for 30 minutes, without the presence of guards.

459. In the waiting area, family members are provided with consultation and information, by social workers and judicial authorities, using information sheets that are prepared in

accordance with the problems of children. In addition, throughout the week, families who are unaware of the visitation dates are allowed to have visitations in the social work area.

### **Leave**

460. In order to boost the morale and resolve the problems of the convicted assistance seekers, they are given 5 days of leave per month, which may be extended when necessary. The assistance seekers under court order, when necessary and with the permission of the issuing judge, are given hourly leaves with accompanying officers.

### **Support and guidance homes (My Home)**

461. My Home is based on the principles of deinstitutionalization, smaller scale, and social integration. It has the following characteristics:

- Housing of assistance seekers with no shelter or with unsuitable guardians
- Holding of assistance seekers who are given alternative sentences by the court
- The homes are located throughout the city and have a capacity of 6 persons. Every home has a supervisor who meets the qualifications of the regulation
- Assistance seekers above 18 years of age, with sufficient fixed income, capable of independent living, and ready to accept a family, upon finding their family members or close relatives are released
- The objectives of the plan include provision of a living environment, emotional support, educational measures, financial support, job placement, preventing of recidivism, improvement of life skills, personal independence and self-management
- The My Home Program has a regulation that determines the conditions of acceptance of the assistance seeker from the time of acceptance into the program until the time of release

462. The city council of the Juvenile Correction Center is elected from among volunteer assistance seekers every 3 months. The elections are coordinated by the cultural bureau and the manger of dormitories. The assistance seeker with the highest number of votes is chosen as the mayor. Other elected assistance seekers are form the cultural, services, health, disciplinary, and sports committees. This allows the assistance seekers to participate and be responsible for the internal management of the center. It also provides them with the opportunity to practice social skills necessary to live in a civil society. In addition, they are able to deal with the problems of other assistance seekers and try to resolve them.

### **Support measures**

463. These include:

- Legal assistance, in cooperation with the selected lawyers of the center, other lawyers, and judicial authorities of the center, to provided legal consultation, defend, and follow up the cases of assistance seekers
- Request for the commuting of sentences, appeals, and conditional releases
- Referral of needy assistance seekers to related authorities
- Referral of qualified assistance seekers to philanthropists and charitable organizations, for the payment of diyeh, return of the property, monetary fine, or receiving of financial assistance
- Participation in court hearings and provision of testimony about the assistance seeker by psychologists and social workers

**Participation of international organizations**

464. The UNICEF has held workshops for the staff of the center and facilitated scientific and practical experiences through international visits. It has also contributed in terms of providing educational facilities. To date, 100 assistance seekers have taken part in UNICEF workshops on life skills. The center has also been visited by various international groups, such as the Penal Reform Organization.

**Participation of governmental organizations**

465. The ministry of education has provided assistance to the center in regard to the establishment of technical high schools, provision of human resources, and the holding of official examinations. The Technical and Vocational Organization of the ministry of labor and social affairs also provided professional trainers for the technical and vocational workshops held for the assistance seekers. The Judicial Complex for the Examination of Children's Crimes participates in the definition of the character of the children in conflict with the law, and, at times, has been at the forefront of the use of alternative sentencing.

**Participation of the public and non-governmental organizations**

466. An overwhelming majority of the public cooperating with the center consist of middle aged professional, educated women who act as substitute mothers for assistance seekers and fulfill their emotional needs.

**Visitations with family members**

467. The first-degree relatives of assistance seekers are allowed to meet their children 2 hours per week. New assistance seekers, until the completion of their identification process, can have visitations throughout the week. This program is contained within the booklet, *The Citizenship Rights of Assistance Seekers* (pp. 37–38). Other relatives of assistance seekers may visit them upon the approval of social workers and management.

**Training of officers and staff**

468. The center's officers and staff receive requisite training on a regular basis, including those relating to the international rules on juvenile justice, i.e. Beijing Regulations, Riyadh Guidelines, and Standards on the Protection of Juveniles Deprived of the Right to Freedom. (See sample questions in Appendix 54/7). In addition, all employees take part in the workshops approved by the education center of the organization.

**Mechanism to control officers in order to prevent mistreatments**

469. The center is equipped with closed circuit cameras, which cover all dormitories and administrative halls. All of the actions of assistance seekers and staff are under the surveillance of the manager of the correction center, the general manager of the province, and the head of the State Organization for Prisons, Security, and Correctional Measures. Daily meetings with the center's manager and deputies and the Voice of the Assistance Seeker Box (suggestion/complaint boxes) are other instruments to prevent mistreatment.

**Complaints regarding mistreatment by officers**

470. All complaints of officer mistreatment received through contact with families, boxes of the voice of assistance seeker, and oral reports are examined. In case their veracity is established, files are created and referred to the section for administrative violations, or are dealt with by other appropriate means.

## **XII. Article 11**

471. In regard to the ban on the imprisonment of individuals failing to fulfill their financial obligations, it must be noted that, in spite of the existence of several laws to this effect in the past, in 1998, a law was passed, titled The Law of the Method of Implementation of Financial Convictions, in accordance with which the failure to pay monetary penalties to the benefit of the government, and conviction to pay the very thing, or its price, or its substitute, or the loss and damage resulting from the crime, or *diyeh*, shall result in the possibility of detention of the individual at the request of the judgment creditor until such time as the payment of that property, unless the financial inability of the convicted person is established.

472. This law was passed with the view to the dominant circumstances in the society, i.e. the proliferation of financial misconduct, embezzlements, and complaints, which prompted legislators to reform the law and set the punishment of imprisonment for debtors.

473. Also the Law of Checks, amended in 1997, stipulates imprisonment for the failure to pay the amount of a check, or the issuing of a false or blank check, and the like. However, the recent reform of the law has reduced the severity of treatment of the issuer of the check during the course of prosecution and made it possible for provisional remedies, such as collaterals and bailment in place of detention.

474. However, after several years of massive detentions and increase in the number of persons imprisoned due to financial convictions, the judicial system effected several reforms in the Law of Checks, which reduced the cases of imprisonment. Finally, in new legislations that are to reform the Law of the Method of Implementation of Financial Convictions, and the Law of Checks, the imprisonment punishment is to be eliminated in cases relating to contractual obligations, e.g. failure to pay the amount of a check, marriage portion, or promissory note.

475. See Verdict 211 in Auxiliary Appendix 55, in regard to the criminal prosecution of a person in a civil case and the judicial conviction of the presiding judge.

## **XIII. Article 12**

476. The Islamic Republic of Iran, unlike many refugee accepting countries in regard to the residence of refugees, provides relative freedom of residence to refugees. Today, less than 5 per cent of refugees are housed in guest towns and the rest reside in urban and rural communities in the country. However, this should not create the impression that those living in guest towns are subject to extraordinary restrictions. In fact, there are many amenities in these guest towns, such as shelter, water, electricity, primary health and medical services, and public and adult literacy education, as well as libraries, community halls, and sports facilities, which are mainly provided free of charge. In terms of communal living, the refugees, in these guest towns have a higher level of psychological health and are subject to no restrictions in terms of movement.

477. The mode of residence of refugees in urban and rural areas is characterized by a high degree of variety. In some areas, they reside in the outskirts of cities, in areas especially devoted to refugees. In other areas, they reside farther away from the outskirts, as single- or multiple-family communities. Others live and work within or in the margins of industrial and agricultural regions. Other refugees, as required by seasonal conditions, relocate between rural and urban areas in search of jobs. And other refugees live within villages and towns.

478. Living in the outskirts of rural and urban areas has a wide range of economic, social, and cultural consequences for the refugees, the most important of which are economic problems resulting from the increasing cost of living.

479. On the other hand, the increasing number of refugees creates mounting problems for the host society and threatens its economic development. The problems threatening economic growth include the destruction of natural resources, the higher rates of occupancy of infrastructures such as transportation and communication, impact on infrastructural changes, increase in the rate of transition of traditional agricultural jobs to those of service and industrial sectors, which are often incapable of absorbing such levels of new workforce, a fact that results in the inefficiency of human resources.

480. In the past two decades, the Islamic Republic of Iran has played host to a refugee population of two million. At one point, one fifth of the world refugee population resided in Iran. In the past decade, in spite of the repatriation of some refugees, Iran continues to rank as the first refugee accepting country in the world.

481. In the past 30 years, the refugee population in the Islamic Republic of Iran has made use of resources relating to education, health and medical care, water and electricity, employment, money-credit system, transportation, border and police facilities, judicial and administrative systems, trade and economic capacities, and various subsidies. This at a time when the country is in need of mobilizing all its resources to achieve a desired level of economic development.

482. The truth of the matter is that 42 per cent of the country's population is comprised of young people under the age of 20, who face an unemployment crisis and its dire consequences. This at a time when refugees are taking up many employment opportunities.

### **Rules of residency of refugees in Iran**

483. Prior to the establishment of the Executive Council of Foreign Nationals in Iran, article 6 of refugees regulation had stated the following in regard to the method of acceptance of refugees and residency of foreign nationals:

“In case of acceptance of the asylum request, the refugee is given a refugee residency booklet by the state police that is tantamount to an identification booklet and official identity that is registered at the police department of the location of residence and is to be renewed, in person, every 3 months.”

484. After the issuance of the refugee residency booklet, a facsimile is sent to the police department of the place of residence of the refugee to be archived for future reference.

485. After the large scale inflow of refugees from Afghanistan and Iraq in 1985, the issuance of refugee residency booklets, practically, came to a halt, except in rare cases where the government of the Islamic Republic placed a kind of temporary protection on its agenda and issued blue cards for Afghan and green cards for Iraqi refugees.

486. In 1999, the Political-Defensive Commission of the cabinet, in its meeting of September 22, in line with the implementation of decision No. h19703/t7817, dated February 10, 1998, decided to identify foreign nationals residing in the Islamic Republic of Iran. The plan identified 1.6 million Afghan and 0.4 million Iraqi refugees residing in the Islamic Republic of Iran. In addition to the old blue and green cards, additional papers were issued without which participation in spatial organization was without value. Even, one of the requirements for the issuance of the blue card was the participation of the head of family in the plan for the identification of foreign immigrants in 2000 and 2001, after one year of which temporary blue and green cards were taken away and replaced by transit papers with specific exit deadlines.

487. Later, in 2001, the ministers of the Executive Cooperation Council for Foreign Nationals, in the meeting of September 29, 2001, with consideration of decision No. ht/58858, dated March 13, 2000, through the regulation for the method of the spatial organization of population of foreign nationals and refugees identified in the Islamic Republic of Iran, required the ministry of interior, in order to spatially organize the foreign nationals subject of article 1 of decision No. 21952 t/56909, dated December 10, 2000, to issue identification cards and temporary residence permits for the following foreign nationals:

- (a) The heads and officials of political parties and groups, political personages, and political dissidents whose lives are in danger, as well as their first-degree family, in accordance with the approval of related organizations;
- (b) The families of martyrs and disabled veterans, in accordance with the official announcement by the Martyr Foundation of the Islamic Revolution and the Foundation of Mostazefan and Disabled Veterans of the Islamic Revolution;
- (c) Seminary students and clerics and their first-degree families, in accordance with the official announcement of the World Center for Islamic Sciences;
- (d) University students and their families, in accordance with the official announcement of the ministries of sciences, research, and technology; and health, and medical education;
- (e) All foreign nationals with refugee booklets certified by the General Bureau of Foreign Nationals of the Law Enforcement Forces of the Islamic Republic of Iran;
- (f) All foreign nationals with master's and PhD degrees and their first-degree families, in accordance with certification of the ministries of sciences, research, and technology; and health, and medical education.

### **Rights and obligations of refugees**

488. The holder of a passport, as defined in article 180 of the Implementing Regulation on the law of the third economic, social, and cultural development program of the Islamic Republic of Iran, is a person who enters the country in accordance with domestic and international rules and regulations and with special permission. Residency, in accordance with article 4 of the law of entry, consists of two types: temporary and permanent.

489. Permanent residency applies to a foreign national who has acquired legal residency in Iran, otherwise, the residency of a foreign national is deemed as temporary.

490. As is implied by legal documents, an individual's presence and residency is determined by his place of residence and where his or her most important affairs are conducted. In other words, the foreign national in Iran must have established legal residency, otherwise, his or her residency is considered as temporary.

491. Article 15 of the amended law of entry and residency of foreign nationals in Iran, approved in 1988, states the following in regard to the illegal entry of foreign nationals into the country:

“The following individuals shall be sentenced to 1 to 3 years imprisonment or a fine of 500 thousands to 3 million rials, except when their crime is the subject of laws that determine heavier sentences:

- Whoever counterfeits a residency permit or transit document, or knowingly uses them, or acquires these types of counterfeit documents for others

- Whoever, in order to receive a passport, residency permit, or transit permit, provides false testimony to relevant officers, or says other than the truth, or hides matters that are relevant in the identification of citizenship, or knowingly uses a passport, transit permit, or identification document produced by above means
- Whoever knowingly crosses the Iranian border without the required documents and permit, or whoever passes through illegal routes or borders
- Whoever, in order to prove his identity or citizenship, uses documents, papers, or identification paper that belong to another person, and whoever, in order to prove the identity or citizenship of a foreign national, gives his or another person's document, papers, or identification paper to others
- Whoever, in order to evade the deportation order issued against him, hides or reenters Iranian soil after having left Iran
- Whoever participates or assists in one of the above activities
- Whoever, in order to benefit from the privileges that may be acquired through this law or its related regulations, commits one of the actions referred to in paragraphs 1, 2, or 3 of the aforementioned article outside of Iran, after entering Iran, if not convicted and punished on a final verdict outside of Iran, will be prosecuted and punished

492. In accordance with paragraph 5 of article 13 of the law on the entry and residency of foreign nationals in Iran, aliens who enter the Iranian soil without required documents or with required documents but through illegal routes, in addition to the above punishments, may be expelled from the country or be compelled to reside in a specific location for a period of time not to exceed 5 years.

### **Aliens with 10 consecutive years of residence in Iran**

493. The term "residence" implies legal residence of this group of eligibles and their adherence to the laws of entry and residency. It should be noted that employment in Iran is the main condition for their residence in the country. Clearly, whoever has 10 years of residence in Iran must have taken advantage of this privilege as a means of legal residency, since otherwise his residence will be considered as illegal, and as regards the law, the legislator would not have considered a special status for him. Therefore, the requirement of 10 years of continuous residence per se indicates the country's need for the employment of this group of foreign nationals and removes the requirement for receiving visas with the right to work. Therefore, the legislator has intended to provide the ground for the reemployment of this group of foreign nationals without legal complexities.

## **XIV. Article 13**

494. If a person or persons enter the Iranian soil and ask for asylum and their request is rejected for whatever reason, and they are not given permission for residence, they must leave the territory of Iran.

495. In accordance with article 12 of the law on the entry and residency of foreign nationals in Iran, in cases where there is a decision to expel, the foreign person has the right to refer the issue to the ministry of interior and request a review of the decision. The submission of the petition to review results in the postponement of expulsion, except in cases where expulsion is a priority due to reasons of national interests. Article 9 of the regulation for refugees states the following in regard to the expulsion of refugees:

“If the refugee acts against the security or laws of Iran, the minister of interior, on the recommendation of the permanent committee on refugees, revokes his refugee certificate, and if his action is subject to legal punishment, he will be delivered to judicial authorities. In any event, the refugee will be given sufficient time to leave the Iranian territory.”

496. Article 33 of the Convention Relating to Status of Refugees states:

“No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

“The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.”

497. In accordance with Iranian laws, the following constitute grounds for the expulsion of refugees:

- Criminal conviction
- Vagrancy and begging
- Employment as a prostitute and promiscuous lifestyle
- Communicable diseases
- Refugee actions that disturb public order
- Anarchistic actions
- Espionage activities
- Plotting against national security
- Resistance to the law
- Intense propaganda against the armed forces
- Tearing up the flag of the country of residency
- Dissemination of false information that disturbs public order and the like

### **Voluntary return**

498. Article 11 of the refugee regulation states: “If the permanent committee on refugees determines that the circumstances as a result of which the refugee has come to Iran are lifted, the refugee has to leave the Iranian territory, unless he provides sufficient evidence in regard to continued danger against him.”

499. The Regulation on the Method of Return of Afghan Refugees was approved by the executive coordination council in April 2002, and later passed and notified by the cabinet.

500. At the same time, the ministry of interior signed an agreement with the government of Afghanistan and the United Nations High Commissioner for Refugees in regard to a voluntary return program for Afghan refugees. (The 1951 Geneva Convention makes no reference to voluntary return. However, today, almost all countries are of the opinion that whenever the circumstances that have resulted in asylum seeking are lifted, the main solution is to convince the refugees to return to their country or main place of residence, in order to solve the problems resulting from their acceptance in the most logical and humane

manner.) As a result of the agreement, extensive activities were undertaken in regard to the establishment and equipping of provincial centers and exit stations, and formulation and notification of customs, foreign exchange, and administrative guidelines. Even, an order was issued for the operation of these centers during weekends and holidays.

501. The assessment of the performance of the program in 2002 indicated a relatively satisfactory situation. However, in 2003, the fall in the level of desire to return was alarming, such that in the first 6 months of 2003 there was a 56 per cent drop in the number of volunteer returnees as compared with the previous year. The United Nations High Commissioner for Refugees, implicitly, announced the years 2004 and 2005 as the deadline for refugee status of Afghans, and left the scene while hinting at two possible solutions for host countries in regard to the Afghans who had failed to return to their countries by that time: local assimilation (granting of citizenship), or change of status to economic immigrant.

502. In light of the above, the executive coordination council for refugees, in order to influence the matter of refugee return, approved the Guideline on the Method of Facilitation of the Process of Return of Afghan Citizens, which was recently passed and notified by the cabinet. As a result, in light of the above conditions, part of the issue was clear. Namely, if no executive action was taken within the remaining time serious problems could arise in regard to the return of Afghans. Therefore, executive bodies had only 12 months to return Afghans refugees; a short period of time within which to return the majority of Afghan refugees without resorting to unconventional methods. Therefore, in order to implement the above order to maximize the return of Afghan nationals in 2004, and to coordinate the implementation of decisions relating to the return of Afghan refugees, the permanent committee on foreign nationals approved and notified the Effective Executive Guidelines for the Return of Afghan Nationals. It should be noted that in the identification program approved by the cabinet in the winter of 2000, 2,355,000 Afghans registered and filled the 5-page questionnaire for the heads of families, those above the age of 18, and other family members, and provided fingerprints. In accordance with the joint letter of return, by January 20, 2003, 685,526 Afghan refugees had returned, 401,848 of who had registered in the identification program and the rest had illegally entered the country after the implementation of the program whose exit by the end of 2003 was made possible through exit transit papers.

503. The ministry of interior, in regard to the implementation of the regulation on the spatial organization of foreign nationals and in accordance with note 1 of article 3 of the regulation on the method of return of Afghan asylum seekers and refugees approved by the permanent committee on foreign nationals, implemented the program for spatial organization of foreign nationals between June 22, 2003, and October 22, 2004; during which 1,411,000 Afghan nationals who had registered in the identification program visited the branches and, in accordance with regulations, were issued exit transit papers with deadlines. During the same period, in accordance with the decision adopted in the 25<sup>th</sup> meeting of the permanent committee on foreign nationals, and in accordance with note 1 of article 3 of the regulation on the method of return, and after the implementation of the second stage of the program of spatial organization of Afghan nationals, the deadline for the above transit papers was extended as follows: two 2-month periods for the singles, two 3-month periods for married persons without school-attending children, and until June of 1984 for married persons with school-attending children.

## XV. Article 14

504. In accordance with article 156, the judiciary is an independent branch of government. The judicial procedure of courts and the differing and, at times, contradictory verdicts issued by judges is an indication of the independence of the judicial system.

505. In accordance with article 164 of the constitution:

“A judge cannot be removed, whether temporarily or permanently, from the post he occupies except by trial and proof of his guilt, or in consequence of a violation entailing his dismissal. A judge cannot be transferred or redesignated without his consent, except in cases when the interest of society necessitates it, that too, with the decision of the head of the judiciary branch after consultation with the chief of the Supreme Court and the Prosecutor General. The periodic transfer and rotation of judges will be in accordance with general regulations to be laid down by law.”

506. Therefore, influencing the views and verdicts of a judge is no easy task, and in cases of such influence those suffering damages can report such violations to the disciplinary court of judges.

507. The qualifications for the selection of judges, in accordance with the law approved by the cabinet in 1963, and later years, include being of the rank of a Mujtahid, or holding a bachelor's degree in law, theology, religious sciences, etc.

508. Other qualifications include Iranian citizenship, adherence to religion of Islam, and being known for good conduct, religiosity, trustworthiness, and justice.

### *Dadsaras*

509. In accordance with the amended Law of Revival of *Dadsaras*, there are five stages in a criminal case, as was the case in the previous version of the law: discovery, prosecution, investigation, verdict, and implementation. The major elements of *dadsaras* include the prosecutor, deputy prosecutor, assistance prosecutor, and interrogator. To protect the rights of the public and oversee the implementation of laws in accordance with regulations, in case the crime or loss or damage do not have a private claimant but somehow inflict harm on the society, the prosecutor will file a suit against the perpetrator. In addition, the prosecutor is obligated to protect and defend the rights of children, incompetent and insane persons, and those missing without trace, as well as to protect and defend inheritances in legal instances. General courts are divided into the two categories of penal and civil. Their area of competency is elaborated in the amended regulation on the Law of Establishment of General and Revolutionary Courts, dated January 29, 2002.

510. In Tehran, in addition to general *dadsaras*, there exist special *dadsaras*, including the following:

- The special *dadsara* for investigating children's crimes
- The special *dadsara* for economic affairs
- The special *irshad* (i.e. guidance) *dadsara* (for combating social corruptions)
- The special *dadsara* for criminal affairs
- The special *dadsara* for medical, pharmaceutical, and health crimes

## Courts

511. The judiciary's lower courts are divided into general and special. General courts have jurisdiction over all cases, except those precluded by the law. Special courts have jurisdiction over no cases, except those determined by the law (article 1 of the law of establishment of general and revolutionary courts, approved in 1994 and amended in 2002).

512. Special courts are divided into two categories:

- Military courts, which in accordance with article 172 of the constitution, have jurisdiction over special military and police crimes
- The special court for clerics, which has jurisdiction over crimes committed by the clergy

513. However, the law has given the chief of the judiciary the authority to devote certain general courts to special purposes, such as the special court for children's crimes, the special court for intentional murder and crimes, the special press court, the traffic violations court, the special court for cases relating to cultural heritage, the special court for medical and pharmaceutical affairs, and the special family court. In terms of hierarchy, above the court of first instance, is the high appeals court, with at least 3 presiding judges. The Supreme Court is the highest court, with several presiding judges. It should be noted that only major crimes and cases listed in the laws of the civil and criminal procedure and that are subject to appeal are heard by the Supreme Court.

514. It is also noteworthy that foreign journalists, similar to their Iranian counterparts, are allowed to be present in open trials, both civil and penal, upon the consent of the presiding judge.

## Method of interrogation

515. Article 129 of the Law of Criminal Procedure states:

“First, the judge asks the accused person about his identity and personal details (i.e. name, name of father, nickname, surname, age, occupation, spouse, children, citizenship) and address (city, district, sub-district, village, street, alley, number), such that the sending of subpoena and other documents is easily possible; and warns him to be careful about his statements. Then, he clearly explains the subject of the charge and its reasons to the accused person and begins the investigation. The questions must be useful and clear. Leading questions, and the deception and coercion of the accused person is prohibited. In case the accused person refuses to answer a question, his refusal is indicated in the minutes.”

516. The questions must be useful and clear. Leading questions, and the deception and coercion of the accused person is prohibited. In case the accused person refuses to answer a question, his refusal is indicated in the minutes. (See Auxiliary Appendix 53).

517. Article 131 of the Law of Criminal Procedure stipulates that the minutes of the interrogation are to be compiled without omissions or distortions:

“The answers to questions shall be written down verbatim, without changes, interpretations, or distortions. The literate accused persons can personally write down their answers.”

518. Note 2 of article 129 of the aforementioned law considers punishment for officers' violations relating to the submission of documents to the accused persons, and provision of false reports:

“Violations of notifying officers in discharging their duties, or false reporting in regard to matters relating to their duties are punishable by law.”

519. Also, article 205 of the aforementioned law provides the opportunity for protesting to the findings of judicial officers:

“In case one of the parties to the suit poses a justified objection to the veracity of the investigations of officers, the court shall investigate the matter, on its own, through the investigating judge, or other suitable means.”

520. In regard to the judge expressing any views prior to the completion of the trial, article 210 of the aforementioned law states:

“The presiding judge shall not explicitly express any views regarding the innocence or guilt of the accused person prior to the completion of the trial and issuance of the verdict.”

521. Article 211 of the aforementioned law states:

“In cases where the issuance of verdict requires additional investigation, the trial shall begin after the investigation and shall not be halted until the issuance of the verdict. In case of protraction of the trial ample recess shall be allowed.”

522. Article 131 of the aforementioned law states:

“The answers to questions shall be written down verbatim, without changes, interpretations, or distortions. The literate accused persons can personally write down their answers.”

523. Article 158 of the aforementioned law states:

“Writing between lines and shaving of words in interrogation documents are completely prohibited. In case one or few additional words are written, a thin line shall be drawn over them, the matter shall be indicated, and the signatures of the judge and the person being examined shall be attached. Also, in case one or few omitted words are added in the margins, the aforementioned persons shall attach their signatures underneath. Otherwise, the words thus added shall be bereft of validity.”

524. Articles 98 (search and investigation in the presence of individuals) and 158 (writing between lines, shaving of words, adding ... in interrogation documents are completely prohibited.) are other instances of the protection of the rights of accused persons.

### **Examples of verdicts relating to various subjects**

525. The following verdicts are noteworthy:

(a) Verdict No. 198 in regard to violations of rules of procedure and issuance of verdict (see auxiliary appendix No. 57);

(b) Verdict No. 69 in regard to violations of rules of procedure and impartiality, and also verdict No. 222 in regard to the appeal of the same case (see auxiliary appendix No. 57/1);

(c) Verdict No. 829 in regard to the judge's violations of rules of procedure in a case in which he himself was the plaintiff, in terms of rejecting the proceedings (see auxiliary appendix No. 57/2);

(d) Verdict No. 158 in regard to the judge's violations of the rules procedure in a case in which he himself was the plaintiff, in terms of rejecting the proceedings (see auxiliary appendix No. 57/3);

(e) Verdict No. 309 in regard to the conviction of the judge who violated the principle of impartiality and failed to take into consideration the pleadings put forth by the accused (see auxiliary appendix No. 57/4);

(f) Verdict No. 539 in regard to a judge who issued the order to investigate the accused without sufficient evidence, and moved to trial without explaining the charges and prior to the examination of the plaintiff (see auxiliary appendix No. 57/5);

(g) Verdict No. 242 and 243 in regard to violations of the rules of procedure, including failure to take into consideration the statements of the accused, issuance of the arrest warrant and bail without sufficient ground (see auxiliary appendix No. 57/6);

(h) Verdict No. 443 in regard to violation of the rules of procedure (see auxiliary appendix No. 57/7);

(i) Verdict No. 249 in regard to illegal prosecution of an individual without sufficient ground and the violation committed by the judge (see auxiliary appendix No. 57/8);

(j) Verdict No. 367 in regard to insufficient consideration of the evidence and background (see auxiliary appendix No. 57/9);

(k) Verdict No. 773 and 774 in regard to insufficient consideration of evidence and documents (see auxiliary appendix No. 57/10);

(l) Verdict No. 217 in regard to the failure of the judge to consider the complaint and to issue an opinion in regard to the accusation (see auxiliary appendix No. 57/11);

(m) Verdict No. 198 in regard to failure of the judge to prosecute the accused (an employer) due to lack of consideration of the evidence in the case (see auxiliary appendix No. 57/12);

(n) Verdict No. 7 in regard to the negligence on the part of the judge (see auxiliary appendix No. 57/13);

(o) Verdict No. 51 in regard to negligence on the part of the judge (see auxiliary appendix No. 57/14);

(p) Verdict No. 848 and 851 in regard to negligence on the part of the judge (see auxiliary appendix No. 57/15);

(q) Verdict No. 168 in regard to the judge's violation in declaring the termination of proceedings without stating the reasons, examination of the case without the presence of the accused or his lawyer and in an extraordinary session (see auxiliary appendix No. 57/16);

(r) Verdict No. 46 in regard to the failure to issue the verdict within appropriate time (see auxiliary appendix No. 57/17).

## **Court rulings**

526. Article 214 of the law of criminal procedure states:

“The verdict of the court shall be evidence-based and justified, and in accordance with the articles of the law and the principles derived from them. The court is obligated to find the rule for every case from within the law. In case there is no rule,

it shall make use of authentic *fiqhi* sources or *fatwas* in order to issue a verdict in the case. The courts shall not refuse to hear and issue verdicts in cases of complaints and suits based on the excuse that the written law is silent on the issue, or defective, or laconic, or contradictory, or ambiguous.”

527. Article 212 of the law of criminal procedure states:

“After the conclusion of the hearing, by asking assistance from God, relying on integrity and conscience, and considering the contents of the case and the existing evidence, the verdict shall be issued in the same session, except when the compilation of the verdict requires preliminaries, in which case the verdict shall be issued at the first opportunity possible and within a maximum period of one week.”

### **Trial in absentia**

528. In regard to trial in absentia, articles 218 and 218 of the same law contain guarantee:

“In regard to all crimes relating to the rights of people and public order, which have no aspect of divine right, whenever the accused person, or his lawyer, fails to attend any of the sessions of the trial or to send a cross-bill, the court shall issue the verdict in absentia. After the actual notification, the verdict may be asked to be reviewed by the issuing court within the period of 10 days, after whose expiration, it may be appealed in accordance with the law of appeals.

Note. 1. The verdicts issued in absentia and not protested within the set period, will be enforced after the expiration of the review and appeal periods. Whenever the issued verdict is legally notified, in any event, the convicted person may ask for a review within 10 days from the date of notification by the issuing court, in which case the court shall temporarily halt the implementation of the verdict and, if necessary, move to set bail or review the previous bail.

Note 2. In cases of crimes that have an aspect of divine right, in case the content of the case fails to prove the guilt of the accused person and in case there is no need for the examination of the accused, the court may issue a verdict of innocence in absentia.”

“After receiving the request for review, the court shall immediately move to examine the reasons and pleadings of the accused person, and in case they are of no consequence to the verdict, it shall confirm the in absentia verdict, and in case it determines them to be of consequence, or in case the evidence and pleadings require additional investigation, it shall set a date for the parties to the suit to attend a hearing. In such case, the absence of the plaintiff or private claimant shall not prevent the continuation of the trial.”

### **The right of interference of competent authorities**

529. All the judicial authorities that enter a criminal case must be competent in accordance with the law. In case of interference of an incompetent judicial authority, the accused person has the right to protest. Therefore, “the verdict of guilt and its implementation must only be done through a competent court and in accordance with the law” (article 34 of the constitution). Even, in urgent cases, the arrest and detention must be carried out in the manner determined by law, and the case must be referred to competent authorities within the set period (paragraph 5 of the Single Article Law of respect for legitimate freedoms and protection of citizenship rights, approved in 2004).

## Political and press crimes

530. In regard to the presence of the representatives of public opinion in the process of trials, it should be noted that, except in cases of press and political crimes, there are no juries for the examination of other crimes. However, apart from exceptional cases, the trials are open and the public are allowed to attend the proceedings. This is in accordance with article 168 of the constitution which states:

“Political and press offenses will be tried openly and in the presence of a jury, in courts of justice. The manner of the selection of the jury, its powers, and the definition of political offenses, will be determined by law in accordance with the Islamic criteria.”

531. The provincial criminal court for examining press and political crimes is comprised of three individuals: a chief and two justices from the appellate court of the province, as described in article 6. (See Auxiliary Appendix 58.)

## Open trials

532. Article 188 of the law of criminal procedure states:

“The trials of the courts shall be open, except in the following cases, upon the discretion of the court:

- Immoral acts and crimes against virtuous conduct
- Family affairs or private suits, upon the request of the parties
- When the openness of the trial is against security or religious feelings

Note 1. By openness of the trial is meant the absence of any obstacles to the presence of public in the court. However, its publication in media prior to the issuance of the final verdict shall be prohibited, and violators of this note shall be subject to punishment for libel.”

## Circulars of the judiciary chief

533. In line with better implementation of the laws, circulars are sent to all judicial units, which often include the administrative cadre as well as the judicial. In addition, the judicial cadre is asked to provide guidance and guidelines to officers and agents (the police) in line with the protection of the rights of the public. For instance, mention may be made of the following subjects covered in these circulars:

- Need for issuance of court orders and official letters of introduction for those kept in prisons
- Prohibition of cooperation of judicial staff with other governmental organizations, as per article 131 of the constitution
- Prohibition of the receiving of the amount of bail from the accused persons by judicial officers
- Prohibition of employment of prisoners without prior coordination with prison wardens and the classification councils of prisoners
- Investigation of the complaints presented by the officers of the Organization for Inspection and Supervision over the Prices of Goods and Services

- Confronting those who impersonate the officers of the intelligence organization of the law enforcement forces, and illegal use of official uniforms and police and military insignia
- Observing of article 22 of the constitution in regard to searches of homes and public places in cases other than tangible crimes
- Requiring judicial, police, and other officers of the law to execute the instructions of judicial authorities as those in charge of enforcing the law
- Prohibition of unauthorized transport of narcotics by the officers of revolutionary courts
- Prohibition of removing files from court premises and the requirement for the examination of cases by judicial branches during official working hours
- Prohibition of tampering with impounded vehicles
- Investigation of crimes relating to the abuse of military uniforms and insignia
- Need for determining the status of alcoholic beverages kept at the workplaces of judicial officers as per order of judges
- Need for cooperation of police officers in the accompanying and transferring of prisoners
- Need for the delivery of confiscated weapons and ammunitions to the Organization for Collection and Sale of Possessory Properties
- Need for supervision over the performance of judicial officers
- Need for observing legal procedures in regard to the confiscation of property and prevention of any tampering or personal use
- Prohibit of oral issuance of orders by judges to judicial officers
- Prohibition of sending cases to the intelligence organization of the law enforcement forces that are unrelated to it
- Observing of laws in regard to confiscation of properties, and prevention of harmful consequences of arbitrary confiscations
- Archiving of a duplicate of prisoners' files in related prisons in order to facilitate the investigation of their situation and their requests from the supervising judges of prisons
- Need for granting leave to prisoners, and change of bail for those with inability to provide sufficient bail
- Need for observing articles 12 and 14 of the constitution in regard to the equality of individuals before the law, and for respecting the law in regard to explaining charges to the accused persons
- Need for respecting the immunity of the bank accounts of foreign representatives

### **Paragraph 2 of article 14 and the principle of assumption of innocence**

534. In regard to innocence, article 37 of the constitution states:

“Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court.”

535. Also, article 36 of the constitution states: “The passing and execution of a sentence must be only by a competent court and in accordance with law.” These articles are adhered to by the judicial system. Thus, there exist numerous cases where due to lack of evidence to link the charge to the accused person orders of suspension of prosecution or verdicts of innocence have been issued (See Auxiliary Appendix 59).

### **Paragraph 3 of article 14 and the right to counsel**

536. In regard to the implementation of article 14 of the covenant, mention may be made of the following:

(a) In regard to the presence of an attorney in the process of trial of an individual, article 35 of the constitution states:

“Both parties to a lawsuit have the right in all courts of law to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel.”;

(b) Article 185 of the law of criminal procedure states:

“In all criminal affairs, the parties to the suit may choose and introduce their defense attorney or attorneys. The date of trial shall be announced to the defendant, plaintiff, private claimant, and defense attorneys. In case of multiplicity of attorneys, the presence of one attorney from each party is sufficient to begin the trial and examination.”

(c) Article 128 of the aforementioned law states:

“The accused person may have an attorney to accompany him. The attorney of the accused person, without interference in the investigation and after its completion, may announce to the judge statements that he may consider as necessary in discovering the truth and defending his client. The statements of the attorney shall be recorded in the minutes.”

(d) Note 1. In cases where the subject is of a confidential nature, or the presence of other than the accused person causes corruption, as determined by the judge, as well as in regard to crimes against national security, the presence of the attorney in the course of investigation shall be contingent upon the permission of the judge.”

### **Inability to secure counsel**

537. Article 186 of the law of criminal procedure states the following in regard to individuals who are unable to secure counsel due to financial inability:

“The accused person may ask the court to appoint him an attorney. In case the court determines that the accused person is incapable of choosing an attorney it shall appoint an attorney for him from among the attorneys of the judicial district and if possible from the closest district. In case the attorney asks for fees, the court shall determine the fees in accordance with the work to be done. In any event, the determined fees shall not exceed the legal schedule of fees. The fees shall be paid out of the specific line item in the judiciary’s budget.

“Note 1. In cases of crimes whose punishment in accordance with the law is *qisas*, stoning, or life imprisonment, in case the accused person does not introduce a attorney, the appointment of a court-appointed attorney is obligatory, except in cases

of immoral crimes where the accused person refuses the presence or introduction of an attorney.

“Note 2. In regard to all criminal matters, except those referred to in note 1 of this article or cases where in absentia verdicts are prohibited, whenever the accused person has an attorney, the notification of the date of trial to the attorney is sufficient, except where the court determines the presence of the accused person as necessary.”

### **Inability to comprehend the language of the court**

538. In regard to inability to comprehend the language of the court, article 202 of the law of criminal procedure states the following:

“In case the plaintiff, the private claimant, the accused person, or the witnesses do not know Persian, the court shall appoint two persons to interpret. The interpreter shall be approved by the court and shall commit to interpreting the statements accurately and without changing the sentences.”

539. In accordance with article 203 of the aforementioned law, it is possible to reject the interpreter:

“The accused person and the private claimant may reject the interpreter, but their rejection has to be justified. The rejection or approval of the interpreter shall be in accordance with the opinion of the court, which shall be final. The reasons for the rejection of the interpreter are the same as those for the rejection of witnesses.”

540. A number of articles relating to the testimony of witnesses are contained in main Appendix 47.

### **The accused person’s right to question others**

541. Article 191 of the aforementioned law states:

“Whenever the accused person or the private claimant requests the court to investigate person or persons who are present in the court, even if not stated previously, the court shall carry out sufficient investigation of them.”

### **Prohibition of self-incrimination**

542. In regard to forcing the accused person to self-incrimination, article 197 of the aforementioned law states:

“The court shall pose questions to the parties, witnesses, and those in the know, in order to clear ambiguities and shed light on the subject. In case the accused person refuses to answer the questions, the court shall continue the proceedings without compelling the accused person to respond.”

### **Paragraph 4 of article 14 and the lack of criminal responsibility of children**

543. In line with the implementation of article 49 of the Islamic penal code and the lack of criminal responsibility of children brief remarks were made under paragraph 4 of article 6 of the covenant. For instance, reference may be made to the verdicts issued based on

article 49 of the code in regard to the lack of criminal responsibility of children (see Appendices 60 to 60/7).

544. However, in regard to article 40 of the Convention on the Rights of the Child, and similar articles, in regard to the treatment of children alleged as, accused of, or recognized as having infringed the penal law, and protection of children through consultation, correction, adoption, education, and training and vocational programs, reference may be made to the verdicts issued by juvenile courts that are based on article 49 of the penal code whereby children and young adults have been acquitted and the courts have issued orders regarding their education and vocational training.

545. Chapter 5 of part 2 of the law of criminal procedure is devoted to juvenile justice, contained in Appendix 61. Recently, actions have been taken to pass new legislation, the result of which is the Law of Adjudication of the Crimes of Delinquent Children and Young Adults, containing 5 chapters and 55 articles. Chapter 2 contains a special procedure for children and young adults. The procedure will be further discussed under article 24.

### **Paragraph 5 of article 14 and the subject of the right to the review of convictions**

546. Part 2 of the law of criminal procedure is devoted to the review of verdicts.

547. Article 217 of the law of criminal procedure states:

“The in absentia verdicts of lower courts are subject to review within 10 days of the actual date of notification, after whose expiration they are subject to appeal.”

548. Article 232 of the same of law states:

“The verdicts of general and revolutionary courts in criminal cases are final, except in the following cases where they may be appealed:

- (a) Crimes whose legal punishment is execution or stoning;
- (b) Crimes whose punishment in accordance with the law includes *hadd*, *qisas* of death, or *itraf*;
- (c) Confiscation of property worth over 1 million rials;
- (d) Crimes that in accordance with the law require payment of *diyeh* that is more than the *khoms* (one fifth) of the full *diyeh*;
- (e) Crimes whose maximum punishment is more than 3 months in jail, flogging, or monetary penalty of over 500,000 rials;
- (f) Sentences of dismissal.”

549. Article 233 of the aforementioned law, considers the appealing of certain verdicts to be the sole jurisdiction of the Supreme Court:

“The authority for the appeal of the verdicts issued by general and revolutionary courts is the appellate court of the same province, except in the following cases where the appeals authority is the Supreme Court:

- (a) Crimes whose legal punishment is execution or stoning;
- (b) Crimes whose legal punishment is amputation, *qisas* of death, or *itraf*;
- (c) Crimes whose legal punishment is over 10 years imprisonment;
- (d) Confiscation of property.”

550. For instance, reference may be made to two opinions of the Supreme Court in regard to intentional murder and kidnapping together with those of the lower courts (see Auxiliary Appendix 45).

### **Paragraph 6 of article 14 and compensation**

551. In regard to the compensation of losses resulting from damages to life, property, freedom, or honor of individuals, in addition to sporadic articles on compensation contained in various civil and criminal laws, the Law of Civil Liability contains important items, the most important of which include the following:

(a) “Article 1. Whoever, without legal permission, willfully or due to negligence, inflicts damage on the life, health, property, freedom, honor, commercial reputation, or any other right created for individuals by law, such that it results in moral or material loss, is liable for compensation of the loss resulted from his action;

(b) Article 2. In case the action of the perpetrator of the loss results in moral and material damages to the victim, the court, after investigation and establishment of the matter, will convict him to compensation of damages. In case the action of the perpetrator of the loss results in one of the above losses, the court will convict him to the compensation of the loss that he has inflicted;

(c) Article 3. The court will determine the extent of the loss and the method and quality of its compensation, based on the circumstances of the case. The compensation of the loss shall not be in the form of installments, except in cases where the debtor provides sufficient guarantee or where there the law prescribes it”;

(d) Article 5. In cases where the damage to the body or health of a person results in a defect in his body, or a reduction or complete destruction of his working ability, or an increase in his living costs, the perpetrator of the loss is liable to compensate all of the above losses;

(e) Article 8. Whoever, as a result of false affirmations or publications, inflicts losses on the honor, reputation, or position of another person, is liable for its compensation;

(f) Article 10. Whoever suffers loss to his personal or family honor and reputation, can ask the perpetrator of the loss to compensate for his moral and material loss. In cases where the importance and type of guilt requires, in case of establishment of the guilt, the court, in addition to issuing a verdict of material compensation, may issue a verdict of compensation through other means, such as apology, publication of the verdict in the press, and the like;

(g) Article 11. The employees of the government, municipalities, and affiliated organizations, who, in the course of their duties, willfully or due to negligence, inflict damages on individuals, are personally responsible for the compensation of inflicted damages. However, in case the inflicted damages are not the result of their action, but relate to the defective equipment of the organizations and institutions, the compensation of the damages will be the responsibility of the related organization or institution. However, in regard to enforcement of the sovereignty of government, in cases where necessary actions are undertaken, in accordance with the law, to protect social interests, which result in damages to others, the government will not be responsible for payment of compensations.” The best example of verdicts relating to violations by government employees and payment of compensation is the case of “tainted bloods”, in which the ministry of health, the Blood Transfusion Organization, and others, were convicted to pay compensation for moral and material damages (see the second opinion of the case in Auxiliary Appendix 62);

(h) “Article 14. In regard to article 12, in cases where damages are inflicted by a group of persons, they are jointly responsible for paying compensation. In such cases, the extent of responsibility of each person will be determined by the court based on the mode of their involvement.”

### **Payment of damages due to the judge’s interpretation or error**

552. Article 171 of the constitution states:

“Whenever an individual suffers moral or material loss as the result of a default or error of the judge with respect to the subject matter of a case or the verdict delivered, or the application of a rule in a particular case, the defaulting judge must stand surety for the reparation of that loss in accordance with the Islamic criteria, if it be a case of default. Otherwise, losses will be compensated for by the State. In all such cases, the repute and good standing of the accused will be restored.”

553. Article 235 of the law of procedure of general and revolutionary courts in criminal matters and article 326 of the law of procedure of general and revolutionary courts in civil matters, set no limits on the possibility of correction of judicial rulings. According to these articles, the final verdicts of the courts may be appealed under three conditions:

- When the judge himself recognizes the error committed in arriving at the verdict
- When another judge, who has received the file through legal channels, recognizes the error
- When it is established that the judge has lacked competence in examining the case and authoring the verdict

554. Three conditions may result in the issuance of a wrong verdict:

- Error in arriving at the truth
- Error in the adducements and the subject of the verdict, such that it does not affect the foundation of the verdict
- Error in the adducements and the subject of the verdict, such that it does affect the foundation of the verdict

555. The errors of the first and second type cannot be corrected based on article 235, since it only applies to the errors of the third type. Therefore, wherever the judge commits an error in arriving at the truth, it can only be corrected through the appealing of the verdict, or through regular or extraordinary objection (review, appeal, restitution, or application of article 30).

556. Article 235 does not apply to the second type of errors either. In such cases, the issuing judge corrects his own error by issuing an amended verdict. This may also be done by the appeals judge.

557. Therefore, the subject of article 235 is errors of the third type.

### **Compensation of losses resulting from the judge’s error**

558. The legal system of Islam gives sufficient weight to the payment of compensation to victims of damage. The *fiqhi* rules of “*la zarar*” and “*tasbib*” make possible the compensation of any type of damage, even when the agent of damage is not responsible. Therefore, in cases of crimes against the body resulting from pure error, wherein no

culpability may be assumed for the perpetrator, compensation is envisioned in the form of *diyeh*.

### **Material and moral loss**

559. In line with the implementation of article 171 of the constitution, article 58 of the Islamic penal code, inspired by the same constitutional principle, states the following in regard to material and moral compensation: “Whenever an individual suffers moral or material loss as a result of a default or error of the judge with respect to the subject matter of a case or the verdict delivered, or the application of a rule in a particular case, in regard to material loss in case of default, the defaulting person must stand surety for the reparation of that loss in accordance with the Islamic criteria. Otherwise, losses will be compensated for by the State. And also in regard to moral loss where the default or error of the judge results in the damaging of reputation.” (See Auxiliary Appendix 42/7) Article 171 of the constitution and article 58 of the Islamic penal code have postulated two assumptions in regard to surety. Relevant comments and methods of compensation are discussed in the main Appendix 49.

### **Criminal laws relating to the protection of the rights of the public in cases of violations by government agents**

560. In line with the implementation of the principles of the constitution relating to the rights of the individuals, several articles of the Islamic penal code are devoted to the investigation of violations committed by government officials and agents.

561. Article 570 of the Islamic penal code states:

“Any government official or agent who, in contravention of the law, violates the personal freedom of the people or deprives them of the rights stipulated in the constitution, in addition to dismissal and deprivation of government employment from 3 to 5 years, shall be sentenced to imprisonment from 6 months to 3 years.”

562. Article 571 of the Islamic penal code sets sentences for violations of the constitution (some of these principles relate to the civil and political rights of the people):

“Whenever actions against the constitution of the Islamic Republic of Iran are committed through the forged signature of government ministers or agents, the perpetrator and those who knowingly make use of it shall be sentenced to imprisonment from 3 to 10 years.”

563. Article 572 of the Islamic penal code states:

“Whenever a person is imprisoned against the law and files a complaint with judicial or police officers in regard to his illegal imprisonment, in case they fail to heed his complaint and prove that they have announced his case to competent authorities and taken required actions, they shall be sentenced to permanent dismissal from the same position as well as deprivation from government employment from 3 to 5 years.”

564. Article 573 of the Islamic penal code states:

“In case the officials or officers of a detention center or detention house receive an individual as a prisoner without a detention paper issued by competent authorities, they shall be sentenced to imprisonment from 2 months to 2 years.”

565. Article 574 of the Islamic penal code states:

“In case the officials and officers of detention center or detention house refuse to turn over a prisoner to competent judicial authorities, or to submit their books to them, or fail to convey the complaints of prisoners to competent authorities, they shall be sentenced to punishments stipulated in the previous article, unless they prove that their action was in accordance with the written authorization of their immediate superior, in which case he shall be the subject of the aforementioned punishments.”

566. Article 575 of the Islamic penal code states:

“In case judicial authorities or other competent officers, in contravention of the law, issue the order of arrest, or criminal prosecution, or conviction of an individual, they shall be sentenced to permanent dismissal from their judicial position and deprivation of government employment for 5 years.”

567. Article 576 of the Islamic penal code states:

“In case an official, staff, or agent of government or a municipality, of any rank or position, abuses his authority and prevents the implementation of written government orders, state laws, orders and decrees of judicial authorities, or any order issued by a legal authority, he shall be sentenced to dismissal from government employment and 5 years imprisonment.”

568. Article 579 of the Islamic penal code states:

“In case a government agent inflicts a more severe punishment than the one stipulated in the conviction on a convicted person, he shall be sentenced to imprisonment from 6 months to 3 years. In case the action is authorized by another person, only the authorizing person shall be sentenced to the said punishment. In case the action results in *qisas* or *diyeh*, the perpetrator shall be convicted of its punishment as well. In case the action results in any other crime, its punishment, based on the case, shall be implemented in regard to the perpetrator or the authorizing person.”

### **Paragraph 7 of article 14 and double jeopardy**

569. No one shall be prosecuted, tried, or punished again for an offence for which he has already been finally convicted or acquitted, even if he has been pardoned or his offence becomes subject to the statute of limitations or for any reason his conviction is no longer implementable. Therefore, if the court issues an opinion that is construed as verdict, it cannot be tried again and the criminal matter is closed (article 6 of the law of procedure of general and revolutionary courts, approved in 1999).

570. There is no mention of “double jeopardy” in Iranian laws. However, there is an article in the Islamic penal code that has been subjected to various interpretations. Some jurists and judges interpret it in such a manner as to legitimize double jeopardy in the case of Iranian citizens, while others have a contrary interpretation. Various interpretations of the Islamic penal code is discussed in the main Appendix 50.

## **XVI. Article 15**

571. Article 11 of the Islamic penal code states the following in regard to the commuting, intensification, or nullification of punishments:

“In governmental rules and systems, punishments and security and Correctional Measures shall be based on laws that have been legislated prior to the occurrence of

the crime, and no commission or omission may be punished based on a later law. However, in case a law is passed after the occurrence of the crime which reduces its punishment or nullifies it altogether, or in some way is more lenient toward the perpetrator, it shall influence the crimes committed prior to the law and in process of adjudication. In case a verdict has become enforceable, it shall be implemented as follows:

- In case, in the past, an action was considered a crime, but is not in accordance with the new law, the final verdict shall not be enforced, and if it is in the process of implementation, it shall be suspended. In these two cases and in case the verdict has been already enforced, there shall be no criminal consequences. These regulations shall not apply to the rules that are legislated for specific periods of time or for specific crimes.
- In case the punishment for a crime is reduced by a new law, the convicted person may ask for a reduction of his sentence. In such case, the issuing court or its substitute shall reduce the sentence in accordance with the new law.
- In case the punishment for a crime is changed into a security or corrective measure, only these measures shall be the basis of verdicts.”

572. In light of the contents of the first paragraph of article 11 and the procedure followed by courts, it is clear that the law determining the punishment for the crime must be in place prior to the occurrence of the crime and the later law does not influence the intensification of punishments given for the commission or omission of an act.

573. An example of the reduction of a sentence relating to the legislation of the law of establishment of juvenile courts is the elimination of the sentence of execution and life imprisonment for children and young adults. In addition, the law classifies children and considers lighter sentences for those of lower age (see Auxiliary Appendix 49/1). Clearly, in case of passage of this law, these lighter sentences will retroactively apply to those convicted prior to its approval.

574. It should be noted that no laws have been passed as of yet in connection with paragraph 2 of article 15 of the covenant.

## **XVII. Article 16**

575. Capacity is of two types: the capacity to enjoy (*tamattu`*) rights, which is possessed by all humans, and legal capacity (*istifa`*), which has conditions. According to article 956 of Iran's civil code, all humans have the capacity to possess rights, even a newborn is possessed of this capacity (article 957 of the civil code). However, legal capacity implies the ability to enforce the rights deriving from the capacity to possess rights, which is not the case for incompetent persons.

576. Article 956 of the civil code states the following in regard to the capacity to possess rights (*tamattu`*):

“The capacity to possess rights begins with the birth of a human being and ends with his death.”

577. Article 957 of the civil code states:

“A child in the womb will enjoy civil rights provided that it is born alive.”

578. Article 958 of the civil code states:

“Every human being is entitled to civil rights but nobody can utilize and employ these rights unless he possesses legal capacity for so doing.”

579. Article 959 of the civil code states:

“Nobody can alienate himself entirely from the enjoyment or use of the whole or part of his civil rights.”

580. Article 961 of the civil code states:

“Foreign nationals are also entitled to the enjoyment of civil rights with the following exceptions:

(a) In respect of rights which are recognized by law as being explicitly and exclusively for Iranian subjects or explicitly denied to foreign nationals;

(b) In respect of rights concerning personal status which are not accepted by the law of the government of the foreign national;

(c) In respect of special rights created solely from the point of view of the Iranian people.”

581. In regard to certain articles of the civil code, such as the capacity to transact, insanity, and incompetence of real and legal persons see the main Appendix 51.

## **XVIII. Article 17**

582. Article 22 of the constitution states:

“The dignity, life, property, rights, residence, and occupation of the individual are inviolate, except in cases sanctioned by law.”

583. Article 23 of the constitution states:

“The investigation of individuals’ beliefs is forbidden, and no one may be harassed or taken to task simply for holding a certain belief.”

584. Article 25 of the constitution states:

“The inspection of letters and the failure to deliver them, the recording and disclosure of telephone conversations, the disclosure of telegraphic and telex communications, censorship, or the willful failure to transmit them, eavesdropping, and all forms of covert investigation are forbidden, except as provided by law.”

585. In regard to employment, article 28 states:

“Everyone has the right to choose any occupation he wishes, if it is not contrary to Islam and the public interests, and does not infringe the rights of others.”

586. In regard to place of residence, article 33 states:

“No one can be banished from his place of residence, prevented from residing in the place of his choice, or compelled to reside in a given locality, except in cases provided by law.”

587. As was discussed previously, according to article 570 of the Islamic penal code, depriving individuals of their freedom is considered punishable by law:

“Any government official or agent who, in contravention of the law, violates the personal freedom of the people or deprives them from the rights stipulated in the constitution, in addition to dismissal and deprivation of government employment from 3 to 5 years, shall be sentenced to imprisonment from 6 months to 3 years.”

## Violations of law and order forces

588. See Verdict No. 713-87 of the second branch of the Khorasan Razavi military court #1, in regard to the conviction of 4 military and civilian individuals for illegal entry into a home, bribery, and possession and transport of narcotics (Auxiliary Appendix 63).

589. See Verdict No. 248/85 in regard to the conviction of a Basij personnel for illegal entry into a home.

590. See Verdict No. 169/86 of the second branch of the Tehran military court #1, in regard to bribery and extortion, illegal arrest, and unauthorized entry into private homes.

591. Article 582 of the Islamic penal code states the following in regard to wiretapping or inspection of letters:

“Any government employee or agent who opens, confiscates, destroys, inspects, records, eavesdrops, any postal parcel, telegraph, or telephone conversation, in cases other than provided by law, or divulges their content without the consent of their owners, shall be sentenced to 1 to 3 years imprisonment and the monetary fine of 6 to 18 million rials.”

“Any judicial or non-judicial employee or agent, or any person given a governmental duty, who, without a legal arrangement, enters a home without the permission or consent of the owner, shall be sentenced to 1 month to 1 year imprisonment, unless he proves that he was forced to obey the orders of one of his superiors with the authority to issue the order. In such case, the punishment shall be served to the issuer of the order. And in case he is the perpetrator or cause of another crime as well, he shall be served the punishment for that crime. In case the act is carried out at nighttime, the perpetrator or issuer of the order shall be given the maximum sentence.”

592. Article 581 of the Islamic penal code sets a sentence of 1 to 3 years imprisonment for government agents who forcefully gain possession of others’ property.

593. In accordance with article 24 of the law of procedure for general and revolutionary courts in criminal matters, dated September 19, 1999, the search of homes and commercial locations by officers, except in cases of tangible crimes, is to be carried out with the permission of judicial authorities. Circular No. 1/78/12670, dated February 20, 1999, stipulates: “The method of action shall be in accordance with the regulations in chapter 3 of the aforementioned law, and inspections, except in important and necessary cases, and relegation of absolute and general representations shall be avoided.”

594. Clearly, given that the legislator has determined various punishments for the violation of the rights of individuals, the victims of such violations have the right to file their complaints with the courts and to defend their rights. In this connection, articles 690 and 696 of the Islamic penal code extensively deal with the violation of the homes and property of individuals. For instance, article 690 of the code deals with invasion, forceful occupation, and violation of the rights of individuals in regard to their property. Article 691 of the code states the following in regard to entering a property through force and overpowering: “Any person who enters a property that is in possession of another person by force and overpowering, be it fenced or otherwise, or enters it without force and overpowering but after being given a warning remains there by force and overpowering, shall be sentenced, based on the case, from 1 to 6 months imprisonment. In case the perpetrators are two or more persons, and at least one of them carries a weapon, they shall be sentenced to 1 to 3 years imprisonment.”

595. Article 692 of the Islamic penal code states:

“Whenever a person occupies the property of another person through force and overpowering, in addition to the lifting of invasion, he shall be sentenced to 3 months to 1 year imprisonment.”

596. Article 693 of the Islamic penal code states:

“In case a person who, in accordance with a final verdict, is convicted of dispossession of an immovable property, or lifting of the obstruction of right, after the implementation of his verdict, again, forcefully occupies the subject of the verdict or obstructs the right, in addition to the lifting of invasion, he shall be sentenced to 6 months to 2 years imprisonment.”

597. In regard to forceful entry, article 694 states:

“Whoever enters a home or dwelling by force or threat shall be sentenced to 6 months to 3 years imprisonment. In case the perpetrators are two or more persons, and at least one of them carries a weapon, they shall be sentenced to 1 to 6 years imprisonment.”

598. Article 695 of the code stipulates maximum sentences for the commitment of these crimes under certain condition:

“In case the crimes referred to in articles 692 and 693 are committed at nighttime, the perpetrator shall be sentenced to maximum punishment.”

599. Circular No. 1/76/11570, dated January 14, 1997, states:

“Given that according to article 37 of the constitution of the Islamic Republic of Iran, “Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court”, and article 39, “All affronts to the dignity and repute of persons arrested, detained, imprisoned, or banished in accordance with the law, whatever form they may take, are forbidden and liable to punishment”, in line with the implementation of these articles as well as to protect the honor and reputation of the accused persons, it is incumbent that judicial authorities and honorable judges avoid the announcement of the names and particulars of accused persons, or the publication of notices about them, or dissemination of information about the case, prior to the trial and establishment of guilt and issuance of the final verdict.”

600. Circular No. 1/81/10589, dated June 27, 2002, states:

“Given that dissemination of any information or news is prohibited prior to the completion of the stages of trial, establishment of guilt, and finalization of verdict, and even judicial authorities are not allowed to publish the proceedings in the media prior to the finalization of the criminal verdict, since the course of trial may result in the establishment of innocence, therefore, it is expected of judicial authorities, security offices, and the publishers of bulletins, newsletters, and other publications, to pay sufficient attention to the contents of note 1 of article 188 of the law of procedure of general and revolutionary courts in criminal matters, and considering the dimensions and consequences of such news, avoid the publication of names, charges, and proceedings, in their media.”

601. Discussions of measures in regard to prevention of damage to individuals, properties, and the economy of the country are contained in the main Appendix 52.

## **XIX. Article 18**

602. Article 23 of the constitution, in a special manner, underlines the freedom of belief for individuals:

“The investigation of individuals’ beliefs is forbidden, and no one may be harassed or taken to task simply for holding a certain belief.”

603. The individuals’ freedom to hold any religious or political belief is guaranteed under the constitution. No one can be put to trial or punished, or deprived of social rights owing to a particular belief that is divulged or discovered in any manner. Holding a false belief, even though shameful, is a matter between an individual and his God. In any event, this constitutional article implies that if through investigation or any other means, such as a person’s confession, it becomes clear that he holds a specific political or religious belief he may not be harassed or castigated.

604. It appears that this mode of expression in regard to the freedom of belief in article 23 merely implies the holding of the belief and its simple expression, i.e. that in case it becomes clear that the individual holds a heretical belief that, in accordance with the shariah, would classify him as an apostate, he cannot be punished. However, article 23 does not guarantee the freedom to propagate one’s belief, nor even the open and public performance of religious rites. Freedom in regard to such matters relates to other articles that deal with the freedom of expression, press, performance of religious rites, and the limitations contained in these articles.

605. In regard to religious freedom, articles 12 to 14 of the constitution clarify the issue. In accordance with these articles, the followers of the three religions of Zoroastrianism, Christianity, and Judaism, and the followers of other Islamic schools are free to perform their religious rites and in regard to affairs of personal status may act in accordance with their religious teachings. Therefore, article 14 implies that the followers of these religions are to be treated with kindness and broadmindedness, and that their religious beliefs should not prevent them from realizing their social and citizenship rights.

606. In regard to the fair treatment of non-Muslims, article 14 of the constitution states:

“In accordance with the sacred verse; (“God does not forbid you to deal kindly and justly with those who have not fought against you because of your religion and who have not expelled you from your homes” [60:8]), the government of the Islamic Republic of Iran and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their human rights. This principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran.”

607. Article 19 prohibits all forms of discrimination:

“All people of Iran, whatever the ethnic group or tribe to which they belong, enjoy equal rights; and color, race, language, and the like, do not bestow any privilege.”

608. Article 20 speaks of the citizenship rights of all Iranians:

“All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.”

609. In regard to giving privileges to the followers of a particular region, it must be noted that adherence to Islam is a condition for holding certain positions such as a judge, which predates the Islamic Revolution and one that has existed ever since 1963. Also, article 115

of the constitution stipulates that the president is to be a Shiite, or that only recognized religious minorities can hold seats in the Islamic Consultative Assembly.

## **XX. Article 19**

610. The constitution of the Islamic Republic of Iran accords special prominence to the principle of freedom and calls for its unflinching protection and promotion. Article 2 of the constitution, following its enumeration of the five principles of monotheism, prophecy, resurrection in hereafter, divine justice, and imamate, adds a sixth principle, namely the dignity and honor of human beings and their freedom attended by responsibility toward God. In other words, from the viewpoint of the constitution, the principle of human freedom is placed alongside the other five principles within the foundational structure of the system of the Islamic Republic. Of course, from a religious and Islamic point of view, the constitution considers man as free yet responsible toward God, i.e. the feeling of freedom is to be attended by a sense of responsibility before God.

611. Article 9 of the constitution accords such importance to the idea of freedom and its protection in the Islamic Republic of Iran that it considers it as inseparable from independence, unity, and territorial integrity. It goes as far as stating that “no authority has the right to abrogate legitimate freedoms, not even by enacting laws and regulations for that purpose, under the pretext of preserving the independence and territorial integrity of the country”.

612. Paragraph 7 of article 2 of the constitution considers the protection of political and social freedoms, within the limits of the law, as the responsibility of the government of the Islamic Republic of Iran.

613. In the constitution of the Islamic Republic of Iran, in article 14, the freedom of expression is referred to as the freedom of publications and press. Article 24 of the constitution states:

“Publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public. The details of this exception will be specified by law.”

614. Article 86 of the constitution states: “Members of the Assembly are completely free in expressing their views and casting their votes in the course of performing their duties as representatives.”

615. Article 175 states:

“The freedom of expression and dissemination of thoughts in the Radio and Television of the Islamic Republic of Iran must be guaranteed in keeping with the Islamic criteria and the best interests of the country.” Clearly, from the mode of expression of article 24 in regard to the freedom of press and other general principles, including paragraph 7 of article 2 in regard to political and social freedoms, one can understand the viewpoint of the constitution in regard to the freedom of expression and views, within the limits referred to in article 24 and other articles.

616. Among other important symbols of freedom is the freedom of societies, political or professional associations, and religious societies. Articles 26 and 27 are devoted to this subject. Article 26, on the one hand, underscores the freedom of formation of any society or association provided they do not violate the principles of independence, freedom, national unity, and the criteria of Islam, and, on the other hand, the right of individuals to participate in them or refuse to do so. Based on these principles, the formation of parties, societies,

political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the foundation of the Islamic Republic. No one may be prevented from participating in the aforementioned groups, or be compelled to participate in them.

617. The constitution neither in this nor in any other article precludes any class, group, or professional association from forming or entering political parties or groups. However, later, in ordinary laws relating to the army and IRGC, the members of the armed forces were prohibited from taking part in political parties; ordinary laws that were not considered as unconstitutional by the Council of Guardians.

618. Some articles of the constitution contain rules and regulations that may be viewed as practical guarantees for protection of freedoms stipulated in the constitution. These include articles 25, 79, and 168.

619. Article 25 of the constitution states: "The inspection of letters and the failure to deliver them, the recording and disclosure of telephone conversations, the disclosure of telegraphic and telex communications, censorship, or the willful failure to transmit them, eavesdropping, and all forms of covert investigation are forbidden, except as provided by law."

620. Article 79 of the constitution states: "The proclamation of martial law is forbidden. In case of war or emergency conditions akin to war, the government has the right to impose temporarily certain necessary restrictions, with the agreement of the Islamic Consultative Assembly." This is one of the important measures provided by the constitution in order to protect freedoms, since clearly the imposition of martial law is one of the greatest obstacles to public freedoms, especially the freedom of association, press, and expression of views and beliefs. This indicates the sensitivity of the constitution in regard to preventing abuse by government officials by having the authority to announce martial law under the pretext of order and security.

621. Article 168 of the Constitution states: "Political and press offenses will be tried openly and in the presence of a jury, in courts of justice. The manner of the selection of the jury, its powers, and the definition of political offenses, will be determined by law in accordance with the Islamic criteria". This is another provision in the Constitution for the protection of freedoms of individual citizens in the country. Violations and offences by the press are related to expressions of opinions and views and infringements of the generally accepted rules and limitations governing the press. Moreover, political offences are in a way connected to opposition to the authority of the government and or to expression and practicing a set of political guidelines for the governance of a nation or breaking the governing laws and rules. For these reasons, they are closely connected to freedom of expression and opinion.

622. Regarding the limitations stipulated in the Constitution, it needs to be explained that except for "freedom of belief", which is mentioned in absolute and unreserved term in the constitutions of many countries and it appears that article 23 of the Constitution of the Islamic Republic of Iran also places no limitation, other freedoms like freedom of expression, freedom to write, assemble and to form associations are not absolute and unconditional. In general, freedoms are only limited by not being detrimental to public order and interests or against the rights of others or the good morals of the society. In other words, an individual is free to speak, write and form association as long as public security, safety and morals of the society and the good name and reputation of others are jeopardized, if not restrictions will be placed on freedoms of individual citizens.

623. A glance over the Constitution of the Islamic Republic of Iran brings us to the conclusion that the Constitution applies three standard tests and criteria to impose

limitations on freedoms: Opposing Islamic principles, acting against public interests and rights, and violating the rights of others. Opposing Islamic principles and norms figure more prominently among the reasons for the limitation of freedoms. Article 24 of the Constitution says: "Publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public." And according to the article 26, "The formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic...", and the article 28 also says: "Everyone has the right to choose any occupation he wishes, if it is not contrary to Islam and the public interests, and does not infringe the rights of others." And article 175 says: "The freedom of expression and dissemination of thoughts in the Radio and Television of the Islamic Republic of Iran must be guaranteed in keeping with the Islamic criteria and the best interests of the country."

624. Topics such as public interest, public rights and criteria of Islam are general concepts and subject to interpretation and therefore at least ordinary laws must give, as far as it is possible, a clear definition and place a boundary on them specially regarding some of the foundational and cardinal principles of Islam that in many cases counter with the conflict of opinion and rulings of religious jurisprudences and in this cases distinction of which case is in contradiction with the Islamic criteria or is agreeable to them, is not an easy job and therefore it is necessary to give clear criteria from them, as far as it is possible in ordinary laws.

625. Press law and its executive by-law in chapter three have referred to rights of press in Iran. Article three of this law states: "The press have the right to publish the opinions, constructive criticisms, suggestions and explanations of individuals and government officials for public information while duly observing the Islamic teachings and the best interest of the community." And in its note where the law speaks about the condition of the constructive criticism, it says: "Constructive criticism should be based on logic and reason and void of insult, humiliation and detrimental effects." And in article four of the same law it is said: "No government or non-government official should resort to coercive measures against the press to publish an article or essay, or attempt to censure and controlling the press.", and in next article we read: "The press are lawfully permitted to acquire and disseminate domestic and foreign news aimed at enhancing public awareness by taking into consideration the best interests of the community and by observing the provisions of the existing law."

626. In chapter four of the press law, the boundaries of press activities and domain of their freedom is expressed. In amended article six date 30.1.1379/ 19.4.2000, it is mentioned: The print media are permitted to publish news items except in cases when they violate Islamic principles and codes and public rights as outlined in this chapter:

1. Publishing atheistic articles or issues which are prejudicial to Islamic codes, or, promoting subjects which might damage the foundation of the Islamic Republic.
2. Propagating obscene and religiously forbidden acts and publishing indecent pictures and issues which violate public decency.
3. Propagating luxury and extravagance.
4. Creating discord between and among social walks of life specially by raising ethnic and racial issues.
5. Encouraging and instigating individuals and groups to act against the security, dignity and interests of the Islamic Republic of Iran within or outside the country.

6. Disclosing and publishing classified documents, orders and issues, or, disclosing the secrets of the Armed Forces of the Islamic Republic, military maps and fortifications, publishing closed-door deliberations of the Islamic Consultative Assembly or private proceedings of courts of justice and investigations conducted by judicial authorities without legal permit.

7. Insulting Islam and its sanctities, or, offending the Leader of the Revolution and recognized religious authorities (senior Islamic jurists).

8. Publishing libel against officials, institutions, organizations and individuals in the country or insulting legal or real persons who are lawfully respected, even by means of pictures or caricatures.

9. Committing plagiarism or quoting articles from the deviant press, parties and groups which oppose Islam (inside and outside the country) in such a manner as to propagate such ideas (the limits of such offenses shall be defined by the executive by-law).

*Note:* Plagiarism means intentional ascription of all or a considerable part of the works and words of others to one's own, even in the form of translation.

10. Instrumental use of the individuals (men or women) in pictures and context, humiliation, insult to women gender, propagation of luxury and unlawful and illegal extravagances.

11. Propagation of rumors and untrue points, and or alteration of the points of other ones.

12. Publishing subjects/points opposing constitution law.

627. According to amended article seven, the following activities are banned:

(a) Printing and publishing a publication without a license and a publication whose license has been cancelled, or, one which has been temporarily or permanently closed down by a court order;

(b) Publishing a publication the greatest part of whose items are incongruous to subjects which the applicant has undertaken to publish;

(c) Publishing a publication that may be mistaken in name, symbol or format for the existing publications or those which have been temporarily or permanently closed down;

(d) Publishing a publication without mentioning the name of its license holder and the legally responsible director or the address of the publication and its printing house;

(e) Publishing and printing houses, distribution and sales departments of publications are not permitted to publish and distribute publications which the Press Supervisory Board deems to be in violation of the principle stipulated in this by-law.

628. According article 10 of this law a supervisory board, comprising the following persons will supervise the press activity:

(a) One of the judges of the state Supreme Court as elected by the Supreme Judiciary Council;

(b) Minister of Islamic Culture and Guidance or his fully authorized representative;

(c) A Majlis deputy as elected by the Majlis;

- (d) A university professor appointed by the Minister of Culture and Higher Education;
- (e) One of the press managing directors as elected by the press;
- (f) One of the professors of religious teaching appointed by the council of center of religious teaching in Ghom;
- (g) One of the members of the high council of the cultural revolution appointed by the same council.

629. **Note 1:** Two months after this law, the Press Supervisory Board shall be formed for a period of two years. For subsequent terms it shall be formed one month before the expiration of the earlier term upon the invitation of the Ministry of Islamic Culture and Guidance.

**Note 2:** The sessions of the Press Supervisory Board shall be considered valid upon the presence of two-thirds of the members and the decisions shall be valid and binding if adopted by the absolute majority.

**Note 3:** After due investigation, the Press Supervisory Board will forward its comments to the Minister of Islamic Culture and Guidance for implementation.

### **Press offences**

630. Article 168 of the constitution law that says, political and press offenses will be tried openly and in the presence of a jury, in courts of justice, is another arrangements of the constitution law for safeguarding the freedom of individuals because press offences and guilt related to publishing and propagating points, opinions and trespassing the criteria and limits of press and political offences, that in any case are related to opposing the jurisdiction of the state and showing and applying the political viewpoints for administration of the state is result of the breach of the enforcing laws, has close relation to freedom of speech and opinion and determination of the boundaries of legal and illegal regions is very delicate and it is possible that by narrow interpretation, paraphrase and niggardly and tight justification may distinguish many of writings and opinions and political activities as destructive to the foundation of Islam or public interests and bring the writer and speaker and party activist to the court and made them malefactor and by doing so made the freedom, contrary to what has been the view of the legislator or constitution law, very limited. Compulsion to arrange open trials and putting the subject to the public opinion and intervention of the jury that in general is constituted from the people belonging the different classes and its expressed opinion is reflecting the common sense and conception of the society, could be an effective factor regarding the securing the freedom of speech and pen and reducing the danger of harsh treatment.

631. In describing and elaboration of the press law, we read in article 23: Should a publication publish articles containing insult, libel and false statements, or, criticize individuals (real or legal persons), the concerned party shall have the right to forward a response to the same publication in writing within a period of one month. Upon receipt, the publication is obligated to publish, free of charge, such responses and explanations in one of the two subsequent issues on the same page and column, and in the same font in which the original article had appeared, provided that the response does not exceed double the size of the article and does not insult or libel anybody.

**Note 1:** If the publication publishes additional matters or explanations beside the complainant's response, the latter has the right to protest again. Meanwhile, publishing a part of the protester's reply in such a manner that it might render the response incomplete or ambiguous, or, adding additional topics to the reply is

considered tantamount to non-publishing of the reply and the full text of the response must be published in a single issue.

**Note 2:** The response received from candidates during elections must be published in the first issue of the publication provided the reply is delivered to the newspaper against receipt at least 6 hours before it goes under print.

632. **Article 24:** Those persons, who publish confidential military documents and orders, and secrets of the Islamic Revolutionary Guards Corps (IRGC), or, maps of military installations and fortifications during war or peace time in the press, shall be handed over to the court for trial according to pertinent regulations.

633. **Article 25:** If a person, through the press, expressly and overtly instigates and encourages people to commit crimes against the domestic security or foreign policies of the state, as specified in the public penal code, and should his/her action bear adverse consequences, he/she shall be prosecuted and condemned as an accomplice in that crime. However, if no evidence is found on such consequences he/she shall be subject to a decision of the religious judge according to Islamic penal code.

634. **Article 26:** Whoever insults Islam and its sanctities through the press and his/her guilt amounts to apostasy, shall be sentenced as an apostate and should his/her offense fall short of apostasy he/she shall be subject to the Islamic penal code.

635. Regarding the observation of Rights and sanctuary of persons, it is mentioned in article 30 of press law: "Publication of any article containing slander and libel and use of invective language and derogatory allegations, etc. against individuals is prohibited and the guilty managing director shall be referred to judiciary authorities for punishment. Legal proceedings would follow if, the injured party lodges a complaint against such offenses. However, should the complainant withdraw his/her complaint the prosecution would stop at whatever stage it might be."

## Statistics on cultural and press affairs

### Public library of the country

| <i>Year</i> | <i>Number of library</i> |
|-------------|--------------------------|
| 1375        | 1 047                    |
| 1380        | 1 502                    |
| 1382        | 1 577                    |
| 1383        | 1 580                    |
| 1384        | 1 641                    |
| 1385        | 1 729                    |
| 1386        | 1 758                    |

### Cultural indices and indicators in 1384/2005 (book publication)

| <i>Title</i>                          | <i>Unit</i>    | <i>Number</i> | <i>Per cent of change in compare to the previous year</i> |
|---------------------------------------|----------------|---------------|---|
| Titles of published books             | Title          | 50 813        | 24.2  |
| No. of circulation of published books | Million copies | 215           | 22.8  |
| Titles of translated books            | Title          | 11 826        | 25.2  |

| <i>Title</i>  | <i>Unit</i> | <i>Number</i> | <i>Per cent of change in compare to the previous year</i> |
|---|-------------|---------------|---|
| Title of compiled books   | Title       | 38 987        | 23.9  |
| Number of cultural centers, art exhibition and mosques at the end of the year | Unit        | 3 000         | 68.2  |

#### **Cultural indices and indicators: 1385/2006**

| <i>Title of index/indicator</i>               | <i>Unit</i>    | <i>Number</i> | <i>Per cent of change in compare to the previous year</i> |
|---|----------------|---------------|---|
| Number of the titles of published books       | Title          | 51 347        | 1.1   |
| Circulation of the published books            | Million copies | 220           | 2.3   |
| Number of the titles of translated books      | Title          | 10 800        | -8.7  |
| Circulation of the translated books           | Million copies | 44            | ...   |
| Number of the titles of compiled books        | Title          | 40 550        | 4/0   |
| Circulation of the compiled books             | Million copies | 176           | ...   |
| Number of the public libraries                | Unit           | 1 705         | ...   |
| Number of the members of the public libraries | 1 000 person   | 1 070         | ...   |

#### **Cultural indices and indicators: 1386/2007**

| <i>Title of index/indicator</i>  | <i>Unit</i>    | <i>Number</i> | <i>Per cent of change in compare to the previous year</i> |
|--|----------------|---------------|---|
| Number of the titles of published books                                  | Title          | 54 739        | 6.6   |
| Circulation of the published books                                       | Million copies | 212           | -3.6  |
| Number of the titles of translated books                                 | Title          | 11 761        | 8.9   |
| Circulation of the translated books                                      | Million copies | 42            | -4.5  |
| Number of the titles of compiled books                                   | Title          | 42 978        | 6.0   |
| Circulation of the compiled books  | Million copies | 170           | -3.4  |
| Number of the title of newspaper and magazines                           | Title          | 2 140         | ...   |
| Circulation of the newspaper and magazines                               | Million copies | 1 250         | ...   |
| Number of the public libraries   | Unit           | 1 756         | 3.0   |
| Number of the members of the public libraries                            | 1 000 person   | 1 039         | -2.9  |
| Number of the cultural and art centers of mosques at the end of the year | Unit           | 4 287         | 42.9  |
| Number of the cultural and art institutes                                | Unit           | 233           | ...   |

**Cultural indices and indicators: 1387/2008**

| <i>Title of index/indicator</i>  | <i>Unit</i>    | <i>Number</i> | <i>Per cent of change in compare to the previous year</i> |
|--|----------------|---------------|---|
| Number of the titles of published books                                  | Title          | 55 554        | 1.5   |
| Circulation of the published books                                       | Million copies | 218           | 2.8   |
| Number of the titles of translated books                                 | Title          | 12 305        | 4.6   |
| Circulation of the translated books                                      | Million copies | 46            | 9.5   |
| Number of the titles of compiled books                                   | Title          | 43 249        | 0.6   |
| Circulation of the compiled books  | Million copies | 173           | 1.8   |
| Number of the title of newspaper and magazines                           | Title          | 2 200         | ...   |
| Circulation of the newspaper and magazines                               | Million copies | 1 280         | ...   |
| Number of the public libraries   | Unit           | 1 874         | 6.7   |
| Number of the members of the public libraries                            | 1 000 person   | 1 127         | 8.5   |
| Number of the cultural and art centers of mosques at the end of the year | Unit           | 5 067         | 18.2  |
| Number of the cultural and art institutes                                | Unit           | 168           | -27.9   |
| Number of active cinemas   | Unit           | 226           | -1.3  |
| Number of non-active cinemas   | Unit           | 213           | 7.6   |

**Table of operated work**

| <i>Indices</i>                              | <i>Year 1383/2004</i> | <i>Year 1384/2005</i> | <i>Year 1385/2006</i> | <i>Year 1386/2007</i> |
|---|-----------------------|-----------------------|-----------------------|-----------------------|
| Number of the titles of published books     | 38 546                | 51 916                | 52 428                | 54 658                |
| Circulation of the published books          | 169 000 000           | 219 000 000           | 224 137 058           | 211 059 630           |
| Active publishers of the country (person)   | 3 449                 | 4 345                 | -                     | -                     |
| Circulation of the children and youth books | 33 000                | 48 000                | -                     | -                     |
| Number of the titles of the children book   | 5 042                 | 7 335                 | -                     | -                     |

**Newspapers and magazines**

| <i>Year/title</i>                                  | <i>1383</i> | <i>1384</i> | <i>1385</i> | <i>1386</i> |
|--|-------------|-------------|-------------|-------------|
| Newspaper and magazines                            | 1 240       | 1 943       | 2 050       | -           |
| Circulation of newspaper and magazines (in person) | 62 000      | 67 000      | 65 000      | -           |
| Circulation of newspapers (in person)              | 54 000      | 50 000      | 47 000      | -           |
| Newspaper shop                                     | 4 300       | 4 800       | 4 200       | -           |
| Consumed paper per capita (gram)                   | 1 700       | 2 000       | 2 000       | -           |
| Number of publicity center                         | 2 447       | 3 564       | 4 080       | 4 468       |

| <i>Year/title</i>                                  | <i>1383</i> | <i>1384</i> | <i>1385</i> | <i>1386</i> |
|--|-------------|-------------|-------------|-------------|
| Local papers                                       | 420         | 500         | 650         | 660         |
| Non-governmental news agency                       | 8           | 10          | 11          | 12          |
| Foreign news agencies representative               | 103         | 106         | 107         | 121         |
| Children publications                              | 25          | 30          | 35          | 40          |
| Private press and publicity educational institutes | -           | -           | 2           | -           |
| Electronic publications                            | -           | -           | 5           | -           |
| Religious publications                             | 92          | 93          | 100         | 100         |

### **Activities of representatives of international media in Iran**

636. Law number 16068/gh, dated 2/3/1366, 22/5/1987, approved by the Islamic Assembly Council, has determined the goals and duties of the Ministry of Culture and Islamic Guidance. Article 15 of this law is on the issue of the establishing license, dissolution and supervision of the news agencies and representatives of foreign news agencies and media and issuance of permission for activity of foreign and domestic journalists in Iran.

637. In by-laws of supervision on cultural, art, and publicity activities of foreign subjects resident in Iran, approved by the Ministry of Culture and Islamic Guidance, it is emphasized that these activities should not be fulfilled by the official centers, moreover, these activities should be done in respect of the positions of the Islamic Republic of Iran, standards and regulations of the country and be not adversary to the public interests.

638. Article five of the above mentioned by-laws announces that the responsibility of supervision and following up the asserted untrue points by the foreign journalists belonging to the foreign mass media lies with the Ministry of Culture and Islamic Guidance who will act directly or through other means in order to reinstate the rights of the Islamic Republic of Iran and if it be necessary to deport the representative or the journalist of the foreign media and suspension of the representative's office.

639. It is also said in article 6 of the same by-laws that those representatives and journalists of foreign mass media whose nationality is non-Iranian, while reside in Iran are not entitled to work in public and private offices and in case of violating their identity card and resident permit will be annulled.

640. In recent years, in framework of above laws and by-laws, the Ministry of Culture and Islamic Guidance has prepared many facilities for representatives and journalists of the foreign mass media notably extension of the validity of journalist card from three months to one year and extending the period of their multiple re-entry visas to three months.

641. One of the important actions of the general director of the foreign media of the Ministry of Culture and Islamic Guidance in area related to the foreign journalists is the Ministry accord with issuance of license for three private service institutes for foreign journalists for organizing the activities of free guides and regulating precise program for non-resident journalists in their journey to the Islamic Republic of Iran.

642. Foreign journalists in Iran accompanied by their guides or interpreters, after making necessary coordination with the general director of foreign mass media of the Ministry of Culture and Islamic Guidance to obtain the necessary permission for having journey to any part of the country in order to prepare their reports. Among those sites that are within the reach of foreign journalists, we can refer to the civil and criminal courts. Foreign

journalists, by consent of the president of the court, can attend in open session of the same courts alike domestic journalists.

643. The number of arriving foreign journalist to the Islamic Republic of Iran during ten years (1378–1387/1999–2008) has been 9000 foreign journalists. These journalists were belonging to broad spectrum of television groups, newspapers and magazines, radio, news agencies, free journalists, resident association, photo institute, and media/cultural/news agencies. These journalists have been from 61 different nationalities of five continents.

644. Foreign journalists during last ten years have had trips to more than 80 provinces, towns and cities of Iran.

645. In year of 1387/2008, alone, Islamic Republic of Iran has issued 885 press visa for foreign journalists from which 722 journalists have traveled to Iran. Moreover, 58 journalists have come to Iran with their Iranian passport.

646. In year of 1387/2008, 54 journalists have come to Iran accompanying high ranking delegations from different countries. In year 1387, there have been 124 representatives of the foreign media in Iran comprising 217 news persons.

647. In year of 1387, general director of the foreign media of the Ministry of Culture and Islamic Guidance has approved 113 cases of visa extension, 33 cases of transfer of film and photo to abroad and has issued 685 introductory letters, regarding journalists, to police forces.

648. Top five countries that have sent their journalists to Iran have been: England, 78 representatives; Germany, 54 representatives; France, 46 representatives; Japan and the United State each 45 representatives.

649. During last ten years, in Islamic Republic of Iran, only two foreign journalists have had judicial conviction both of them have had dual-nationality of Iranian and foreign one. One of them found guilty for getting pictures from a prohibited zone in Tehran and doing illegal act by the court, and another one was acting as journalist while he had no license for doing so.

### **Freedom of press and its limits**

650. According the Article twenty four of constitution law of the Islamic Republic of Iran, publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public ... .

651. According article 6 of press law the print media are permitted to publish news items except in cases when they violate Islamic principles and codes and public rights ... .

652. Article 3 of press law says: The press has the right to publish the opinions, constructive criticisms, suggestions and explanations of individuals and government officials for public information while duly observing the Islamic teachings and the best interest of the community.

653. Based on article 4 of the press law: No government or non-government official should resort to coercive measures against the press to publish an article or essay, or attempt to censure and controlling the press.

654. According the article 5 of press law; the press is lawfully permitted to acquire and disseminate domestic and foreign news aimed at enhancing public awareness. It is worth to be mentioned that during last 10 years 4768 publication have obtained publishing permission.

655. According the article 8 of press law, it is permissible to publish publications under the responsibility of real or legal persons with Iranian capital after obtaining a license from the Ministry of Islamic Culture and Guidance.

### **Statistics of disseminated publications by the minorities in Iran**

656. Up to year 1380/2001 around 503 titles of books was printed by the ethnical minorities among which 222 titled was in Kurdish, 216 titled in Azari- 160 titles was about Kurds and 47 titles about those who speak in Azari, and two titles was about Baluches.

### **Art and cultural festivals section**

657. Holding 12 social, family, and comedic, and .... film festivals. Holding 11 Iran tourism festivals on subjects like nature, handicrafts, native arts, dialogue among civilization, tribal ceremonies.

### **Cultural exhibition section**

658. Holding 34 exhibition in context of photo, incarnation arts, handicrafts, paintings.

### **Publication section**

659. Presently there are more than 10 publications with different dialect from Azari, Lur, Kurd, and other sect is publishing from then we can refer to publications such as: Ray-i mellat, Shoura, AAbidar, Sirvan, Maha-bad, Navid-i Azarbaijan, and Shams-i Tabriz.

660. Nowadays, more than 350 popular associations belonging to the ethnic groups are active in different domains such as social, cultural, art, services and Iranology.

## **XXI. Article 20**

661. Article 152 of the constitution law says: The foreign policy of the Islamic Republic of Iran is based upon the rejection of all forms of domination, both the exertion of it and submission to it, the preservation of the independence of the country in all respects and its territorial integrity, the defense of the rights of all Muslims, nonalignment with respect to the hegemonic superpowers, and the maintenance of mutually peaceful relations with all non-belligerent States.

662. In article 2 of constitution law it is emphasized that: Negation of all forms of oppression, both the infliction of and the submission to it.

663. In article 3 of constitution law, one of the goals of Islamic Republic of Iran has introduced as: “the complete elimination of imperialism and the prevention of foreign influence”, “the elimination of all forms of despotism and autocracy and all attempts to monopolize power”, “framing the foreign policy of the country on the basis of Islamic criteria, fraternal commitment to all Muslims, and unsparing support to the freedom fighters of the world”.

664. And in article nine of the constitution law of the Islamic Republic of Iran, this law has emphasized on safeguarding independence and territorial integrity of the country and making any infringement from any one with any rank has been prohibited.

665. By noticing that the policy of the Islamic Republic of Iran is based on negation of all forms of oppression, both infliction of and submission to it, and condemns any provocation and persuasion aiming to produce difference in foreign relations of the Islamic Republic of Iran with another countries, and knowing it entitled to sanction and adverse to its security, some of laws has indicate this points in different manners.

666. Based on article 25 of press law, ratified in 1364/1985, "If a person, through the press, expressly and overtly instigates and encourages people to commit crimes against the domestic security or foreign policies of the state, as specified in the public penal code, and should his/her action bear adverse consequences, he/she shall be prosecuted and condemned as an accomplice in that crime. However, if no evidence is found on such consequences he/she shall be subject to a decision of the religious judge according to Islamic penal code."

667. Perhaps the most important law that can be referred to in this regard, is the penal code of penalties in armed forces, ratified in 1382/2003, that in article 20 states: "Any military person who act in any way for dismembering of any parts of the territory of the Islamic Republic of Iran or inflict any hurt to the territorial integrity or independence of the country of the Islamic Republic of Iran will be condemned to the penalty of belligerent." This is necessary to add that inflicting any hurt to independence and territorial integrity of the country could means provocation and persuasion to quarrel and war with other countries.

668. In the same law, article 34, it is said that, "Each of commanders or responsible military personnel without having any order or without permission or without having compulsion to act as a counter-measure, to act against military forces or subjects of any state which is not in war with Iran, through armed attack or compel some persons to do so or commit any hostile act against the forces which are under his command in the territory of the country which is not in war with Iran, if his acts produce any disorder in internal or external security of that country, he will be condemned to the penalty of belligerent, otherwise he will be condemned to three to fifteen years imprisonment.

669. In the same law, article 35, it is also mentioned that if military commanders or responsible military person after receiving the order of cessation of war operation, but to continue that operation will be punished (3 to 10 years imprisonment).

670. In Islamic penal code, article 512, it is also mentioned that: Any one, tending to disturb the country' security, to entice or provoke people to war and killing each other, regardless that his action do not accrue any homicide or havoc, will be condemned to one up to five years imprisonment.

671. Article 610 of the same law states: "Whenever two persons or more come together and make conspiracy to commit some criminal acts against internal or external security of the country or make necessary preparations in order to do so, if they be not entitled to belligerent, they will condemned to two up to five years imprisonment."

672. Article 611 of the same law also says: "Whenever two persons or more come together and make conspiracy in order to act against prestige and life or properties of the people and had made also necessary preparations but they do not succeed due to the circumstances out of their own actions, respecting the course of action, they will condemned to six months to three years imprisonment.

673. Regarding paragraph two of article 20 we can refer to the following laws.

674. Article 2 of press law, has numerated one of the duties of press in the Islamic Republic of Iran as such: "To endeavor to negate the drawing up of false and divisive lines, or, pitting different groups of the community against each other by practices such as dividing people by race, language, customs, local traditions, and ...".

675. Article 6 of the same law (paragraph 4), where describe the boundaries of the content of publications, prevents them from “Creating discord between and among social walks of life specially by raising ethnic and racial issues.”

676. In article 34 of the same law, it is referred to the examination of the committed offences by the press in presence of jury. (For consideration of the samples of the given Rulings regarding in default publications refer to the documentary exhibits of article 26).

677. The most important law that is referable and it is codified specially on this point, is law of punishment for propagation of racial discrimination, ratified in 1356/1977, that its first article says: “Propagation of any opinion base on discrimination of race, gender, and racial disgust and provocation for discrimination on base of race, and or gender through any public publicity means against any group that be different from race, gender, color, and ethnical point of view and to give any donation or financial aid to racial activities is forbidden and whoever committed such acts will be condemned to up to six months misdemeanor imprisonment or to pecuniary punishment from ten thousand up to fifty thousand Rls. Unless the committed act according to the other laws be punishable to more harsh sanction which in this case most harsh sanction would be applicable.

678. Related note of the same article states that in this law public publicity means are delivering speeches in public gathering or radio or television, issuance of declaration, printing and publishing the books, newspaper, and magazine, movie performance, and so on.

679. Article 2 of the same article says: “any one intentionally for propagation of discrimination on base of race, sect, or gender or in order to make dislike or hostility or in order to create discord based on race or sect or gender is going to establish an association or to administer such association will be condemned to from three months up to one year misdemeanor imprisonment or to pecuniary punishment from ten thousand up to one hundred thousand Rls. The penalty of accepting the membership of such association would be lower limit of the above mentioned sanctions.

## **XXII. Article 21**

680. Article 27 of constitution law is saying: “Public gatherings and marches may be freely held, provided arms are not carried and that they are not detrimental to the fundamental principles of Islam.”

681. In connection with organizing the gatherings and marches, referred to in article 27 of constitution law, note 2 of article 6 has announced such freedom by two different tone: Organizing the gatherings would be subject to the concur of the Interior Ministry and holding the marches is subject to pre notice of the Ministry of interior provided the participants do not carry weapon and the marches be not detrimental to the fundamental principles of Islam; as it is mentioned in article 27.

682. The said note says: “Holding marches provided that Ministry of Interior to be informed and according to the distinction of Commission of article 10, to be not detrimental to the fundamental of Islam, and also making assembly in squares and national parks with the permission of the Ministry of Interior is free.”

## **XXIII. Article 22**

683. **According to the article 26 Center for Improvement and Training of iii**, the formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is

permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic. For accomplishment of this article and providing limits and regulations related to the establishment of parties and societies and safeguarding lawful freedom in establishing and their activities and securing freedom of marches and establishment of assemblies, law of activity of parties, societies, and political and guild associations as well as Islamic associations or association of religious minorities whose religion is recognized was ratified by the Islamic Assembly Council in Shahrivar 1360/ September 1982 (see appendix 1).

684. In this law, party, assembly, Islamic association and the association of the religious minority is described and procedure regarding registration and obtaining license is mentioned. According to the article 6, activity of the groupings is free provided they do not any offences mentioned in article 26 of Center for Improvement and Training and article 16 in fact somewhat has stated the limits inserted in article 26 of Center for Improvement and Training (regarding parties and groupings) and has mentioned some applicability of it.

685. Banned cases, related to article 16, in short, are refraining from: Committing acts which may violate independence of the state, exchange of information and collusion with embassies, receiving any kind of financial assistance from foreigners, violation of legitimate freedom of others, resorting to accusations, slander and rumor mongering, violation of national unity and planning to disintegrate the country, making efforts to create and intensify the division within ranks of the nation, violating Islamic standards , anti-Islamic propaganda and publication of seditious books and literature, hiding, keeping and carrying unauthorized arms and ammunitions.

686. In article 10 of this law, the establishment of a commission in order to examine the competency of applicants to create such groupings, to issue the activity license for them and to identify their trespassing from the regulations of article 16, is foreseen. This commission is comprised from: 1. State Public Prosecutor's representative, 2. High Judiciary Council's representative (now is the representative of the chief of Judiciary Power), 3. Ministry of the Interior's representative, 4. Two representatives elected by the Majlis from among the members of the Majlis or outside.

687. The mentioned Commission is required to consider the incoming files in turn, and take necessary decision regarding issuance of license for the or to reject to do so by giving its reasoning and the Ministry of Interior also according to article 9, is obliged after approval of the said Commission, within two days to issue their licenses signing by the Minister of Interior. If within three months after the turn is reached the Commission refrains from expressing a view without giving a cause therefore, then the Ministry of the Interior is required to issue the requested license (article 12). If by the distinction of the Commission of article 10, the organizational activities of a group give rise to the violations mentioned in Article 16, then the Commission can act up to seizure and cancellation of license but is not entitled to dissolve the group, instead it can ask the court about the dissolution of the court.

688. The authority to investigate complaints lodged by the article 10 Commission is the justice courts with due regard to the Article 168 of the Constitution, which must constitute with the presence of jury (article 13).

689. Article 19, is asking the Supreme Judicial Council is required to prepare the bill for formation of the jury for justice courts, subject matter of Article 168 of the Constitution, within one month from the date of ratification of this law, though it seems that this action has not fulfilled yet. It seems that the legislator has identified the committed offences of parties and grouping, numerated in article 16, applicable to the political offence the examination about them should be done, according to article 168 of Center for Improvement and Training, in justice courts with the presence of the jury.

690. It seems that law concerning the activity of parties and groupings, ratified in 1360/1981, by establishment of Commission of article 10, whose most members are from the representative of Majlis and Judicial Power, and with this assumption that these institutions are advocating the freedom, and legal rights of people and referring the offences of parties to the justice courts and also asking the dissolution of them from same courts, and clear expression that these courts should be convened openly and in presence of the jury, indicates that the mentioned law is trying to take positive steps for realization of basic freedom of Center for Improvement and Training.

## **XXIV. Article 23**

691. In Center for Improvement and Training and other law there are many cases regarding preserving and respect of the family and observing equal rights among man and woman without discrimination and special attention to women. Article twenty of Center for Improvement and Training says: All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.

692. Article twenty-one is saying: The government must ensure the rights of women in all respects, in conformity with Islamic criteria, and accomplish the following goals:

- Create a favorable environment for the growth of woman's personality and the restoration of her rights, both the material and intellectual
- The protection of mothers, particularly during pregnancy and child-rearing, and the protection of children without guardians
- Establishing competent courts to protect and preserve the family
- The provision of special insurance for widows, aged women, and women without support
- The Ruling of guardianship of children to worthy mothers, in order to protect the interests of the children, in the absence of a legal guardian

693. Third article of Center for Improvement and Training says: "the government of the Islamic Republic of Iran has the duty of directing all its resources to reach the goals set by the article 2, in order to achieve the following:

Paragraph 2 – the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all, in both the material and the intellectual spheres;

Paragraph 14 – securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law."

694. Necessity of discussion on instituting the family from Islam viewpoint and the laws of the Islamic Republic of Iran has begun by the pursuing the interest of human and in its extension reach to the interests of the society. By noticing the fact that any defect in the marriage and negligence to family will cause damages and will bring about severe social and individual injuries, policy making and legislative authorities of the Islamic Republic of Iran in order to protect fully the rights of individuals, has anticipated many important laws and executive actions.

695. The concept of family in the Islamic Republic of Iran means a legal unit that is instituted at least from one man and one woman with the marriage relation and according to the preamble of Center for Improvement and Training of the Islamic Republic of Iran it is described as such: "The family is the fundamental unit of society and the main center for the growth and edification of human being. Compatibility with respect to belief and ideal,

which provides the primary basis for man's development and growth, is the main consideration in the establishment of a family. It is the duty of the Islamic government to provide the necessary facilities for the attainment of this goal". For this reason, the Islamic Republic of Iran in order to make this principles executive has enacted proper laws and taking proper strategies in order to fulfill it and to remove its defects.

696. In article 10, of Center for Improvement and Training, it is said: "Since the family is the fundamental unit of Islamic society, all laws, regulations, and pertinent programs must tend to facilitate the formation of a family, and to safeguard its sanctity and the stability of family relations on the basis of the law and the ethics of Islam."

697. After Center for Improvement and Training, one the most important law that is enacted is civil law that elaborates the necessary conditions of the marriage. According to this law, since the marriage is a contract, both parties should be sane, mature, and intentional. Based on laws of the Islamic Republic of Iran, marriage is included in personal status, and happens in conformity with religion and faith. Each party based on his/her special religious ceremony and his/her religious law acts for marriage and instituting the family life. They have married together by special religious ceremony and are enjoying the related rights. Of course for better support from the rights of women, the men are obliged to register their marriage. Also, since the marriage is a contract, parties are eligible to put any condition that they wish. In general it is so that the put a clause under the contract and both sign it and that is belong to the husband. This clause is that half of the assets goes to the wife.

698. According to the article 1041 of civil law, marriage before full age is banned. Based on note of the same article, contract of marriage before the full age, provided the custodian authorizes such marriage, the contract would be correct. Therefore marriage of the girl before reaching the age of 13 (in full based on the solar year), and boy before reaching to 15 (in full based on the solar year) requiring the permission of father and observing the expediency is in hand of the competent court. Article 646 of the same law, has laid down from 6 months up to 2 years forbearance imprisonment for marriages before the full ages that occurred without the permission of the father. Intention and consent in marriage is essential condition and each party must voluntary and freely to contract the proposed marriage otherwise the contract of marriage would not be realized. According to the resolution dated 15.5.1371, 6 August 1992, of High Court of Cassation, coercive marriage is void and need not to be divorced. Both parties also should be sane and if one of them suffers from mental disturbances they would not be able to marry.

699. Regarding the sacred religious law and Islamic law, marriage to consanguineous relatives that be of next kin, having close relation, and with a group of person because of relative-in law is always banned.

700. According to the article 1060 of the civil law, the marriage of Iranian woman with a foreign national even it has no any legal ban, is subject to the approval of the government. This article is regulated in a way that if the set condition was not observed by the parties, the marriage will not become void. It means that if a woman without getting the said permission from the government married to a foreigner while the other set conditions for correction of a marriage has fulfilled, the marriage would not be invalid but there would be some difficulties in registration. In fact this article lay down some limitation in choosing the husband with different nationality and is mainly set for support of Iranian women. Therefore those conditions that are set for issuing the marriage license in the Marriage By-law of Iranian Women, ratified in 1345, 1966, and its annexed not ratified in 1349, 1970, is mainly a security clause insuring that the husband has enough financial mean to support the expenses of his wife and also to get assurances that the marriage will be recognized valid by the law of the country of the husband and to find out that whether husband has had any criminal record or not.

701. In order to vacillate the marriage of youth several laws have been approved by the Islamic Assembly Council. Based on these laws in order to enhance ability of the youth enable them to institute the family, the government is obliged to create a deposit fund and by constructing temporary house make them available to the young couples. It is also laid down that if in young families none of the couple had no any job, up to two years they get allowance and Ministry of Science and Higher Education is obliged to increase subsidies of the married students two times of the subsidies of the single ones.

702. Regarding the fact that society in Iran is very young, and parallel to other activities in order to assist young generation for instituting family, a fund under the title of Mehr-i Reza has begun its official activities in early months of 1385/2006. Strategic policy and macro program of the fund is deciding by the Board of Trustees, and President and some Ministers. Presently this fund is active in 336 cities of the country. This fund provide following assistances for the marriage such as purchasing the household items, house, and small projects with rapid output for young. The facilities will pay by the relevant executive bodies. This fund by considering the basic needs of the young is trying to solve the problem of marriage of the young generation.

703. In 1380/2001, deputy for education and research of Judicial Power constituted a general director under the title of "popular educations". The new administration begun to render general education and giving information to the public in different spheres including the rights of family enhancing law knowledge of the society, preventing of committing crime, judicial health, family rights, and ... focusing Iranians inside and outside of country.

704. In this field, there has been edited and prepared 193 leaflets in simple form which is distributing freely among people in judicial complexes, parks, gathering halls, public cultural assemblies, cultural houses. One part of these educational leaflets that describe law materials in simple version are related to the family topics among which the following subjects are notable: What everyone should know about marriage, extra clause in marriage contract, wife expenses and one can regulate a petition, dissolution of marriage (divorce, annulment, waiving remaining period in temporary marriage), dowry, condition of payment of Religious expenses and fair equivalent remuneration to wife, inheritance of husband and wife, rights and duties of husband and wife in civil law, selling the dowry by man, remarriage and rights of wives, marriage with a divorcee woman, impoundment of mulct and withdrawing dowry from it, calculation of dowry after the dead of husband, dowry and inheritance applicable to the temporary marriage, registration and omission of marriage and divorce from the birth certificate, residency and occupation of couples, hardship and poverty of wife and demand for divorce by wife, questions and answers regarding issuing certificate of impossibility of compromise for rendering the formula of divorce, questions and answers regarding conception of divorce and precedent guarantee, insane of man and woman after rendering of marriage contract, arbitration in divorce case, financial rights of woman in permanent and non-permanent marriages, dissolution of non-permanent marriage contract, certificate on impossibility of compromise and period of its validity, different types of divorce, rights and responsibilities of minor, adult and mature, adoption, limits of criminal responsibility of the minors and manner of examination of the minors, abortion, law and child feeding, custody of the minor child after the death of his father, children expenses, custodian right of the mother to her child, condition of accepting petition for abortion.

705. Preparation and edition of 220 guiding card for those who come to the Ministry of Justice (regarding the manner of regulating the petition, writing and presenting complaints). These cards are available in the offices of judicial assistance, and guidance. Moreover there has been 37 educational workshops in cultural houses, and house of culture of the Tehran municipality for educating the families, holding 20 educational workshop in schools of Tehran, holding 5 imaginary courts for students at intermediary level of educational system,

and cooperation with Tehran metro and Mehrabad Airport for dissemination of fellow citizen rights' message through television systems of those centers, has been other executed program of the deputy for education and research of the Judicial Power.

706. According to article 1106 of civil law, husband is responsible for the expenses of his wife. Article 1107 of civil law has described these expenses which according the amendment dated 17.9.1381/8.12.2002, of the Islamic Assembly Council (The law of amendment of some articles of civil law) wife expenses is all reasonable needs and appropriate with the position of wife such as house, food, house furniture, health and remedy and servant in case of use to or in case of disability or illness. Also, wife must reside in the house that husband is choosing. Of course it is the right of woman to add a clause in marriage contract through which she decides about the house. Wife also can independently to consume her asset in a way that she wishes. Women also in the Islamic Republic of Iran holding their own name and family name after marriage.

707. According to the marriage law, ratified in 1310/1931, husband is obliged to register his permanent/non-permanent marriages, divorce, and his recourse of marriage. From the criminal aspect, legislature has supported the women's rights; article 645 of the Islamic penal code, ratified in 1375/1996, says: "In order to safeguard the family institution, registration of permanent marriage, divorce, and recourse to marriage is necessary and if a man without registration in notary public to marry permanently or divorce or recourse to the marriage, he will condemned to correctional imprisonment up to one year. It is good to mention that Guardian Council has declared the criminal aspect of article 1 of marriage non-Islamic.

708. According to the civil law, woman applies for divorce on following reasons:

1. If the husband do not pay the wife expenses.
2. If the continuation of the marriage causes hardship and poverty.
3. If the wife has got power of attorney for divorce from her husband.

709. Wife, also, according to the paragraph 41 of the same law, wife in case of fraud and confessed defect is entitled to ask for divorce and to claim damage occurred from the confessed defect and misrepresentation.

710. In case of divorce under paragraph 42, woman is entitled to be benefited of financial rights and good behavior of husband at the time of separation. She is entitle to receive her dowry, trousseau, fair equivalent remuneration, religious expenses and material rights that according to the conditions which has been laid in marriage contract. Husband is obliged to pay expenses as far as he could be called the head of the family. After divorce, the joint living of husband and wife comes to the end. It is also assumable that half of the assets go to the wife.

711. In article 1119 of civil law, the legislature says: "Contracting parties of marriage can insert any clause to the marriage contract provided they were not contrary to the exigencies of the marriage contract or other binding contract. For example one can insert in the marriage contract that if the husband married to another woman, or to be absent for definite period or be not able to afford his wife's expenses, or to attempt upon his wife's life, or having such behavior that the continuance of the joint living be impossible, woman be attorney with right of substitution that after proving the laid clause in the court and issue of the final Ruling from the court make herself divorced. (Please refer to sub annexation No. 76 and 89).

712. According to the article 1128 of civil law, both husband and wife under some circumstances are entitled to annul the marriage contract. According to this article "if from one party a particular clause has been set and after the marriage it was proved that he/she

had no such peculiarity, other party is entitled to ask for annulment of the marriage, whether that peculiarity has been written in contract explicitly or the contract by some difference has been contracted.” On this base, legislature has anticipated some punishment for misrepresentation/fraud and in article 647 of Islamic Penal code has laid down that: “If before the rendering the marriage contract one of the couple deceives the other party by pretending some illusionary things such as having high education, enjoying good financial support, top social position, good occupation, being single, and so on, and marriage contract be concluded on such bases, the party who has committed fraud will be condemned to correcting imprisonment from 6 months up to 3 years.” Regarding the right of divorce for women, it should be said that: “by amending some article of the civil law (ratified on 19.8. 1381/10.11.2002), new article 1133 says that man by observing condition laid down by this law can refer to the court and demand for the divorce (contrary to the previous law that was saying man can divorce his wife whenever he wants to do so). In the meanwhile by adding one new not to this article, wife can demand for divorce if the conditions set by the article 1119 was realized (clause put to the contract, article 1129 of civil law (abstraction from paying wife expenses or inability or to be impossible to force him to pay his wife expenses) and article 1130 of civil law (hardship and poverty).

713. Recently Judicial system by issuing a tentative circulation has determined the time of consideration of different judicial files, including files regarding family in order to optimize the period of these sort of examination and issuance of the final Ruling. According to the same circulation the courts are obliged to examine and finalize each given case within the determined time and if a file did not finalize in due time to report the cause/causes to the higher authority.

#### **Maximum period for consideration of legal cases regarding the family**

| <i>line</i> | <i>Case</i>  | <i>Maximum period for consideration and giving Ruling (months)</i> |
|-------------|--|--|
| 1           | Divorce by accord of the parties   | 2.5  |
| 2           | Divorce  | 6  |
| 3           | Reclaim of dowry   | 4  |
| 4           | Custody of child(ren)  | 2.5  |
| 5           | Access to the child(ren)   | 2  |
| 6           | Claim for dowry  | 3  |
| 7           | Demand for expenses  | 3.5  |
| 8           | Fair equivalent remuneration for period of marriage and religious expenses       | 4  |
| 9           | Permission for remarriage  | 4  |
| 10          | Obedience  | 3.5  |
| 11          | Negation of marriage   | 4  |
| 12          | Nullification of marriage, waiving of the remaining period of temporary marriage | 5  |
| 13          | Maturity ruling  | 20 days  |
| 14          | Prove of parentage   | 6  |
| 15          | Negation of child  | 4  |
| 16          | Indigence and installment of dowry   | 3  |
| 17          | Demand for nullification of marriage   | 3  |
| 18          | Prove of non-obedience   | 19   |

| <i>line</i> | <i>Case</i>  | <i>Maximum period for consideration and giving Ruling (months)</i> |
|-------------|--|--|
| 19          | Appointing custodian and steward and annexation of trustee and dismiss of them                         | 2  |
| 20          | Distress   | 1.5  |
| 21          | Compulsion to register the permanent marriage  | 2  |
| 22          | Compulsion to register the non-permanent marriage  | 2.5  |
| 23          | Compulsion to fulfill the conditions inserted in marriage contract                                     | 4  |
| 24          | Request for the permission for the marriage since the father of the virgin girl do not intend to do so | 2.5  |
| 25          | Prove of marriage  | 4  |
| 26          | Permission for having journey to abroad  | 1.5  |
| 27          | Rehearing  | 6  |
| 28          | Reclaim of fostering baby  | 2  |
| 29          | Reclaim of Grant paid to the mother of wife under the title of milk-money                              | 4  |
| 30          | Restrain the wife to work  | 3.5  |
| 31          | Wardship and its cancellation  | 3.5  |

714. By paying attention to the role of mother and duty and responsibility of the women in this rite, legislature has had special attention in this regard many laws has been ratified notably article 21 of Center for Improvement and Training in support of mothers particularly during pregnancy and child-rearing, guardianship of children, protection of mothers during pregnancy, regulating and control of pregnancy and enjoying from proper training and possibilities in this regard, and article 622 of the Islamic Penal Code has also some provision on harassment and misbehavior with the pregnant and safeguarding the health of mothers and their babies and rights of women to work, and half time work for the women.

715. For support from establishment and development of non-governmental organization, civil institutions, grouping and women syndicates, one can refer to 23 important projects each enjoying huge budget presented to the Majlis in form of a comprehensive bill. Moreover, in budget of year 1386/2007, the government had allocated 470000 million Rials to non-governmental and women groupings in form of grant and not repayable credit. It is worthy to be mentioned that the number of NGOs at the end of 1386, March 2008, has been 980 units which in compare with 1376/1997 it has increased 16 times.

716. Center for women and family in President Office, has prepared different projects for further firmness of families and prevention of disintegrating of them; the projects that many of them are executing among which we can refer to education project. The aim of these projects is solidarity of the family foundation and effectiveness of family operation. Up to now 160915 persons belonging to the civil servants section of the government has participated in the above program.

717. Regarding progress and developments fulfilled in favor of women and in judicial precedent during last 12 years one can refer to the following cases:

(a) Amendment of article 1107 of the Civil Code regarding the expenses of wives (1381/2002), according to the amendment of the mentioned article, wife expenses is

all reasonable needs and appropriate with the position of wife such as house, food, house furniture, health and remedy and servant in case of use to or in case of disability or illness, in which the cost of health and remedy is added in examples;

(b) Amendment of article 1082 of the Civil Code regarding dowry of wife (1375/1996): in case that dowry be in current money, appropriate to the annual price index at the time of payment in respect to the time of rendering the contract, it will be calculated by the Central Bank of Iran, and will be paid;

(c) Amendment of article 336 of the Civil Code regarding fair equivalent remuneration of wife (ratified in 1385/ 2006): Beside note 6 of unit article amending the law of divorce in which wage for work in home, which according to the religious law was not drawn on wife, in case of divorce wife is entitled to get it. In Bahman 1385, February 2007, fair equivalent remuneration of the work of wives (regardless divorce or not divorce) by adding a note to the article 336 of the Civil Code, was accepted;

(d) Amendment of article 1169 of the Civil Code (1381/ 2002) regarding increase of the age of custody of the children by their mother to 7 years for both boy and girl, while according to the previous law the custody of the boys till age 2 and custody of the girls till age 7 was with their mother. In case of emerging difference on custody of the children after the age of seven, the court by paying attention to the interest of the child(ren), will decide and will put the child(ren) under the care of each parents;

(e) Amendment of article 1133 regarding the right of divorce by man (rectified in 1381/2002). Prior to the amendment man could divorce his wife whenever he wants to do so, while woman should prove some conditions before the court. In this amendment some condition has laid down for man in order to divorce his wife;

(f) Annexing a note to article 1130 the Civil Code regarding divorce by the wife (ratified in 1381/2002). By annexed note wife can demand for divorce in case of hardship and poverty as an example. Many of these cases are counted. After revolution, in years 1362–63/1983–84/ there was printed in the marriage contract that man can give power of attorney to his wife for divorce (please refer to sub-appendix No. 86).

718. Also for more information regarding existing precedents on the question of polygamy and obtaining permission for remarriage of husband, please refer to appendix No. 55.

## **XXV. Article 24**

### **First discourse: situation of children in the legal system of Iran: Civil Code**

719. Article 993 of the Civil Code in its first paragraph says registration of the birth of a child is necessary, in this article we read: “The following events must be notified to the Census Office during the proper period and in the way stipulated by special laws and regulations:

- All births and all abortions which may occur after the 6th month from the date of conception

720. Article 1183 of the same law says: “In all matters pertaining to the estate, and the civil and financial concerns of the ward, the guardian will be his or her legal representative.

“If the natural guardian of the child is unworthy of the administration of the estate of his ward or if he misappropriates property, the court will, on application by the

relatives of the child or on the request of the Public Prosecutor who has to be a party to the suit, and after the establishment of the incapacity or dishonesty of the guardian, also appoint a financial trustee to work with the guardian. This provision will be applicable in a case where the guardian of the child is unable to administer the estate of his ward owing to old age or sickness or similar reasons.”

721. Article 1185 of the Civil Code also says: “If the natural guardian of the child becomes incapacitated, the Public Prosecutor is obliged to appoint a guardian for the child according to the regulations governing the nomination of guardians.”

722. About dishonesty of the natural guardian article 1186 of the Civil Code says: “In cases where strong indications exist showing the dishonesty of the natural guardian in respect of the estate of his ward, the Public Prosecutor is obliged to apply to the Court of First Instance requesting that his actions may be investigated. The court will examine the complaint and will act according to Article 1184 if his dishonesty is proved.”

723. And regarding their absence, article 1187 of the same law is saying: “If the only natural guardian of a child cannot administer the estate of his ward owing to absence or imprisonment or owing to any other reason, and if he has not nominated anyone else to represent him, the court will appoint provisionally a guardian on the proposal of the Public Prosecutor for taking charge of the estate and attending to all matters pertaining to it.”

724. Article 1191 of the Civil Code says: “If the guardian appointed by the natural guardian does not take steps for the maintenance or the education of his ward or for the administration of his estate or if he abstains from fulfilling his duties he will be discharged.”

725. On ending the custodianship, article 1193 of the Civil Code says: “As soon as a child reaches the age of maturity, he will cease to be under ward ship and if he becomes subsequently mentally deficient or insane, a guardian will be appointed for him.”

726. Article 1199 of the Civil Code regarding the expenses of the child say: “Maintenance of children is the duty of the father on his death or his incapacity for maintenance, this duty devolves on the paternal grandfathers, the nearer of his kin coming before the father. In the absence of a father or paternal grandfathers or in the event of their incapacity, the duty of maintenance devolves on the mother. If the mother is dead also or is unable to maintain the child, the duty will devolve on maternal grandfathers and the grandmothers and paternal grandmother who are sufficiently wealthy to provide maintenance, giving preference to the nearer of kin over the father. If a number of the grandparents are similar in degree of kinship, the maintenance expenses must be paid by them in equal shares.”

727. But regarding those children that their father or their grandfather is dead and it is necessary a guardian be appointed, article 1281 of the Civil Code says:

“Guardians will be appointed for the following persons:

1. For minor children not having a “special guardian”.
2. For insane and immature persons whose insanity, or immaturity directly followed their attaining full age and who have no “special guardian”.
3. For insane and immature persons whose insanity or immaturity did not follow directly after attaining full age.”

728. And article 1219 of the Civil Code says: “In the case mentioned in the preceding Article regarding the appointment of a guardian for their children each of the parents is bound to report the matter of the Public Prosecutor of the district of his residence or to his

representative, and to request him to take necessary action for the appointment of a guardian.”

729. And article 1220 of the same law says: “In the absence of the parents or their lack of knowledge it is the duty of the relatives who are living in the same place as the person needing a guardian to perform the task mentioned in the preceding Article.”

730. Article 1222 of the Civil Code regarding the appointment of the guardian through consideration by the court gives necessary information. It is good to know that presently Family Court has substituted the Special Civil Court: “In any case where the Public Prosecutor happens to know in any way of the existence of a person for whom a guardian ought to be appointed in accordance with Article 1218, he (the Public Prosecutor) would have to refer the matter to the Special Civil Court and introduce to the court those persons whom he considers fit to be guardians. The Special Civil Court will then appoint one or several persons as guardian and issue a decision of appointment. The court also can appoint one or several persons to act as supervisors. In this case the court would have to fix the limits of the supervisor’s authority. In case the court does not consider reliable the person thus introduced, it will ask for other persons to be introduced by the Office of the Public Prosecutor.”

731. Article 1224 of the Civil Code for safeguarding those property for which still no guardian is appointed, says: “The safeguarding as well as the superintendence of the property of minor children, lunatics and immature persons shall be entrusted to the care of the Public Prosecutor so long as no guardian has been appointed for them. The procedure relating to the safeguarding and superintending of the property by the Public Prosecutor shall be designated by virtue of regulations of the Ministry of Justice.”

732. Article 1229 of the Civil Code about minorities who live abroad is saying: “The duties and authority which are prescribed by virtue of the relevant laws and regulations in respect of the intervention of Public Prosecutors in matters concerning minor children, lunatics, and immature persons are, So far as these matters concern foreign countries, entrusted to the care of Consular Officers.” (please refer to sub-appendices No. 92-98).

733. The legislator has distinguished some person ineligible to be appointed as guardian and bars the Judges to appoint such persons as guardian, so article 1231 says:

The following persons should not be appointed as guardians:

1. Those persons who are themselves under guardianship.
2. Those persons who, by reason of perpetrating a felony or the following misdemeanors been convicted by a final judgment:  
Theft, abuse of confidence (breach of trust), swindling embezzlement, rape or immoral acts, offences against children, and fraudulent bankruptcy.
3. Persons for whom orders of bankruptcy are issued and whose bankruptcy has not yet been settled.
4. Persons who are notorious for their immoral acts.
5. A person who either in his own name or in that of his relatives of the first degree has a claim against the person under incapacity.

734. Article 1234 of the Civil Code is about the multiplicity of the guardians: “When the court appoints more than one person as guardian, it can determine the duties of the guardians separately.”

735. It is noteworthy that the Law of Non-litigious Affairs, article one up to article 152, also is on the competent authorities who examine and appoint the guardian.

736. About the duties of the guardian some articles should be referred including article 1235 of the Civil Code which says: "The protection of the person who is under guardianship as well as his legal representation in all matters relating to his property and financial rights, are entrusted to the guardian."

737. Law concerning the right of custody ratified on 22.4.1365/13.7.1986, single article: if by order of the Special Civil Court or vice of that court, the custody of the child goes with the person and the father or mother or other person withhold the execution of the order and or refuse to give back the child, the court that has given Ruling will enforce him to waive the obstacle or give back the child and if he oppose the decision of the court, he will condemned to imprisonment until he render the order of the court.

738. Regarding protection of the child who has father or grandfather (natural guardian), article 1180 of the Civil Code says: "A minor child is under the guardianship of its father or paternal grandfather. Such is also the case with an immature or insane child provided that the immaturity or mental unfitness continues from the age of minority."

739. Regarding maintenance and custody of the children article 1168 of the Civil Code says: "Maintenance of children is both the right and duty of the parents."

740. On the death of one of the parents, article 1171 of the Civil Code says: "If one of the parents dies, the custody will be the duty of the surviving although the deceased be the father and he may have appointed a guardian for the child."

741. Article 1172 of the Civil Code, says it is impossible that parents refuse the custody of their child: "Neither of the parents can refuse to maintain the child during the time when he or she is responsible for its custody. If he or she does so, the court must induce him or her, on application by the other party or the guardian or one of the relatives or the Public Prosecutor, to assume the custody. If such enforcement is impossible or ineffective the court must arrange the custody at the expense of the father, or of the mother in the event of the death of the former."

742. Regarding incapability of father or mother for custody of the child, article 1173 of the Civil Code says: "If the physical health or moral education of the child is endangered as a result of carelessness or moral degradation of the father or mother who are in charge of its custody the court can take any decision appropriate for the custody of the child on the request of its relatives or its guardian or the Public Prosecutor."

743. Regarding the right of the visit of the child, article of the same law says: "If the parents of the child do not live in the same house owing to divorce or any other reason, either of the parents who is not in charge of custody of the child has the right to visit the child. Determination of the time and place of visit and other particulars will be decided by the court if there is any dispute between the parents about them."

744. On the right of the visit of each parent after the divorce please refer to sub-appendix No, 86 a.

745. Article 1175 of the Civil Code states that separation of the child from its parents is impossible: "A child cannot be taken from the parents or the father or the mother who is in charge of its custody except in cases where just fiction exists for doing so."

746. Regarding the right of the mature child on choosing the living with one of its parents please refer to the Ruling issued by Family Court, branch 1705. (Please read sub-appendix No. 87).

747. About the duties of child education article 1178 of the above mentioned law states: "Parents are bound to take such measures as circumstances and their means allow for the education of their children. They must not leave their talents undeveloped."

748. The law concerning the children who has no warden, ratified in 1353/1974, that states the manner and condition of custodianship and adoption of such children, please refer to appendix No. 57.

749. Regarding protection of the children who has no warden, one can refer to the law of securing women and children who has no warden, ratified in 1371, 1972, mentioned in article 3 of the covenant.

750. For more information regarding, paying the cost of the child by the guardian, fault of guardian, fraud of guardian, the fact that guardian has no right to transact with himself/herself, cannot sell the real property of the custodian or deposit it for mortgage or transact it, this matter that convey of the right or property of the custodian is prescribed only by the Prosecutor, submission of the bill from guardian, presenting the account at least one time per year by the guardian to the Public Prosecutor, cases regarding dismissal of guardian, appointing guardian for sane or immature persons, committing crime or offence by guardian, marriage of guardian, maturity of the ward and waiving of guardian, position of the minorities of the foreign national, please refer to the appendix No. 58.

## **Second discourse: situation of Iranian children in criminal system of Iran**

751. Article 621 of law concerning the Islamic Penal Code says: “Any one with the intention of money or property or with the intention of retaliation or with any other intention by threatening or by force or by deception or by any other manner personally or through another one kidnap a person or hide him/her will be condemned from five to fifteen years and if the age of the person who has been subject to the crime be less than fifteen years in full or the kidnapping render by car or one/ones who commit such crime inflict any harmful injury, bodily or prestigious one to the person who has been subject the said injuries, the criminal/s will be condemned to the maximum penalty and if he/they had committed other crime/s, perpetrator/s will be condemned the related penalty/ies too.”

752. Article 623 of law concerning the Islamic Penal Code states too:

“Any one by giving drugs or by any other means causes abortion of a women will be condemned to six months up to one year imprisonment and if intentionally and knowingly to guide a pregnant woman to have harmful drug or to apply other means so that her fetus to be aborted he/she will be condemned to three months up to six months imprisonment unless it be approved such act has been done for the safeguarding the life of the mother though in both case perpetrator/s will be condemned to pay related mulct.”

753. And article 624 of law concerning the Islamic Penal Code says: “If physician, Mama, drug seller or the persons who under the titles of physician, Mama, surgery *Jarah*, or drug seller work, prepare the instrument/tools for abortion or abetting in abortion, will be condemned from two years up to five years imprisonment, court also will issue decree on paying mulct too.

754. Regarding insult to children, article 619 of law concerning the Islamic Penal Code says: “any person who in public places or in streets molests children or women or by uttering the word and actions oppose to the prestige and respect of the insult to them will be condemned to imprisonment from two months up to six months and (74) lashes”.

755. Article 631 of law concerning the Islamic Penal Code says, “any one that abdicate a new born baby or hide him/her or change it with another baby or figure it as the baby of another woman, will be condemned to imprisonment from six months up to three years and

if it proved that baby has been dead the perpetrator will be sentenced to pay one hundred thousand up to five hundred thousand RIs in cash”.

756. Article 632 of law concerning the Islamic Penal Code conveys same meaning:

“If one who has a baby in his deposition, restrain to give back the baby to the persons who are legally entitled to demand the baby, will be condemned from 3 months up to six months imprisonment or paying one million and five hundred thousand RIs. Up to three million RIs. in cash.”

757. And article 633 of law concerning the Islamic Penal Code regarding abandonment of the baby says: “If a person by himself/herself or by the order of somebody else abandons a child or other person who is not able to safeguard himself/ herself in a place that is empty of dweller will be condemned to six months up to two years or paying cash penalty from 3 million up to twelve million Rials. And if abandon the child or the person who is not able to safeguard himself/herself in a place that has dwellers will be condemned to the half of the defined punishment, and if his/her action causes injury or death, the person that has abandon he/she, besides the mentioned penalties he/she, in term of case, will be condemned to retaliatory punishment or paying mulct or indemnity.”

758. Regarding relinquishment of children expenses article 642 law concerning the Islamic Penal Code says:

“If some body be in good financial situation but refrains from paying the expenses of his wife that obey him or the expenses of those who are eligible to be paid, court will sentence him to three months and one day up to five months imprisonment.”

759. Regarding abuse from children for beggary purposes, article 713 of law concerning the Islamic Penal Code says:

“Any person who compels a minor child or immature one to beggary for his own benefit or assign others for this matter, he/she will be condemned to three months up to two years and repayment of all properties that has obtained by doing so.”

### **Law concerning support and protection of the children and youth**

760. In law concerning support and protection of the children and youth (ratified on 11.10 1381/1.1.2003 by the Guardian Council), infliction of any harm, harassment, bodily or spirit of persons who are under 18 years, buying or selling, exploitation, and compelling to work of the children is prohibited and subject to punishment.

761. Also preventing the children from education, and intention negligence of their bodily and spirit health of the children is subject to punishment and payment of cash penalty.

762. What is important in this law is that harassment of the children is a public crime and do not need complain from the private complainant. Please refer to the text of law in the appendix No. 60.

763. Regarding protection of young girls who has escaped from their home and aggravation of punishment of employing the children under 12 year of age, one can refer to the appendix No. 61.

### **Other support**

764. Further criminal support from children and youth who have been victim of wrong doing one can refer to the law concerning fight with human trafficking.

765. In note 1 of article 3 of the law concerning fight with human trafficking, ratified in 1383, 2004, it is mentioned that those who resort to the trafficking of person/s under 18 years, if they be not recognized as belligerent, they will be condemned to maximum punishment i.e. 3 up to ten years imprisonment. Please refer to discussion inserted in article 8, for further information.

766. Based on article 4 of the said law, if the employees of one of the three branches of the state in any way be involved in the crimes mentioned in this law beside the penalties stated in this law they will be condemned to the permanent or temporary dismissal from the governmental services. Please refer to the discussion inserted in article 8.

767. It is good to mention that the new bill concerning protection of children ... is an important development in this sphere.

### **Prosecuting the delinquent children**

768. Regarding perpetrating crime of first degree by the children, article 211 says if a child to be forced to commit the murder, whoever guide him/her to do so should pay the mulct, the person who has forced him/ her to do so will get life imprisonment.

769. Article 221 the Islamic Penal Code says:

“If an insane or immature person intentionally killed somebody it would be described as mistake and would not be subject to Ghesas/retaliatory punishment but the person who act as his mind should pay the mulct to the inheritance of the killed person.”

770. Note – In crimes of homicide or flaw of the body if the committed crime be intentionally and perpetrator be minor or insane, if the person who has been subject to the crime died after the maturity of the perpetrator or got his/her healthy condition, he/she will not be subject to the retaliatory punishment.

771. Regarding issued Rulings against the children with intention of punishment instead of imprisonment (without amending the law), the following examples are noticeable:

- One child who was selling counterfeit tickets is sentenced to 2 month service in the center for improvement and education. (Ruling No. 168 dated 29.6.1379/19.9.2000).
- One child is sentenced to stay in boarding centers of Welfare for vagrancy, and causing threat and disturbance to the public order. (Ruling No. 566 dated 30.4.1380, 20.7.2001).
- A young man accused of intentional assault and battery with knife is sentenced to 3 months suspended imprisonment with referring to the center of consultancy of the Welfare Organization for changing his attitude and behavior. (Ruling No. 611 dated 8.5.80).
- A girl who was 16 years old, for having unlawful relation and vagrancy has been sentenced to learn an honest profession. (Ruling No. 146, dated 24.6.1979).
- A young man who was accused to theft was sentenced to get education and live in the center for improvement and education. (Ruling No. 459 dated 17.8.1379/8.11.2000).
- A young girl who was accused to theft was acquitted on comment of forensic medicine and psychologist. (Ruling No. 1423 dated 8.10.1380/28.12.2001).
- A young man who was accused of vagrancy was acquitted and since his family has abandoned him and he was seeking a job, he was introduced to the centers that are

under the cover of the Center for improvement and Education. (Ruling No. 875 dated 25.6.1381/16.9.2002).

- A young girl who was accused of vagrancy was sentenced to work for three months in places such as House for Aged Persons, and to maintain in the centers covered by the Welfare Organization if the parents did not accept her. (Ruling No. 79, dated 2.8.1379/24. 10. 2000).
- A girl who was in her teen years, for having unlawful relation and vagrancy has been sentenced to six month work in places such as center for Improvement and Education and stay in the Welfare Organization in case her family did not accept her. (Ruling No. 79, dated 1.8.79/25.10 2000).
- A young man who was accused of theft was sentenced to stay in the green house under the supervision of the center for improvement and Education, for six months. (Ruling No. 2801 dated 8.8. 1379/ 31.10. 2000).
- A foreign young man who was accused of illegal entry to Iran, was sentenced to gardening for 6 months. (Ruling No. 132 dated 3.2.1380/ 23.4.2001).
- One person who was accused of destruction and theft, was sentenced to learn a honest profession. (Ruling No. 584 dated 13.1. 79/ 2.4.2000).
- Suspension of the punishment of 2 persons who were accused of making disturbances in the society to continue their education and introduced themselves to the court each 15 days. (Ruling No. 1133 dated 12.8. 80/3.11.2001).
- Suspension of the punishment of a 19 years old girl who was accused of prostitution and was sentenced to learn a honest profession in the center of mentally disabled persons and to live under cover and protection of Welfare Organization as she had no proper place for living. (Ruling No. 797 dated 6.6. 1380/28.8.2001).
- Three young men who were accused of theft were sentenced to 2 days imprisonment on the weekends for three months. (Ruling No. 594 dated 16.9.1379/ 8.12. 2000).
- A young girl who was accused of having illicit drug (32 pack of Heroin), was sentenced to stay in the center for improvement and education for 18 months. (Ruling No. 79 dated 4.5.79/26.6.2000).
- A young girl who was accused of vagrancy and unlawful relation was sentenced to learning the honest profession and three months involuntary remedy. (Ruling No. 79 dated 15.6.79/7.9.2000).
- Handful of young men who were accused of threat, intentional assault and battery with knife and theft, were sentenced to presenting sport services, 20 hours per week for 6 months, in non- academic hours. (Ruling No. 79 dated 3.7.79/25.9.2000).
- A young man who was accused of vagrancy and theft was sentenced to educating and stay in the center for improvement and education. (Ruling No. 79 dated 17.8.79/9.11.2000).
- Handful of young men who were accused of destruction of car windows and the theft, were sentenced to present computer services to the center for improvement and education (twenty hour per week) and taking care of his father and mother in order do not exit from their house. (Ruling No. 79 dated 13.6.79/5.9.2000).

## **Recent developments**

772. In recent years Judicial Power of the Islamic Republic of Iran has resorted to several activities for protection of the rights of children and youth. The aim of these activities has been protection of the rights of children and youth, introducing and educating those who execute the law with the criteria of the children law, adapting the laws and internal regulations with the international norms, cooperation of inter-sections in this field, paying attention specially to the children and youth who are exposing to the danger, fortification of the capacities and utilization from international credits and opportunities in order to enhance the knowledge and capabilities of those who are involved by the children law.

773. Preparing the bills which directly be connected with the children like the bill of examining the crimes of delinquent children and youth, and the bill concerning protection of children and youth, and also the other bills that are mainly on protection of the citizens, like bills on Islamic penalties, computer crimes, social punishments instead of imprisonment, criminal procedure, and bill of citizen rights, are among the most important steps that the Judicial Power has taken in these field.

## **The necessity of reconsidering of the system of justice for the children**

774. In order to elaborate exactly what is the situation of children and youth and to provide proper bills concerning the rights of children the following subjects are considered:

1. Special position of the child.
2. Existing situation by looking back to the criminal laws of children.
3. The rights of children based on Islamic criteria.
4. The rights of children based on international criteria and standard.
5. Children as the criminal subjects.

775. In dealing with the delinquency of the children some principles has been in the center of the consideration among which following points could be mentioned:

- Necessity of detachment dealing with children and youth who are delinquent
- Applying the gradual regime of criminal responsibilities in respect of the age courses of the children and youth
- Applying a particular procedure regime compatible with character of the children and youth
- Emphasizing on education and acceptance of responsibilities by children

## **Amending laws and regulations and preparing the judicial bills (special bills)**

### **First: bill concerning examination of the crimes of delinquent children and youth**

776. Preparation of this bill is followed aiming detachment dealing with this group in process of legal procedure and determination of proper and appropriate reaction to the real character of them in direction of improvement and education of them. The perfection of existing defect on current laws was also under consideration when the bill was preparing.

777. Preparation of this bill is including of two spheres of substantive criminal laws regarding delinquent children and youth and their detachment legal procedure of them,

which has high peculiarity and innovations in compare of existing law precedents in the field of delinquent children and youth in Iran. Moreover, in preparation of this bill it has been considered that the bill to be in the same direction with some international norms and regulations and it be compatible with the internal laws.

778. The bill concerning examination of the delinquent children and youth has been prepared in five chapter and 55 articles in a commission comprising commentators and law specialist who have had several commissions from 1379–1381/2000–2002, under chairmanship of the deputy for law and judicial development. This bill presently is under consideration of the law and judiciary commission of the Majlis and its generality is approved and is expecting to be discussed in the open session of the Majlis.

#### *Necessity and goals*

779. Dealing with offences of the children is based on some principles among which the followings are notable:

- Necessity of detachment dealing with delinquent children and youth
- Applying the regime of gradual criminal responsibility in respect of different age course
- Applying the special legal procedure system compatible with the children and youth characters
- Emphasizing on education and responsibility acceptance of the children

#### *Peculiarities and innovations*

780. Evolution in substantive criminal law of the children; establishing the regime of gradual criminal responsibility for delinquent children and youth is of speciality of this bill.

781. Ageing breaking down of the children and youth to three age groups (9 to 12 years, 12 to 15 years, and 15 to 18 years) constitute the foundation of their gradual responsibility and the qualification of this responsibility is in coordination with the trend of the growth of the children and youth and the quantity of their distinction power. And according this responsibility there is envisaged several, proper and separated answers and regardless their gender, application of this regime, exactly follow the children psychology, educational science, and criminology discussions.

#### *Establishment of detachment legal procedure*

782. Examination of delinquent children and youth necessitating the existence of a special proceeding for them. Peculiarity of this delinquency is that it is in relation with the elements related to the character and passing course of them from childhood to youth-hood and from youth-hood to the young age. Therefore from one side one should have the correct understanding about delinquency of the children and youth, and from the other side one should realizes the situation that the child and youth is living in from the time point of view.

783. Examination of the delinquent children and youth can be assumed in the framework of a detachment criminal policy in dealing with the delinquent children and youth; the policy of detachment crime knows deal/encounter with the delinquent children and youth somewhat different dealing and recommend a distinctive adjudication for them that could be called detachment judgment.

784. On this foundation, examination of the children and youth from one side necessitate the existence of special institution for children and youth examination and from the other side is included of somehow separate legal procedure for children and youth. Before

elaboration of the peculiarities of this sort of proceeding and its place in this bill it is necessary to mention that any level of success in children adjudication is subject to the establishment of the specialized institutions for this kind of proceeding, that be discussed in another section.

785. The peculiarity of the detachment proceeding is that it tries to provide in the most extended limit the expediencies of the children and youth and this goal is the distinctive aspect of this kind of proceeding and adult proceeding. Manifestation of this sort of proceeding can be described through the extensive use of three methods that are applied:

- Diminishing the judicial aspect of the work by replacement of regenerative justice
- Guarantee of the fundamental rights of child and youth during the proceeding
- Expedient examination specially designed for the children and youth proceeding

## **Second: bill concerning protection of children and youth**

### *Necessitation and goals*

786. In fact preparation of this bill is an action that followed the completion and amendment of the defects of the law concerning the protection of the child, and due for coming in same direction with some international criteria and standards and their compatibility with the internal criteria. This law, however, has been a step forward in direction of protection of children who were the victims and inflicted by the crime that are known as children vexation, but lacks the execution guarantee in this case.

787. Some vacuums of the law can be summarized as: not paying attention to the special examination of the delinquent children, lack of institutionalization and institutionalizing the protection of children and in particular paying no attention the protection of the children who are exposed to the danger of witnessing the crime and the person who has affected from the crime, and lack of attention to different and comprehensive protective actions and prudence.

788. Bill of protection of the children, who are exposed to the danger enjoying the multifold of goals and principal axis, tries to regulate a comprehensive and broad spectrum law for protection of children affected by crime, children exposed to the danger, and the children who has been witness of the crime. Some of these goals are as follows: amending the defects of the law concerning children and youth, ratified in 1381/2002, formal summarizing and expurgation of the laws in domain of protection of children, comprehensive protection through judicial and social management from children, especially the children who are effected by the crime, the children who are exposed to the danger, and the children who have been witness of committing crime, which are in need of special proceeding and detachment dealing in judge-made law, establishment of the institution for protection and protective crime suppositions, aggravating the punishment of the delinquent person by considering the delinquent person and the age of person who has been subject to the crime which is include of overall aggravation of punishment of the public crimes committed against the child and youth, extension of special legal protection from the children inflicted from crime and children exposed to the danger in compare to the other phases of the criminal process including prosecution, investigation, examination and issuing Ruling and its execution.

789. These persons are including of the children and youth, the children exposed to the danger, and the children who has been witness of committing the crime, and also the children that their identity is not registered and by any reason has got no attention, taking the protective prudence with preservation of the rights of the child in the family and if by

distinction of the specialized experts and the court it be necessary that the child be taken off the danger environment this will be done with special management and prudence.

*Peculiarities and innovations*

790. From the peculiarities and innovations of this law in compare with other laws that currently in the country are forcing, one can refer to the following points:

- Description of the jeopardizing situation and citing its applicability

791. Jeopardizing situation of circumstances caused by an misbehavior, negligence, absence of diligence toward children and youth or exploitation and abuse of them or other conditions necessitate the intervention of the law in order to protect the children and youth and in case of lack of such intervention those conditions will cause infliction of crime, or injury to their soul and body, security, the process of socialization, education, training, social position and their welfare.

792. Writers of the bill besides giving clear and comprehensive definitions about the applicability of the jeopardizing situations for children and youth have not forget to introduce the children and youth exposed to danger (of course with observation the above mentioned condition). These people are: the children and youth that have no warden, fruits of illegal relations, persons suffering from bodily and mentally defect or affecting by special disease, bisexual, street living, domestic and foreign vagrant, refugee, without nationality, without birth certificate, victim of human trafficking, and those who suffer from disturbances in the gender identification.

793. With respect to the jeopardizing situations, these people are exposed to danger and in case will enjoy the protection of law.

- Presenting the definition of concepts such as misbehavior, carelessness, and absence of diligence and ... .
- Protective crime suppositions and aggravating the punishment of those who commit crime against the children.
- Protective organizations including establishment of the unit of protection from children and youth. This unit is under the superintendent of the attorney and is comprised of aid, special police, psychologist, psychiatrist, and staff. This unit when the child and youth are in close danger or in other general cases that they are exposed to the danger will carry out protective actions.

794. Protectionist unit also will have offices in the ministry of education and training, ministry of health, remedy and medical education, and the ministry of labor and social affairs. Moreover, organization of personal registration is obliged by this law that within two year to do in a way that the name of all those children that have reached to the legal age for education to be informed to the ministry of education and training of the relevant region till the responsible authorities do act for registration and continuation of those who are deprived from education and if any body abandoned his/her education, the matter to be informed to the protectionist unit.

*Judicial prudence*

795. Examination of the files of children and youth would be done in urgent and out of scheduled program and in some cases criminal courts can examine the civil cases or to examine case together.

*Social prudence*

796. The bill has anticipated those actions that the court will do in dealing with those who have committed any crime against the children and youth. This actions are obligation or having no obligation to do something or to continue a special activities, obligation on passing special educational courses and special skills, referring to hospital and special health place for remedy of disease or abdication, restraining to do defined job, profession, putting the children and youth under the control of physician, psychologist, and those who introduce by the court.

**Third: bill concerning protection from children and youth who has no effective warden**

797. According to the bill of protection from children and youth who has no Iranian warden and those who are Iranian by law, i.e. has acquire the Iranian nationality, and also those foreigners who reside in Iran and can undertake, by observing the regulation of the law, the custodianship of children and youth falling under this law.

798. While according to the article 1 law concerning protection of children who has no warden (ratified on 29. 12. 1353/20. 3. 1975), any husband and wife who be resident in Iran by their accord can refer to the court and by approval of the court to get custodianship of one child.

799. In current law, the guardianship of the child by observing special condition at first instance will be entrusted to his family or one of his/her next of kin”, but in new law some hard and rigid condition is omitted (in new law, article 5, some conditions in connection with kinship with the child is omitted).

800. With amendment of article 10 of the previous law that prescribed only the guardianship of “one child” to the applicant, the new bill the number of the children under guardianship has increase to three children. According to the current law any child, who has no warden must stay at least three years in the centers of Welfare and if within this period his/her parent/s was not found, it is possible to entrust his/her guardianship to the applicant of adoption. But in the new bill 3 years waiting time has reduced to 2 years.

801. Article five of the current law, due to the preparation of adoption bill, has changed and amended.

802. Meanwhile one of the problems of the current law is an official pledge, regulated and sign in notary public, stating that those who adopt child will grant one third of their assets to the child as financial support, though some family due to the different reason such as inheritance exclusivity or another reason are not in a position to grant one third of their assets to the adopted child in the time of adoption. According to the new bill the applicant can give a real guarantee or introduce a guarantor that they will pledge to grant a section of their property or rights to the adopted child on which for example five years later the transfer the one third of their property to the adopted child.

803. In the previous act, “mature age” was not defined and therefore it was from 14 to 18 years, but in new bill this age is defined and is 18 years. Therefore all children and youth who are under 18 years and has no warden will be covered by the new bill.

804. According to the article 4 of new bill, “women and single girls and without spouse, with age over 30 years can apply to adopt a child. This bill also has defined the maximum year for adopting child 50 years. (Note 3 of article 4).

805. Having no effective criminal conviction with observation of the articles inserted in the Islamic penal code, enjoying sound financial situation, being in good health from the bodily and spirit point of view for guarding and training of the children and youth, and

having no drug addiction, enjoying from moral competency, being capable of maintenance and training the persons under the guardianship, and be not effected by the contagious diseases or hard remediable are among other conditions that is anticipated for the applicants of guardianship of children and youth.

### **General bills**

806. In the first section of the general bill, the specialized bill prepared for the protection of the rights of children and youth is introduced. In fact these two bills are of infrastructural and fundamental actions aimed protection of children's right and bringing closer the internal law with international undertakings of the country. In this section we will refer also to other bills in which the subject of protection of children and youth is inserted.

807. These bills firstly provide, legal protective instruments regarding the above mentioned people and secondly they cause the consolidation and integration in executive decision.

### **Bill of Islamic Penal Code**

#### *Aid and abet*

808. In this bill, in chapter three, under the title of aid and abet, article 71 had determine the maximum legal penalty for those who use from a child that has distinctive mind, in order to commit a crime, and says: Anyone in punishable or preventive offense utilizes from the child that is in age of distinction and or with provocation, persuasion, tampering, threat, and or facilitating the condition of commitment of the crime , pave the ground in order to commit the crime by the child, will be condemned to the maximum penalty of the same crime.

809. Note of this article states: anyone intentionally and knowingly the child who is in age of distinction with provocation, persuasion, tampering, threat, and by facilitating the condition of commitment of the crime , pave the ground for the crime by the child, will be condemned to imprisonment of one up to three years.

#### *Multiple crimes*

810. In chapter four under the title of multiple crimes in note of article 76 the offenses of the children are exempted from the limits of this article and says:

“Regarding those who have committed more than two offenses liable of regulations on multiple crimes if there be any extenuating circumstances court can reduce the penalties down to the minimum defined penalty in the law and if the minimum penalty has not been defined, can reduce the penalty down the half of the determined penalty. In any case the minimum penalty can not be less than 91 days imprisonment.

Note 1 – The penalties of the children is exempted from the limits of this article.

Note 2 – Regulations of reducing the punishment of those persons who has committed two crimes is what have been inserted in article 29.”

#### *Recidivism*

811. In chapter five of the bill of Islamic penal code under the title of recidivism article 78 condemned those who have committed intentional crimes against persons and children to the maximum punishment laid down by that article, and states:

Anyone in intentional crimes according to the final Ruling of the court be condemned to more than two years imprisonment and from the date of beginning the execution of the punishment, he/she to commit another intentional crime, the culprit will be condemned to 1.5 time of the maximum penalty of the last crime... and if he/she commit the same intentional crime or similar crimes that apply to all intentional crimes against persons and children too, the culprit will be condemned to two times of the maximum punishment of the new crime.

812. In article 79 too, the legislature has exempted the children from the regulations of the recidivism.

*Restraints of the criminal responsibility – childhood*

813. Chapter three of the bill of Islamic penal code in its consideration on restraints of the criminal responsibility, in its first chapter has defined childhood and states the gradual criminal responsibility of the children in case of committing crime. Detachment examination and gradual responsibility for the children who act against the law and the lack of application of legal punishment on matured children who commit punishable and preventive crimes, are of important points in domain of protection of the rights of children and youth that is anticipated in this regard. The related articles on this case are:

Article 81 – Child in this article is one who has reached to full 18 solar years. Children are divided to three groups:

- (a) Immature and non-discerner; the children beneath of 7 years;
- (b) Immature and discerner; full seven years old children who are not matured yet;
- (c) Matured; children that are matured but are under full 18 years. Note; the age of maturity for the boys, is 15 and for the girls is 9 full lunar years.

Article 82 – The immature children in case of committing crime, are exempted from the criminal responsibility but if discerner child committed a crime, his/her training and taking care from the child with the opinion of the court would be with his/her warden or legal custodian and if be necessary with the center for improvement and education.

Article 83 – In punishable and preventive crimes, the legal penalties will not apply on the matured children and in respect of their age, the will be examined by the law concerning the crimes of the children and youth and proper decision would be taken.

Article 84 – In the crimes that are subject to *haad*, and retaliatory punishment, if the mature children do not understand the meanings and the outcomes of their actions and or there be doubt in their maturity, in case and in respect to their age they will be condemned to the penalties anticipated in the law concerning examination of the children and youth.

Note 1 – Court for discretion of the age and reason perfection can enjoy the consultation of the forensic medicine or any other means that it deem necessary.

Note 2 – The responsibility of the children regarding payment of mulct is according the related regulations.

## Bill of criminal procedure

### *Investigation and inquiry of the children*

814. This bill in articles 121-15 states:

Inquiry and investigation from the women and children whose age is 15 years and less will be done by the educated women bailiffs and if it was not possible, the file together with the accused person will be sent to the examiner.

### *Impeachment of civil institution regarding the crimes committed against the children*

815. According to this bill, civil institutions that according to their charter act on protection of children can bring to the attention of the court the crimes that are committed against the children. Article 122-3, states as such:

Non-governmental organizations, NGOs, that their charter is about protection of children and women, ill persons and persons who suffer from the spirit or bodily disturbances, environment, natural resources, cultural heritage, public health, and citizen rights, can bring the attention of the court about the committed crimes in the mentioned fields and in all stages of proceeding attend and protest against the courts Rulings.

### *Protection from incapacitated persons who has been subject to the crime*

816. This bill, regarding protection from those incapacitated person who has been subject to the crime, which also apply to the children under the mature age, has anticipated that if the incapacitated persons had no warden or custodian or had no access to them or the warden or custodian do not complain, in order to save time and preventing occurrence of any damage to these persons, the attorney's representative, and in some cases, attorney himself, can act for legal prosecution of the file. Inserted case in these two articles are described in details:

Article 122-8. Where the criminal prosecution is subject to the complain of the complainant, but the person who is inflicted be incapacitated and had no warden or custodian or had no access to them and appointing of the custodian cause the time to be spent or a damage or injury threat the incapacitated person, till the attending and intervention of the warden or custodian, and also when warden or custodian has committed crime or has hand in it, the attorney will appoint somebody as temporary custodian or himself prosecute the criminal case and do necessary actions for the preservation and collecting the evidences and preventing of the escape of the accused person. This judgment when and where the inflicted person from the crime, his/her warden for any reason, for example for unconsciousness, is running.

Article 122-9. Where the criminal prosecution is subject to the complain of the complainant, but the person who is inflicted be minor or insane but his/her warden or custodian do not complain and also those inflicted person from crime due to the reasons like his/her mentally or bodily illness or seniority cannot lodge a complain, the attorney will follow up the case. In this case, cessation of the persecution or execution of the Ruling is subject to the attorney decision.

### *Issuance of the arrest warrant for persons vexing children and women*

817. In this bill it is anticipated that for those who make vexation for children and women, the warrant of arrest to be issued. Paragraph (d) of article 126-22 says:

Issuance of warrant arrest is not permitted unless for following crimes, if the strong circumstances evidence justify the accusation attributed to the accused:

- (a) Those crimes that their legal punishment is deprivation of life, cutting or the retaliatory punishment of the organ;
- (b) Those crimes that maximum legal penalty of them is ten year or more imprisonment;
- (c) The crime against internal and external security of the country;
- (d) Demonstration, showing the power and making vexation for persons by any kind of weapon and making vexation for the women and children.

*Observing the regulations concerning the examination of the crimes of children and youth*

818. Observing the regulations concerning the examination of the crimes of children and youth when the file is considering in the criminal courts is obligatory.

819. Articles 134-23. When a person is accused of committing several crimes that examination of some of them is under jurisdiction of the assize court and examination of the others be under jurisdiction of the public penal court and or children and youth court, all his/her crimes will be examined in the assize court.

820. Note: If the assize court, in term of above mentioned article, examine those crimes that are subject to the jurisdiction of the children and youth court, observation of the regulations concerning the examination of the children and youth is obligatory.

821. In article 162-7, it is said that examination in the public prosecutor's office, and military, children and youth court would be subject to the regulations of this law and related laws.

*Observing the expediency of the pregnant and baby feeding women*

822. One of the interesting matters that is anticipated in the bill of penal procedure is the case of the pregnant and baby feeding women that are convicted to punishment. Anticipation the expediency of the new born baby and giving priority is provided in two following articles:

Articles 151-16. Carry out of the punishment will be suspended in following cases:

- (a) Period of pregnancy; where the execution of the punishment could be dangerous to the pregnant woman or her fetus;
- (b) After delivery of the child maximum up to three month if the carrying out of the Ruling be harmful to the mother;
- (c) Period of baby-feeding up to two years, if the carrying out of the Ruling during the baby-feeding cause harm to the health of the child.

Articles 152-10. The breast feeding baby must not be separated from the mother who is convicted to imprisonment and exile, unless the expediency of the child necessitates it. In this case the baby will be deposited to the father and in case of lack of father or his incompetence deposit to the next of kin or the competent institutes.

**Bill on computer crimes**

823. With the revolution in the world of technology and know-how and growth and extension of developed communication means, new form of tools for committing crime is in the hand of profit seekers and felons. So that organized sexual abuse, publishing the ugly pictures from the children not only through the books and magazines but by the disks, CDs,

and internet is disseminated. Therefore, the special crime supposition in this field and equipping the justice system with the updated tools in order to fight such crimes is absolutely necessary. Preparation of the draft of the said law terminated in Month of Azar 1382/ November 2003, and its generality approved by the Majlis in December 2003. Without doubt preparation and application of such bills has important role in preventing the forming and emerging the felony groups for committing crime against children, girls and boys, and sexual exploitation from them through pornography and sex tourism.

824. In chapter four of the bill concerning the computer crimes under the title of crimes related to content, condemn following persons to the maximum punishment laid down in article 640 of Islamic penal code. Those who by data vectors or computer system or through communication present obscene to the persons who are under 18 years or produce or present pornographic and obscene materials or transact such material by any mean and or produce and preserve them. Also anyone who resort to put in access of the persons under full eighteen years obscene material, or in order to commit crimes, provoke or threat or deceit them and or teach or facilitate the method of preparation of such materials or access to them, will condemn to the punishment cited in article 640 of Islamic penal code.

#### **The bill of social penalties replacing imprisonment**

825. This bill is one of the fundamental bills in the field of using the new penal instead of traditional punishment replacing imprisonment. In this bill while pay attention to real needs of the society, it is proposed that instead of imprisonment, penalties such as public work and public welfare, terms of vigilance and guardian and house arrest to be used. So far this bill has had huge effects on innovative Rulings that some judges of the children and youth court have issued. By applying social penalties instead of imprisonment, we can bar the entrance of the children and youth to the prisons and consequently their acquaintance with the different method of offense. In fact the roots of repeat of the crime and success in reduction of crime and returning the culprit to the society especially in case of children is of the important peculiarity of this bill. The services that convicted person without getting money by the virtue of the Ruling given by the court and in interest of public will do.

826. Court by paying attention to the committed crime, age, gender, capability, occupation, and his/her skill, sentences the accused to render public services. But in this bill it is barred to give this kind of Ruling to the persons under 15 years of age, and maximum term of rendering such social services is two years. Meanwhile, presenting the social services by the convicted person would be in a manner that related laws and regulations regarding condition of work for woman and youth, technical protection, health of the work and standard of the hard and harmful work should be considered. The important point in the bill is the fact that the judge by noticing the bodily position and need of the culprit to the medical care or family excuses and so on, to suspend, temporarily and up to maximum three months, during the determined period, rendering the social penalties or propose to the court that has issued the verdict, to convert it to the social penalties replacing imprisonment.

#### **Bill of preventing the crime**

827. The presence of the minister of education and training as one of the member of the high council of pursuing is one of the cases that has anticipated in this bill. The said council will be convened under chairmanship of the head of Judicial Power and some ministers and other authorities are member of the council.

828. (Article 2). The membership of the Minister of Education and training in the council is important for better cooperation for reducing the crime of children and youth and better coordination for prevention of the crime.

829. According to this bill, committee of social prevention is also going to be constituted in order to take proper decisions and policies on reduction of crime. Carrying out of the duties of this committee would have effective role in reducing the crime and improvement of the position of the children and youth. In article 5 of the bill it is mentioned that some of the duties of the committee of social prevention is as follows:

- Policy making in the field of using the capabilities and capacities of the ultra penal institution like family, school, academic and religious centers and mass media for extension and promotion of the culture of prevention
- Taking proper policies regarding consolidation of family foundation and protection of family that has not warden, misfit warden, indigent, and those persons who are expose to the social vulnerability
- Taking efficient policy in the field of spirit health, and sexual health especially for youth and young persons

830. According to the article 6 of the bill one of the member of provincial council for preventing the crime is the provincial general director for the education and training.

## **Amending the policies and methods**

### **First speech: section of the letters of the Head of Judicial Power**

831. The section of the outward letters of the esteemed Head of Judicial Power in the field of protection of the rights of children and youth, written to the heads of administration of justice, prisons organizations, and securing and education actions throughout the country, are from those circulations that by their nature establish similar precedent that has approve the correction of this subject. This circulation is consist of important points in detachment dealing with the amending content toward children. (Please refer to the sub appendix No. 129).

### **The second speech: judicial innovations**

832. Judicial innovations:

(a) In the Rulings of the unity of precedent issued by the High Court of Cassation. (Please refer to the sub appendix No. 130);

(b) In new Rulings and judgment of the courts.

833. One of the other fundamental judicial activities in connection with the strategy of the judicial development in the field of the rights of children and youth has been issuance of innovational Rulings by the judges of the courts; judges with belief to create evolution and change in judicial precedents with a relinquishing traditional approaches who especially in these years have issued strong and meaningful Ruling in the field of the rights of children and youth so that without any doubt is the best method for the policy of “individualization of the penal” and to make the issuance of the Ruling suitable to the position and individual character of the malefactor.(Please refer to the sub appendix No. 131).

### **Third speech: creation of institutions and improvement of the structures and protective actions**

834. This includes:

(a) Administrating the protection from Women and children;

(b) Executive committee of protection from women and children;

- (c) Center for improvement and training;
- (d) Court and office of the public prosecutor;
- (e) Council of problem solving specially for children and youth;
- (f) Operation of organization of prisons and securing and training activities of the country;
- (g) Operation of the general director of penal record and pardon and remission.

835. In the section appendices there are full description about all above mentioned institutes.

### **Establishment of the Council of Problem Solving especially for children and youth**

836. Council of problem solving as one of instruments of judging cleansing and reducing Judicial Power administration and relinquishing the official judging is the source that has some judicial expediency with the content of reconciliation and compromise. Moreover, it has root in our rich Islamic-Iranian culture. By preparation and dissemination and service of the by-law of article 189 of the law of third developing plan, The esteemed Head of the Judicial Power' office issued a circulation that was communicate to the officers of the penal system of the country regarding the establishment the councils of problem solving. Following to this action, the establishment of council of problem solving specially for children and youth due to the sensitiveness of the issues related to this sect of the society and qualification of the expediencies and the content of the examination of the councils, the case attracted the special attention of the esteemed Head of the Judicial Power and he acted for the issuance of circulation regarding establishment of the council of problem solving specially for children and youth.

837. The content of this circulation in the field of detachment dealing and amending approach toward the children is worth to be noted:

1. Establishment of the council of problem solving specially for the children in the centers for improvement and training and other proper places that this center has no office.
2. Special conditions of the members of the council of problem solving specially for children:
  - To be married
  - Being at least 40 years old
  - Having education related to the fields of psychology and social aid
  - Having two years experience/activity in the council of problem solving
  - Being capable to make conciliation and compromise
  - Passing the special training course
3. Possibility of utilizing the cooperation and assistance of other sources and reformer and effective persons.
4. Allocating the consultant judges with at least 5 years experience/activity in judicial position in the family courts and special branch for the children and youth and guardianship affairs.
5. These judges would not be subject to dismissal or resignation for two years.

6. Creation of the ground for cooperation between the special council of problem solving with the special court of children and youth, related office of prosecutor, the center for improvement and training, association for protection of the prisoners, Mulct headquarter, Welfare Organization and other protectionist and aid working organizations and institutions.

838. The councils of problem solving due to their contents, settlement-litigious, and their governmental-non-governmental nature, enjoying this ability that in case of aim-full goal and creation of the proper legal ground for transferring to a body for rendering the amendment justice specially of the children. These bodies in their jurisdiction, in more or most of the cases having private or public aspect, are able to play an important role in personification of the punishments or effort for making compromise and conciliation; the work that a judge due to his responsibilities can not afford. Besides, the conciliatory competency of the councils gives this opportunity to these bodies to act as mediator and arbitrator in cases that has no authority to intervene. To act in sake of protection and material as well as spiritual support for the child is of those cases that the councils are capable to do it. With this description, the councils of problem solving have potential capabilities and capacities for fulfillment of amendment justice the in case of enhancing their capacities they will become the strong arm of the justice administration for fulfillment of the duties that the justice administration due its nature cannot do it. (Full text of circulation has come in the section of the Head of Judicial Power's circulations).

### **Operation of the organization of prisons and securing and training activities (for children and youth who have 18 years and below of 18 years in coordination with judicial development)**

839. According the article 19 of regulation of the organization of prisons and securing and training activities, centers for improvement and training, is a center for taking care, improvement and training of children and youth under 18 years for reaching to the human greatness. Centers for improvement and training during the planning term were able to take very effective and constructive steps among which:

1. Separation and classification of the prisoners and specially separating the under 18 years prisoners:
  - 1.1 Renovation of the old centers and construction of new centers and making them operative during the development plan by which the number of these centers has increased from 12 centers to 26 centers
  - 1.2 Determining the minimum standards of the Centers for Improvement and Training
  - 1.3 Definition of the executive process of the centers
2. Establishment of Councils of Problem Solvings in the Centers for Improvement and Training:
  - 2.1 The circulation of Ayatollah Shahroudi
  - 2.2 The circulation of the Judicial deputy of organization of prisons
  - 2.3 Running of 10 Council of Problem Solving in Center for Improvement and Training
3. Ultra organization activity:
  - 3.1 Popular communication and giving information

- 3.2 Establishing relation with governmental and non-governmental organizations
- 3.3 Preparation and regulation on manner of utilizing the voluntary services of the individual and institution of non-governmental bodies;
- 3.4 Cooperation with judges of the office of the prosecutor and the courts examining the children crimes (with the tendency of imprisonment cleansing and reducing the penal population)
- 3.5 Membership in convention of the rights of children
4. Observation of citizen rights and human greatness:
  - 4.1 Concluding contract with the National Organization of Youth
  - 4.2 Cooperation and preparation of draft of cooperation with [the ministry of] education and training
5. Improvement of human force position:
  - 5.1 Education of vigilant personnel
  - 5.2 Education of social aid personnel
  - 5.3 Constituting the educational course for promotion of the level of knowledge of the manager of the center from the operational program of the day
6. Multifold campaign with narcotic drugs and dangerous diseases:
  - 6.1 Constituting educational classes on contagious and dangerous diseases
  - 6.2 Constituting classes on awareness from the harms of narcotic drugs on human and the society
  - 6.3 Giving education to the family of the aid seekers
  - 6.4 Giving education to the family for controlling children and youth
  - 6.5 Giving education on qualification of the reacceptance to the family of the aid seekers under 18 years
7. Technical and professional education and recognition of the profession talents under the supervision of the trainers (in the Centers for Improvement and Training):
  - 7.1 Giving education on weaving carpet, coarse carpet, sewing and saddlery
  - 7.2 Giving education on electricity of the buildings and computer
  - 7.3 Inlaid work, incrustation, and pottery
  - 7.4 Mushroom cultivation, agriculture, greenhouse plant, barbering, and calligraphy
8. Introducing to the center for vigilance after termination of the specialized education, specially for the aid seekers under 18 years:
  - 8.1 Psychology and health consultancy
  - 8.2 Consultancy about the continuation of their education and taking care from them in governmental centers
  - 8.3 Giving case by case support especially cultural expenses and ...

## **Operation and activities of the general director of judicial record and pardon and clemency (from 1.7.1378 up to 31.6.1386/23.9.1999 up to 22.9.2007)**

### **Activities of the commission of pardon and clemency**

840. The commission of pardon and clemency by paying attention to the age of the applicant for clemency and paying special attention to the under 18 years persons, considers the files by considering the juvenility, lack of criminal record, lack of repeating the crime, the condition of committing the crime, and social position. Therefore the special attention and sensitiveness will be paid to the clemency of the convicted persons who are under 18 years old.

841. Based on statistics from the year of 1378/1999 to the year 1386/2007, the total number of those who have enjoyed from clemency is 218003 persons. The statistics show the number of the persons enjoying clemency in the recent years and this trend is in increasing mode.

842. The statistics till year of 1385/2006 is in general and does not provide the age classification. But from the year of 1385/2006, is prepared with paying more attention to the detachment tendency regarding the files of the children, children and youth under 18 years old that their application for clemency is approved. From 22.11.1385/11.2.2007 till 17.11.1386/6.2.2008, 84 case of clemency has been for this age group. The kind of the committed crime by children and youth under 18 years old has been as such: Narcotic drug, illegal intercourse, theft, intentional homicide, counterfeit, contraband, making social disorder, keeping alcoholic beverage, inflicting assault and battery, accident, and unintentional accident, and conviction in terms of penalties has been execution, imprisonment, penal and preventive punishment and cash penalties. The number of the approved applications for reduction of penalties and clemency has been 11 cases. There has been also 85 cases of approved application of those has been convicted to the imprisonment, and there has been 15 cases of acceptance of clemency of those applicants who have had convicted to penal and preventive punishments and cash penalties.

843. Besides the pardon of the convicted persons under 18 years old, in consideration of the files in case, in the guidelines and general decrees of clemency that has issued in occasions of national and religious celebrations and the birthday of the Imams (Peace be upon them), some convicted persons under such guidelines and decrees have been pardoned. One of the conditions of inclusion of this kind of clemency is the age of the convicted persons and is comprised of age group of under 18 years.

844. Some of the clemency decrees are:

1. Decree of year of 1378/1999 (dated 29.6.1379/20.9.2000), in occasion of the birthday of Imam Khomeiny (Mercy of the Allah be for him), guideline of clemency of the convicted women and age group under 18 years old.
2. Decree of clemency of the convicted person on occasion of twenty third of the anniversary of the victory of revolution of 1379.
3. Guideline of clemency of convicted women and persons under 18 years dated 20.5.1380/11.8.2001.
4. Decree of clemency dated 22.11.1380/11.2.2002.
5. Decree of clemency dated 22.11.1381/11.2.2003.
6. Guideline of clemency on occasion of the birthday of Hazrat Fatima Zahra (peace be upon her), dated 28.5.1382/19.8.2003.

7. Guideline of clemency dated 22.11.1382/11.2.2004.

## **Education and research**

### **First speech: education and promotion of the rights of child and special examination for youth**

#### *Short period educational courses*

845. The held seminars and educational workshops by the judicial power from the year of 1378 up to 1386/1999 up to 2007 did follow the educational trends and correcting the operation of the related institutions connected to child more or most of police, judges, aid workers and the schools. The goal of the all gathering and seminars can be numerated as such:

- Special examination for youth
- Educating the special judges for children
- Compatibility of the internal laws with the international norms.
- Drawing and correction of special criminal policy for children and youth (please refer to the sub appendix No. 134)

### **Development of official education and instituting the course of children criminal law in university**

846. Please also for getting information about those accomplished researches in the field of children by the commissions of the deputy of judicial development of the judicial power see the sub appendix No. 133.

847. Regarding the paragraph 2–3 of article 24 in the field of registration of the birth and the right of the child for having the name and acquisition of nationality it should be said that: one of the most important tools for planning in different economic, social, cultural, political, and educational sphere is correct information, precise and on time in particular in relation of statistics of population and human force; the information that in all decision makings, policy makings and macro and micro planning of the country are used and is of the important indices of the growth and development.

848. Organization of personal registration with this viewpoint and based on its duties laid down in law and in order to advancement of the proposed goals up to now while follows up and execute its duties, in direction of organizing statistics on registrar affairs and having access to the real rates of the life events, has render additional activities in the form of different projects and by adopting methods compatible and inconsistence with the situation of the regions of the country in order to get closer to the registration of the four event of life, specially registration of birth and death. One of the most important project has been project covering the registration of the life events in the country and up to now with planning, follow up and carrying out of them in time has been able to find access to the proper and reliable statistics in recent years so that the rate of death registration from approximately 2.7 per thousand in the year of 1375/1996, has reached to 4.5 per thousand at the end of the year of 1382/2003.

849. This project aiming the full registration of life events and bringing all urban, rural and Tribal regions under the cover has begum its activities and up to now has been able through planning of the subject and setting up a headquarter at country level and establishment of the coordinating council in all provinces and dependent cities and following up the execution of the affairs in the personal registration offices by control and

inspection committees, to give continuation to the full registration of life events and increases the per cent of registration. Later on we will bring to your attention the statistics regarding the registration of four events of life, i.e. birth, death, marriage, and divorce.

### Registration of birth event

850. One of the main factors of change and metamorphosis of population is the registration of birth that solely will affect the growth and increase of the population. The birth is an event of life that its event is not simultaneous in all population and happens in the length of time and best method for the collection of information on birth is the method of registration of birth and this duty is entrusted to the organization of personal registration.

851. Table 1 shows the statistics of the registered birth in whole country broke down in current, suspended, and different urban regions during the years of 1375–1382/1996–2003. In this table the year of 1375 is the base year, and as the table shows in all years the rate of registration of birth in compare of the base year is increasing.

852. In year of 1375/1996, though the number of the birth registration in compare with the following years is greater that reflects the higher number of the birth event but with the growth rate calculated for the decade of 60s is not comparable and percentage of the current registered birth of that years is less than the rate of the subsequent years.

853. However the registration of birth in the years of 1375–1379 has diminishing trend, which is due to the economic, social, cultural and in particular the programs of revision of births, but since the headquarter of the project, has assumed the covering registration of events and current deadline its duty, the growth of registration of the current birth in compare with the previous years has had increasing trend so that in the year of 1375/1996, 1187903 events of birth is registered in whole country from which 77 percent has been in current respite. In year of 1382/2003, total number of registered births has been 1171573 which indicate reduction in the registered births belonging to the year of birth. In this year rate of registered birth with 9.9 percent growth has reached to the 87.4 percent. In table 1 the position of the registration of the event of birth in the rural and city region is also calculated and the number of the birth event in urban regions in the year of 1382 in compare with the rural regions has enjoyed an increasing trend and indicating the higher growth of urban population in years of 1375/1996–1382/2003.

Table No. 1

**Registered birth event in whole country in terms of place, gender, total, current, suspended, in years of 1375/1996–1382/2003**

| Title/<br>year | Total                |           | Current     |         | Suspended   |         | Urban region |         | Rural region |     | % of change<br><br>% registration of current<br>birth to base year |
|----------------|----------------------|-----------|-------------|---------|-------------|---------|--------------|---------|--------------|-----|--|
|                | Total birth<br>event | Number    | Per<br>cent | Number  | Per<br>cent | Male    | Female       | Male    | Female       |     |  |
| 1375           | <b>1 187 903</b>     | 921 056   | 77.5        | 266 847 | 22.5        | 357 610 | 343 737      | 248 085 | 238 471      | 0   |  |
| 1376           | <b>1 179 260</b>     | 943 730   | 80.0        | 235 530 | 20.0        | 363 406 | 348 223      | 237 683 | 229 948      | 2.5 |  |
| 1377           | <b>1 186 659</b>     | 975 215   | 82.2        | 211 444 | 17.8        | 377 255 | 361 862      | 226 555 | 220 987      | 4.7 |  |
| 1378           | <b>1 174 279</b>     | 979 119   | 83.4        | 195 760 | 16.6        | 380 341 | 362 733      | 68 327  | 212 578      | 5.9 |  |
| 1379           | <b>1 095 165</b>     | 950 232   | 86.8        | 144 933 | 13.2        | 362 834 | 346 804      | 197 702 | 187 825      | 9.3 |  |
| 1380           | <b>1 112 193</b>     | 964 877   | 86.8        | 147 316 | 13.2        | 369 562 | 354 610      | 197 560 | 190 561      | 9.3 |  |
| 1381           | <b>1 122 104</b>     | 977 684   | 87.1        | 144 420 | 12.9        | 376 051 | 358 281      | 196 608 | 191 146      | 9.6 |  |
| 1382           | <b>1 171 573</b>     | 1 023 995 | 87.4        | 147 578 | 12.6        | 393 044 | 375 800      | 204 686 | 198.42       | 9.9 |  |

## Registration of death event

854. Death statistics is also one of the factors that affect the volume and combination of the population. The registration of death event is also entrusted to the organization of personal status registration.

855. In table 2 the statistics of the death registration during the years of 1375/1996–1382/2003 by the registered current and suspended events in the urban and region regions is presented. This table shows that the total registered of the death events in year of 1375 in compare of the total registered event in the year of 1382 apparently has decreased 300 per cent, while it is said that the rate of the registration of the death event has had increasing trend. This problem is related to the ad hoc project of the registration of the death event that from 1373/1994 has been carrying out in the organization of personal status registration and the said increase is belonging to the registration of the death events that has been happened since this organization was established but the said events has been not registered. Therefore the relatively real statistics of the death events in each year is the current death events that their number in each year or previous one/base year has increased and this increasing trend is the result of the activities of the organization of personal status registration at whole country level. It means that the figure 168135, current event in 1375/1996 has reached to the figure of 301972 in year of 1382/2003, which has increased the rate of the death in the country from 2.7 per thousand in 1375/1996, to 4.5 per thousand, and in some provinces to over 5 per thousand.

Table 2

**Registered death events in whole country in terms of place, gender, total, current, suspended for years 1375/1996–1382/2003**

| <i>Title/<br/>year</i> | <i>Total</i>                        | <i>Current</i> |                     | <i>Suspended</i> |                     | <i>Urban region</i> |               | <i>Rural region</i> |               | <i>Change %</i>  |
|------------------------|-------------------------------------|----------------|---------------------|------------------|---------------------|---------------------|---------------|---------------------|---------------|--|
| <i>Title</i>           | <i>Total death<br/>registration</i> | <i>Number</i>  | <i>Per<br/>cent</i> | <i>Number</i>    | <i>Per<br/>cent</i> | <i>Male</i>         | <i>Female</i> | <i>Male</i>         | <i>Female</i> | <i>% of change in registration<br/>of current to the base year</i> |
| 1375                   | <b>1 240 975</b>                    | 168 135        | 13.5                | 1 072 840        | 86.5                | 194 594             | 207 415       | 357 733             | 481 532       | 0  |
| 1376                   | <b>1 031 836</b>                    | 190 922        | 18.5                | 840 914          | 81.5                | 214 893             | 214 590       | 256 693             | 343 660       | 5  |
| 1377                   | <b>551 345</b>                      | 205 681        | 37.3                | 345 664          | 95.7                | 146 070             | 137 309       | 121 045             | 146 921       | 23.8   |
| 1378                   | <b>506 945</b>                      | 221 703        | 43.7                | 285 242          | 51.3                | 148 135             | 147 319       | 95 898              | 118 593       | 30.2   |
| 1379                   | <b>382 674</b>                      | 235 067        | 61.4                | 147 607          | 38.6                | 103 290             | 106 553       | 83 615              | 71 559        | 47.9   |
| 1380                   | <b>421 525</b>                      | 252 588        | 59.9                | 168 937          | 40.1                | 134 167             | 109 268       | 89 502              | 88 588        | 46.4   |
| 1381                   | <b>337 237</b>                      | 266 298        | 78.9                | 70 939           | 21.1                | 13 138              | 102 705       | 56 797              | 46 349        | 65.4   |
| 1382                   | <b>368 518</b>                      | 301 972        | 81.9                | 66 546           | 18.1                | 18.1                | 147 908       | 117 331             | 43 459        | 68.4   |

## Registration of the events of marriage and divorce

856. These two event from the change of the family position and marriage of the persons is important and will result to the evolution and change in structure of population of any country. With regard to the considerations that so far have been done, now it is clear that the rate of marriage and divorce in any society depends to the economic, social and cultural condition and position, and any metamorphosis in these positions has direct effect on the trend of marriage and divorce.

857. On the other hand the set forth duties in the law concerning the personal status registration, registration of marriage and divorce and any change and transformation in

record documents and birth certificate of the person is very important so that planning and registration of these event on time in the identity documents of the persons is of the fundamental program of the organization of the personal status.

858. Statistics shows that both events of marriage and divorce have had increasing trend and this increase has had different reasons among which the most important reason is population growth and the age groups belong to the decade of 1360/1980. Therefore, the number of the couples married in year of 1375/1996, is equal to 479263 cases and this figure in year of 1382/2003 has been 681034 cases which shows 42 percent growth.

### Issuance of birth certificate and certificate

859. One of the most fundamental duties of the organization of the personal status that it is emphasized in the article of related law is the registration of birth and issuance of the birth certificate and renewing the current birth certificates that are in the hand of the people. Tables 3 and 4 show the number of issued birth certificates and certificate in years 1375/1996–1382/2003.

Table 3

#### Islamic Republic birth certificate

| <i>Kind of birth certificate/year</i> | <i>Total</i>     | <i>New born birth certificate</i> | <i>Renewed birth certificate</i> | <i>New designed birth certificate</i> | <i>Duplicate copy of birth certificate</i> |
|---------------------------------------|------------------|-----------------------------------|----------------------------------|---------------------------------------|--|
| 1375                                  | <b>1 639 530</b> | 1 185 440                         | 246 915                          | 62 364                                | 144 811                                    |
| 1376                                  | <b>1 670 297</b> | 1 179 455                         | 224 421                          | 41 311                                | 225 110                                    |
| 1377                                  | <b>1 715 194</b> | 1 180 822                         | 240 925                          | 35 451                                | 257 996                                    |
| 1378                                  | <b>1 793 847</b> | 1 174 193                         | 245 475                          | 36 244                                | 337 935                                    |
| 1379                                  | <b>1 692 670</b> | 1 094 178                         | 376 784                          | 21 040                                | 200 668                                    |
| 1380                                  | <b>1 808 239</b> | 1 113 657                         | 475 378                          | 21 971                                | 197 233                                    |
| 1381                                  | <b>1 924 990</b> | 1 123 046                         | 562 696                          | 14 024                                | 221 861                                    |
| 1382                                  | <b>2 300 848</b> | 1 168 228                         | 805 991                          | 14 579                                | 281 966                                    |

Table 4

#### Number and kind of certificate issued in the years of 1380/2001–1382/2003

| <i>Title/year</i> | <i>Death certificate</i> | <i>Certificate of not married (for Iranian in abroad)</i> | <i>Certificate of specification</i> | <i>Demand for giving information on personal records</i> |
|-------------------|--------------------------|---|-------------------------------------|--|
| 1380              | 488 960                  | 3 223   | 7 331                               | 304 495  |
| 1381              | 476 705                  | 3 471   | 7 090                               | 406 758  |
| 1382              | 545 486                  | 3 333   | 5 926                               | 255 510  |

### General director of the status registration of foreign affairs

860. This general director now is working with three departments giving necessary services to 110 consulates in foreign countries.

## **Announcing the national number and issuance of identity card**

861. One of the peculiarities of the modern society is having an efficient, rapid, and confident administration for policy making, planning in different economic, social, cultural, and political fields. In another word, efficient administrative system is the stimulating engine of development in any country. Therefore development necessitate the government to enjoy from an equipped, modern, and developed administrative system in order the allocation of resources and investment in different sectors of the country to be done in an efficient and balance way, and far from wasting the resources.

862. Organization of the personal status as an organization that has duty of perform registration and presentation of basic services such as birth, death, marriage and divorce, by enjoying from comprehensive and informative system of personal statistics through mechanized system is able to design and perform the personal statistical system of the country.

863. Some of organization of the personal status's activities regarding establishment of the comprehensive identification of Iranian is as follow:

- Allocation of national number and postal code to the rural population in the year of 1376 for 9 months
- Beginning to notify the national number to the departments from the year of 1379 and onward
- Beginning to notify the national number to the city's inhabitants in four stages
- Beginning and installing the equipment of national identification card in the year of 1379/2000
- Proposing and creation of the centers for presenting of nationality and identity services in the year of 1379/2000
- Starting the issuance of the national identity card in 1380/2001
- Operating the telephonic system for giving reply to the inquiries about the national number in 1381/2002
- Putting in operation the information web site of the organization of the personal status in the year of 1381/2002
- Setting up the comprehensive system of Iranian identification in city of Semnan in the year of 1381/2003
- Providing the proposal regarding Iranian identification internet for presenting to the TECFA

864. On 24.2.1377/14.4.1998, the obligatory law concerning allocation of national number and postal code for all Iranian subjects was approved and its by-law was communicated to all executive apparatuses. Therefore with the cooperation of the post corporation the information was collected and the Post Corporation became site of the places of country till with establishment of the population site of the country the possibility of the execution of the law also to be prepared. In other word the set up of these two sites was foreground of presentation of electronic identity services and issuance of the national identity card.

865. These two sites by using 10 digits will transfer individual and local information to the numbers and codes. These numbers and codes in the site of country's information and in the site of country's locations are introduced with postal codes. These two series of numbers (national number + postal code) are one of the new phenomena and will establish

a solid and consolidate relation among different organs and organizations. In other word, these two numbers together will define the identification and address of the persons.

### Communication of national number and postal code

866. With regard to the aforesaid subject the organization of the personal status with the cooperation of the Post corporation from the year of 1379 began to communicate the national number and postal codes on the sample of the special cards and in this connection the activities shown in the table No. 5, has been done.

Table 5

#### Related actions regarding the communication of national number and postal codes

| <i>Communicated card/title</i> | <i>Total population</i> | <i>Cards delivered</i> | <i>Remaining</i>  |
|--------------------------------|-------------------------|------------------------|-------------------|
| Urban population               | 43 683 289              | 35 500 000             | 6 500 000         |
| Rural population               | 22 797 077              | 19 500 000             | 3 500 000         |
| <b>Total</b>                   | <b>66 480 366</b>       | <b>55 000 000</b>      | <b>11 000 000</b> |

### Stages of communication of national identity number

867. Communication of national number through the issuance of the remedial insurance services card of in rural regions approximately to the 15/000/000 persons.

868. Communication of national number and postal codes to the inhabitants of the cities in 4 stages as it is mentioned in table 6.

Table 6

#### Stages of the communication of national number

| <i>Row</i> | <i>Stages of communication</i> | <i>Number of the issued card</i> | <i>Number of distributed card</i> |
|------------|--------------------------------|----------------------------------|-----------------------------------|
| 1          | Stage one year 1379/2000       | 12/000/000                       | 5/000/000                         |
| 2          | Stage two 1380/2001            | 20/715/533                       | 16/247/266                        |
| 3          | Stage three 1381–82/2002–3     | 8/191/299                        | 7/150/754                         |
| 4          | Stage four 1383/2004           | 3/003/000                        | Distribution is continuing        |

### Communication of national number in form of issuance of the national identification card to the inhabitants of the cities

869. With regard of obligatory law of the allocation of national number and postal codes to all Iranians in form of identity cards from the time of operation of issuance of national identity card (Mordad 1380/August 2001) up to end of Tir 1383/July 2004, 12/000/000 national identity card is issued.

### Communication of national number to the organizations

870. In order to carry out the approval of the article 5 of the procedure regarding the communication of the national number and postal code from the year of 1378, the communication of the national number to the different organization was begun and up to

the end of Tir 1383/July 2004, more than 105/000/000 record consisting national number was given to the related organizations.

### **Allocation of national number to those who born in 1368/1989 and onward**

871. For those who born in 1368/1989 and onward, instead of birth certificate number, the number of national identity is inserted and up to now nearly 20/000/000 number is allocated.

872. With regard to the fact of existing co-covering in some of the above statistics, up to now around 56/000/000 persons of Iranian citizen has got their national number and since the total population of the country in 1382/2003, according the center of statistics of Iran was 66/480/366, around 11/000/000 of our fellow citizens do not know their national number.

### **Issuance of national identity card**

873. The project of issuance of the national identity card was began from Mordad 1380/July 2001 and up to the end of Shahrivar/September 1383, around 12/812/582 card was issued. The deadline for delivery of the national identity card to all persons of the country is foreseen to be 1385/2006-7.

Table 7

#### **Issuance of national identity card**

| <i>Title/year</i> | <i>No. of applications for identity card</i> | <i>No. of issued cards</i> |
|-------------------|--|----------------------------|
| 1380/2001         | 248/027                                      | 117/369                    |
| 1381/2002         | 2/687/745                                    | 1/933/513                  |
| 1382/2003         | 7/547/744                                    | 7/364/439                  |
| Diagram 1383/2005 | 3/427/171                                    | 3/461/000                  |
| <b>Total</b>      | <b>13/910/687</b>                            | <b>12/812/582</b>          |

### **Reorganizing and updating of archives of the personal records**

#### **Updating of the documents**

874. Registration of latest life event of anybody in the document is done from those information that is inserted in declarations and documents; the documents that are mainly declarations of birth, death of the holder of the document, and his wife/husband and the child(ren), marriage, divorce, recourse of marriage, grant the remaining period of the temporary marriage, change of name and family name and affixing the photograph.

875. Declaration of birth though the offices of personal status registration, and declarations related to the events of marriage and divorce is sent through the notary public for marriage and divorce, and will register in the personal record documents.

876. In the past due to the different reasons, registration of these declarations in the document either was not complete or was done with some timing gap so that the problem of discrepancy between the information that is registered in the birth certificate and the

documents in term of development in marriage and divorce has been criticized. In recent years specially in year of 1380 in the organization of the personal status it is serious determination for registration of declarations and up dating of the information in the document and also population's information site of the country and compatibility and consistency of the said site with the personal record and the birth certificate has attracted the attention of the organization of the personal status and so far by executing the refinement project has been able to remove important section of these discrepancies.

### **High council of personal status registration**

877. Article 2 of personal status registration law in connection with the duties of the High council of personal status registration states: for study and proposing technical methods and giving opinion on amendment or change of forms of samples of statistical and personal records and their publishing and preparation of guidelines and technical methods and the manner of collecting the cancelled paper and regulating and protection of document and personal records document, in the center of personal status registration of the country a council under the name of High council of personal status registration. The members of the High council of personal status registration would be: Head of personal status registration or his deputy and one of the faculty of law appointed by the Chancellor of the University of Tehran and one of judges appointed by the Minister of Justice, and one of the staff of the Organization of personal status registration appointed by the Head of Organization of personal status registration and representative the Iran Statistics Center. The Deputy of the Minister of Interior and the Head of Organization of personal status registration or his deputy would be in chair and the decision taken by simple majority would be in force.

878. Note: Method of collection and publishing the human statistics and preparation of the related sample proposed by Organization of personal status registration would be determined after the consideration of the views of Iran Statistic Center and approval of the High council of personal status registration.

879. In execution of the said regulations, High council of personal status registration on its session on 28.6.1355,/19.9.1976, and its subsequent meeting, appropriate to the proposed subject took some decision. After the glorious victory of the Islamic revolution of Iran, High council was established in 1362/1983 was set up and till 1367/1988 in connection with the barred name and some guidelines have had some activities.

880. After a 13 years cessation in view of new guidelines regarding improvement and revising the old guidelines ... and reactivation of High council of personal status registration by the decision of the esteemed Head of the personal status registration, the council reorganized itself and set up the expert committees with the membership of senior mangers and high experienced experts of the personal status registration organization and by having several session has considered several subjects and has approved following points:

- Method of the work in High council of personal status
- Specialized duties
- Duties of the secretary of the High council of personal status
- Method regarding allocation of postal codes to the Iranians in abroad
- Guideline concerning family name
- Permission regarding propagation of approvals of High council of personal status by the mass media

- Permission regarding execution of current guidelines of the organization for six months
- New guideline of article 45 of law of personal status registration
- Guideline regarding the issuance of the new birth certificate
- Authorization of executive guidelines regarding establishment of the future system of personal status registration for one year
- Approval of the sample of new birth certificate
- Executive guideline concerning article 34 of personal status registration's law
- Guideline regarding method of affixation of photograph on the birth certificate
- Guideline regarding the correcting the discrepancies in personal status documents
- Amending article 45 of the law of personal status registration
- Executive guideline for rendering the registration services to those who were afflicted by the Bam earthquake
- Issuance of new identity card
- Considering the statistical operation forms
- Guideline regarding the method of issuance of non married certificate

### **Preparation of the name book**

881. Organization of personal status registration due to its operational contents is facing with the cultural subject regarding the selection of the name and name selection. Since the culture of name selection from one side is reflecting the culture and national identity as a collection of values, beliefs, and attitude and thought of the people in the society, and from the other side, the expansion of the culture of urban life, higher education, knowledge, communication and information is facing with the new words and subjects, therefore selection the name besides its meaningfulness and identification of personal character, due to its social effects and model acceptability, could affect collective identity too. Therefore selecting the proper names and compatible to the national culture could aid the richness of national identity, and vis a vis choosing and promotion of alien names and incompatible with national culture could have destructive effect to the national unity and integrity. Therefore for the sake of preserving the identity and national culture and giving information to the public, Organization of personal status registration has prepared a collection of names which consist about 6000 name. These names in form of guideline book are in access of the executive debarments throughout the country and is also access able in the web site of the Organization of personal status registration and is going to be printable and therefore be within the reach of public in near future.

## **XXVI. Article 25**

882. In the Islamic Republic of Iran, election based on "election law", that is approved by the Islamic Consultative Assembly, and is communicated to the ministry of interior for the execution, will be held. In the election law of each elections of the President, the Islamic Consultative Assembly, Assembly of Experts of leader and Islamic Councils, the condition of the those who are eligible to be elected and those who can elect is clearly defined. According to the election law, the Council of Guardian will supervise the execution of election law by the executive persons and in all stage of the elections is directly present and

if in any stage of election see anything contrary to the law, can have legal encounter with it. The elections that are held in the form of general and throughout of the country by the Ministry of Interior, are:

- Presidential election every four years
- Election of the Islamic Consultative Assembly every four years
- Election of Council of Expert every eight years
- Referendum that its holding has no specific time in is going to be held in ad hoc manner

### **Presidential election in Iran**

883. Term of office of President in the Islamic Republic of Iran is four years and the Ministry of Interior has duty to prepare the preliminary executive works for holding the election of the next President three months before it by observing the articles 119 and 131 of the Constitution, and will inform the public from the arrangements of the elections including time of registration of the name of candidates through mass media.

884. Elections will be held in direct and general form with covert vote of all Iranian citizen (both inside and outside) and result, by getting absolute majority, will be announced. Supervising the Presidential election is entrusted to the Guardian Council. This supervision is general and in all stages and in all related affair to the election would be running. If in the first stage of the election none of candidate did not allocate the absolute majority of the vote to himself, election will go to the second stage that means two candidates that has got highest vote will run for Presidency in the second stage.

885. Those who want to be elected at the time of registration must have following qualification:

- Be from political-religious men
- Iranian by origin
- Citizen of the Islamic Republic of Iran
- Manager and prudent
- Having good record in virtue and honesty
- Faithful and believer in foundation of the Islamic Republic of Iran and official religion of the country

886. Those who want to elect should have following qualifications:

- Citizen of the Islamic Republic of Iran
- To be in sixteen year of age
- To be sane

887. In order to guarantee the equal behavior toward the candidates for Presidency and having access to the governmental possibilities, a commission under the title of commission for consideration of election propaganda will be established in the Ministry of Interior. According to the article 63, the member of the commission for consideration of election propaganda are:

- Attorney general of the country or his full authority representative
- Minister of Interior or his full authority representative

- General Manager of Voice and vision of the Islamic Republic of Iran or his full authority representative

888. Note: The Guardian Council can appoint one of its member or from outside for supervising the said commission.

889. The announcement of the result of investigation of complains on Presidential elections through mass media is entrusted to the Council of Guardian. This council within one week or if it be necessary within maximum 10 days after receiving the result of the Presidential election will announce its definite opinion on the election to the Ministry of Interior and Ministry of Interior through the mass media will announce the final result to the public. By paying attention to the political structure of Iran before Islamic revolution and newly establishment of the republic system in Iran, participation over 85 percent of eligible people in tenth course of Presidential election indicates the fact that the base of decision making and macro and national policy making in the Islamic Republic of Iran is based on political participation of the citizen and they aware of the importance of their role and participation day by day, more and more in compare to the past.

### **Law concerning the election of Council of Experts**

890. Law concerning the election of Council of Experts of leader is based on articles of fifth, hundred and seventh, and hundred and eighth of the Constitution.

891. Based on second chapter of the law, the qualification of those who should be elected is as follow:

- (a) To have fame in religion, trust, and moral merit;
- (b) To be qualified for religious leadership, Ijtihad, in that extend that be able to understand some Islamic jurisprudence and be able to distinguish the Valy-i faqih qualified for leadership;
- (c) Enjoying the political and social insight and to be aware of the issues of the day;
- (d) To be convicted to the system of the Islamic Republic of Iran;
- (e) Having no political and social mal-record.

Note 1: The authority that will distinguish the above qualification of a person would be the Faqihs of the Guardian Council of the Constitution.

Note 2: Those whose Ijtihad be confirmed by the Supreme Leader, explicitly or implicitly, do not need from the scientific view to be distinguished by the Faqihs of the Guardian Council.

892. According to the chapter three, qualification of those who will choose is to be Iranian national and having 15 years in full.

893. According to the article five, the tenure course of those who are elected is eight years, and six months before termination of the each course, election of the next course should be begun so that three months before the termination of the running course, the election of the next course to be finished.

894. Regarding the voting it should be said that voting would be covert and direct, and election will take place in one day and if it was necessary it will be extended and the member of the Council of Experts will be chosen by the proportional majority.

## **Election of the Islamic Consultative Assembly**

895. Based on the law concerning the election of Islamic Consultative Assembly, ratified on 7.9.1378/26.11.1999, regulation concerning the election of the Islamic Consultative Assembly is described below.

896. Article 1: The election of the Islamic Consultative Assembly will be held according to the regulation of this law and the government is obliged in holding the election of the Islamic Consultative Assembly to take an arrangement that before the termination of the previous course the election has been done so that the country be not lifted without Majlis.

897. Article 2: The number of the members of the Islamic Consultative Assembly is two hundred and ninety and the increase of the member would be subject to the article sixty four (64) of the Constitution.

898. Note: From the total numbers of the representative five seats is allocated to the religious minority: Zoroastrian and Jewish minorities each one representative, Assyrian and Chaldean Christians together one representative, and the Armenian Christian of South and North each one representative.

899. Article 3: Supervision of the election of the Islamic Consultative Assembly is charged to the Guardian Council. This supervision would be of correction content and general, and would be carried on in all stages of the election.

900. Article 7: Election would be held in covert voting, direct and general manner.

901. Article 8: The election of the representative in first round is subject to the acquisition of at least one fourth of whole casting vote and in the second stage with the proportional vote whatsoever that be.

902. Article 10: in each stage a person can vote only one time with his/her birth certificate.

903. Article 12: Election of religious minority would be done in Tehran for religious minorities of Zoroastrian, Jewish, Assyrians, Chaldean and Armenian of the north by the general governor of Tehran, and election of the Armenian of the south of the country by the general governor of Isfahan and the governors of those districts that the said minority are resided in it.

904. Article 16: Police forces according their legal duties are responsible for preserving the order and prevention of any disorder where and when the election is running and safeguarding the ballot boxes and have no right to intervene in the election.

905. Article 25: Ministry of Interior is in charge of execution of the election law of the Islamic Consultative Assembly and is responsible for the holding the election in good manner. In doing so, the said Ministry can dispatch some officials to the constituencies and the branches of collecting vote, for control and inspection of the election process.

906. Note: No other organization or departments save the Ministry of Interior and the Guardian Council is allowed under the excuse of the execution of election law or supervision to intervene in the process of election or to dispatch any officials or inspectors.

907. Article 27: Those who are going to elect should have the following qualification:

1. To be of the Islamic Republic of Iran nationality.
2. Having full eighteen years.
3. To be sane.

908. Article 28: Those who want to be elected should have following qualification at the time of registration as candidate:

1. Full belief and commitment to Islam and the sacred system of the Islamic Republic of Iran.
2. The Islamic Republic of Iran citizenship.
3. Showing practical allegiance to the Constitution and the progressive principle of the absolute rule of the Supreme Jurisprudence (velayate faqih).
4. Having at least the academic degree of Associate Diploma or its equivalent.
5. Being free from ill reputation in the election district.
6. Physical health to the extent of being blessed with vision, hearing and speech capabilities.
7. Minimum age 30 and maximum 75.

909. Note 1: Religious minorities shall be exempt from practical allegiance to Islam mentioned in paragraph (1) but must be firm in commitment to their own religion.

910. Note 2: The bachelor degree or equivalent to it providing to have (5) years experience in executive services at the level of expert and higher in private or public sectors or (5) years educational experience or research with the confirmation of the related authorities or having been for one course representative of the Islamic Consultative Assembly, the is equivalent to the senior expert degree/Master degree.

911. Article 30: The following person are barred to be elected as the representative of the Islamic Consultative Assembly:

1. Those who have had effective role in consolidation of the previous system.
2. Big landholders that have registered the dead lands in their name.
3. The organizational dependants and partisan of the parties, organizations, and groups that the expedient authorities have announced their illegality.
4. Those who have condemned to an offence against the Islamic Republic of Iran.
5. Those who have been convicted to the apostasy by the competent judicial courts.
6. Those who are for famous for corruption and notorious for debauchery.
7. Those who have been convicted to the religious *hoddod* unless their repentance has been approved.
8. Narcotic drug contrabandists and addicted to the narcotic drugs.
9. Interdicted persons and those who are by the Ruling given by the court are subject to the article forty nine of the Constitution.
10. Dependants to the previous regime such as the member of the association of cities and towns and dependant to the freemason organization and those being in charge of cells of Rastakhiz and Iran Novin Parties and active member of them, representative of the previous Majlis-i Shoray-i Melli, and senate and Savak officials.
11. Those who has condemned for treason and fraud, embezzlement and bribery and usurpation of the property belong to the others, and those who have been convicted to the financial corruption by the judgment of competent courts.

## Councils in the Islamic Republic of Iran

912. The constitution of the Islamic Republic of Iran has several articles and paragraphs regarding the popular participation through holding the extended election of local councils. In true religion of Islam give great attention and importance to consultation, especially where and when the societies and general public of the people must take decision regarding their own issues and should sit together and consult with each other. On this base the role of the people is repeatedly emphasized in the constitution.

913. Paragraph 8 of article 3 of the constitution ask the government to use its outmost possibilities on order to prepare the ground for the participation of the entire people in determining their political, economic, social, and cultural destiny.

914. According to the order of the great Qur'an: "Their affairs are by consultations among them", and "Consult them in affairs", the councils, the Islamic Consultative Assembly, Council of Ostan/province, Council of City, Council of Town, Council of Place, District, Village, and so on are the decision making organs and administration of the affair of country.

915. Article 100 of the constitution describe the field and boundaries of the responsibilities of the Islamic councils as such:

1. In order to expedite social, economic, development, public health, cultural, and educational programs and facilitate other affairs relating to public welfare with the cooperation of the people according to local needs, the administration of each village, division, city, municipality, and province will be superseded by a council to be named the Village, Division, City, Municipality, or Provincial Council. Members of each of these councils will be elected by the people of the locality in question.

2. Qualifications for the eligibility of electors and candidates for these councils, as well as their functions and powers, the mode of election, the council jurisdiction, and the hierarchy of their authority will be determined by law.

916. In article 103 is also it is said that:

Provincial governors, city governors, divisional governors, and other officials appointed by the government must abide by all decisions taken by the councils within their jurisdiction.

917. The law concerning election of the Islamic Councils has been reconsidered and revised in for several time and the latest one has been settled as the base of the recent local councils.

918. The first election of the councils of city and town was held in 1378/1999. Approximately 25 million of Iranian citizen voted in that election and chose 236138 representatives from 328862 male candidates and 7276 female candidate. According to the comments of Mrs. Zahra Shojaei in the first gathering of female representatives of the Islamic Councils of the country, "the level of participate of women has been 40 percent more than participation in fifth election of the Islamic Consultative Assembly."

919. From 7276 female candidates, 4688 persons have been from the cities and 2588 candidates from the villages. Women have constituted 7.3 per cent of total candidates and in compare with their participation could get the high share of representatives in the councils, i.e. 7.7 percent to themselves. 300 women in 233 cities and 483 women in villages were elected. Among 177 City Councils, one council was under chairwomen, in 48 council two female representatives, in 60 councils, 3 female representatives and one council had 4 female representatives.

920. Province of Tehran had the highest rate of the women participation. Women of Tehran got 29 seats in the councils. Khuzestan province with 26 female representatives got the second rank and Gilan, Isfahan, and Kerman by having respectively 25 and 24 and 23 female representative got the subsequent ranks.

921. Approximately 15 per cent of elected women can read and write, more than 30 per cent have elementary certificate, 25 per cent directing level (unfinished), and 15.5 per cent have had secondary school certificate, 7 per cent have had above diploma certificate, 6.6 per cent have had bachelor degree and above. 21 per cent have had theological education, and remaining did not mention their education. 55 per cent of the women have been housewife, 35 per cent of them have had civil servant profession, 3 per cent worked in private sector, and around 4 per cent were occupied in agricultural activities.

#### Statistical table of held election after the victory of Islamic revolution

| Row | Election  | Date of holding                      | Qualified for to elect | Number of participants | Per cent | Number of candidates | Number of constituency | Number of needed representative |
|-----|---|--------------------------------------|------------------------|------------------------|----------|----------------------|------------------------|---------------------------------|
| 1   | Referendum for changing the regime                          | 10 and 11.1.1358/<br>1.4.1979        | 20 857 391             | 20 440 108             | 98.00    | -                    | 1                      | -                               |
| 2   | Experts for final consideration of the constitution         | 12.5.1358/<br>3.8.1979               | 20 857 391             | 10 784 932             | 51.71    | 428                  | 24                     | 72                              |
| 3   | Referendum for confirming the Constitution                  | 11 and 12.9.1358/<br>2 and 3/12/1979 | 20 857 391             | 15 690 142             | 75.12    | -                    | 1                      | -                               |
| 4   | First presidential election                                 | 5.11.1358/<br>25.1.1980              | 20 993 643             | 14 152 887             | 67.42    | 124                  | 1                      | 1                               |
| 5   | First Islamic Consultative Assembly election                | 24.12.1358/<br>15.3.1980             | 20 857 291             | 10 875 969             | 52.14    | 3 694                | 193                    | 270                             |
| 6   | 2 <sup>nd</sup> presidential election                       | 2.5.1360/<br>24.7.1981               | 22 687 017             | 14 573 803             | 64.24    | 71                   | 1                      | 1                               |
| 7   | 3 <sup>rd</sup> Presidential election                       | 10.7.1360/<br>2.10.1981              | 22 687 017             | 16 847 717             | 74.26    | 46                   | 1                      | 1                               |
| 8   | 1 <sup>st</sup> Council of Expert choosing leader           | 19.9. 1361/<br>10.12.1982            | 22 277 871             | 18 013 061             | 77.38    | 168                  | 24                     | 82                              |
| 9   | 2 <sup>nd</sup> course of the Islamic Consultative Assembly | 26.1.1363/<br>15.4. 1984             | 24 143 498             | 15 607 306             | 64.64    | 1 592                | 193                    | 270                             |
| 10  | 4 <sup>th</sup> Presidential election                       | 25.5.64                              | 25 993 802             | 14 238 587             | 54.78    | 50                   | 1                      | 1                               |
| 11  | 3 <sup>rd</sup> course of the Islamic Consultative Assembly | 19.1.1367                            | 2 798 673              | 16 714 281             | 59.72    | 1 999                | 193                    | 270                             |
| 12  | 5 <sup>th</sup> Presidential election                       | 6.5.1368                             | 30 139 598             | 16 452 677             | 54.59    | 79                   | 1                      | 1                               |
| 13  | Referendum of revision of the constitution                  | 6.5.1368                             | 30 139 598             | 16 428 976             | 54.51    | -                    | 1                      | -                               |
| 14  | 2 <sup>nd</sup> Council of Expert choosing leader           | 16.7.1369                            | 31 280 084             | 11 602 613             | 37.09    | 180                  | 24                     | 82                              |
| 15  | 4 <sup>th</sup> course of the Islamic Consultative Assembly | 21.1.1371                            | 32 465 558             | 18 767 042             | 57.82    | 3 233                | 196                    | 270                             |
| 16  | 6 <sup>th</sup> Presidential election                       | 21.3.1372                            | 33 156 055             | 16 796 787             | 50.66    | 128                  | 1                      | 1                               |
| 17  | 5 <sup>th</sup> course of the Islamic                       | 18.12.1374                           | 3 471 600              | 24 682 386             | 71.10    | 8 365                | 196                    | 270                             |

| Row                   | Election   | Date of holding | Qualified for to elect | Number of participants | Per cent | Number of candidates                                    | Number of constituency | Number of needed representative |
|-----------------------|--|-----------------|------------------------|------------------------|----------|---|------------------------|---------------------------------|
| Consultative Assembly |  |                 |                        |                        |          |   |                        |                                 |
| 18                    | 7 <sup>th</sup> Presidential election                        | 2.3.1376        | 36 466 487             | 29 145 754             | 79.93    | 238   | 1                      | 1                               |
| 19                    | 3 <sup>rd</sup> Council of Expert choosing leader            | 1.8.1377        | 38 550 597             | 17 857 869             | 46.32    | 396   | 28                     | 86                              |
| 20                    | 1 <sup>st</sup> Islamic councils                             | 7.12.77         | 36 739 982             | 23 668 739             | 64.42    | 65 277<br>Cities,<br>450 small towns<br>270 411 village | 718<br>24<br>32 677    | -                               |
| 21                    | 6 <sup>th</sup> course of the Islamic Consultative Assembly  | 29.11.1378      | 38 726 431             | 26 082 157             | 67.35    | 6 853   | 207                    | 290                             |
| 22                    | 8 <sup>th</sup> Presidential election                        | 18.3.1380       | 42 170 230             | 28 081 930             | 66.59    | 814   | 1                      | 1                               |
| 23                    | 2 <sup>nd</sup> Islamic councils                             | 9.12.1381       | 41 127 547             | 20 235 898             | 49.2     | 33 774<br>cities<br>138 small town<br>185 045 village   | 906<br>17<br>36 295    | 4 828<br>51<br>1 047090         |
| 24                    | 7 <sup>th</sup> course of the Islamic Consultative Assembly  | 1.12.1382       | 46 351 032             | 23 734 677             | 51.21    | 8 172   | 207                    | 290                             |
| 25                    | 9 <sup>th</sup> Presidential election, 1 <sup>st</sup> round | 27.3.1384       | 46 786 418             | 29 400 857             | 62.84    | 1 014   | 1                      | 0                               |
| 26                    | 9 <sup>th</sup> Presidential election, 2 <sup>nd</sup> round | 3.4.1384        | 46 786 418             | 27 958 921             | 59.76    | 2   | 1                      | 1                               |

**Statistical information on first round of election of Islamic Council in term of Ostan/provinces**

| Row | Name of Ostan             | The qualified persons for voting | Cast votes | Per cent of participation |
|-----|---------------------------|----------------------------------|------------|---------------------------|
| 1   | East Azerbaijan           | 2 185 401                        | 1 441 961  | 65.98                     |
| 2   | West Azerbaijan           | 1 472 939                        | 1 065 570  | 72.34                     |
| 3   | Ardebil                   | 696 138                          | 516 548    | 74.20                     |
| 4   | Isfahan                   | 2 609 347                        | 1 411 937  | 54.11                     |
| 5   | Ilam                      | 269 025                          | 250 972    | 93.29                     |
| 6   | Boushehr                  | 442 110                          | 323 420    | 73.15                     |
| 7   | Tehran                    | 7 033 815                        | 2 744 999  | 39.03                     |
| 8   | Chahar Mahl and Bakhtiari | 432 470                          | 383 912    | 88.77                     |
| 9   | Khorassan                 | 3 699 378                        | 2 487 204  | 67.23                     |
| 10  | Khozestan                 | 2 019 005                        | 1 346 222  | 66.68                     |
| 11  | Zanjan                    | 568 447                          | 400 815    | 70.51                     |
| 12  | Semnan                    | 330 200                          | 237 795    | 72.02                     |
| 13  | Sistan and                | 660 512                          | 566 853    | 85.82                     |

| <i>Row</i>      | <i>Name of Ostan</i> | <i>The qualified persons for voting</i> | <i>Cast votes</i> | <i>Per cent of participation</i> |
|-----------------|----------------------|---|-------------------|----------------------------------|
| Baluchistan     |                      |   |                   |                                  |
| 14              | Fars                 | 2 320 620                               | 1 589 431         | 68.49                            |
| 15              | Ghazvin              | 592 633                                 | 444 380           | 74.98                            |
| 16              | Ghom                 | 506 597                                 | 253 568           | 50.05                            |
| 17              | Kurdistan            | 653 848                                 | 570 253           | 87.21                            |
| 18              | Kerman               | 1 062 793                               | 854 255           | 80.38                            |
| 19              | Kermanshah           | 1 053 301                               | 793 816           | 75.36                            |
| Kuhkillaueh and |                      |   |                   |                                  |
| 20              | Bouyer Ahmad         | 267 999                                 | 267 979           | 99.99                            |
| 21              | Gulistan             | 869 613                                 | 679 540           | 78.14                            |
| 22              | Gilan                | 1 560 607                               | 1 132 476         | 72.53                            |
| 23              | Lurestan             | 891 393                                 | 695 170           | 77.99                            |
| 24              | Mazandaran           | 1 739 635                               | 1 309 072         | 75.25                            |
| 25              | Markazi              | 768 583                                 | 497 235           | 64.70                            |
| 26              | Hormozgan            | 513 678                                 | 409 284           | 79.68                            |
| 27              | Hamadan              | 1 047 568                               | 682 987           | 65.20                            |
| 28              | Yazd                 | 472 327                                 | 311 085           | 65.86                            |
| <b>Total</b>    |                      | <b>36 739 982</b>                       | <b>23 668 739</b> | <b>64.42</b>                     |

**Statistical information on second round of election of Islamic Council in term of Ostan/provinces**

| <i>Row</i>      | <i>Name of Ostan</i> | <i>The qualified persons for voting</i> | <i>Cast votes</i> | <i>Per cent of participation</i> |
|-----------------|----------------------|---|-------------------|----------------------------------|
| 1               | East Azerbaijan      | 2 312 600                               | 1 096 871         | 47.43                            |
| 2               | West Azerbaijan      | 1 576 620                               | 977 123           | 61.98                            |
| 3               | Ardebil              | 682 558                                 | 445 475           | 65.27                            |
| 4               | Isfahan              | 2 792 088                               | 970 776           | 34.77                            |
| 5               | Iilam                | 350 015                                 | 255 822           | 73.09                            |
| 6               | Boushehr             | 524 266                                 | 288 327           | 55                               |
| 7               | Tehran               | 7 840 698                               | 1 871 867         | 23.87                            |
| Chahar Mahl and |                      |   |                   |                                  |
| 8               | Bakhtiari            | 529 625                                 | 341 544           | 64.49                            |
| 9               | Bhorassan            | 4 025 710                               | 2 201 208         | 54.68                            |
| 10              | Bhozestan            | 2 232 787                               | 1 292 652         | 57.89                            |
| 11              | Zanjan               | 554 802                                 | 353 494           | 63.72                            |
| 12              | Semnan               | 367 040                                 | 205 903           | 56.10                            |
| Sistan and      |                      |   |                   |                                  |
| 13              | Baluchistan          | 900 575                                 | 708 394           | 78.66                            |
| 14              | Fars                 | 2 460 000                               | 1 377 065         | 55.98                            |
| 15              | Ghazvin              | 718 800                                 | 395 758           | 55.06                            |
| 16              | Ghom                 | 548 136                                 | 169 678           | 30.96                            |
| 17              | Kurdistan            | 934 011                                 | 497 590           | 53.27                            |

| Row          | Name of Ostan                   | The qualified persons for voting | Cast votes        | Per cent of participation |
|--------------|---------------------------------|----------------------------------|-------------------|---------------------------|
| 18           | Kerman                          | 1 436 683                        | 829 731           | 57.75                     |
| 19           | Kermanshah                      | 1 234 000                        | 7 471 128         | 60.55                     |
| 20           | Kuhkillaueh and<br>Bouyer Ahmad | 343 653                          | 271 976           | 79.14                     |
| 21           | Gulistan                        | 902 150                          | 675 227           | 74.85                     |
| 22           | Gilan                           | 1 580 000                        | 1 043 116         | 66.02                     |
| 23           | Lurestan                        | 1 014 324                        | 560 761           | 55.28                     |
| 24           | Mazandaran                      | 1 599 154                        | 1 065 949         | 66.66                     |
| 25           | Markazi                         | 891 377                          | 374 083           | 41.97                     |
| 26           | Hormozgan                       | 612 636                          | 417 684           | 68.18                     |
| 27           | Hamadan                         | 1 037 475                        | 548 003           | 52.82                     |
| 28           | Yazd                            | 500 000                          | 252 693           | 50.54                     |
| <b>Total</b> |                                 | <b>40 501 783</b>                | <b>20 235 898</b> | <b>49.96</b>              |

### Participation of the women in Iran election

922. Islamic revolution with the vast participation of women became victorious. Though the women could not have meaningful presence, i.e. in the year of 1359/1980 only four women have been elected as the representative of the Islamic Consultative Assembly, but in the fifth course of the Islamic Consultative Assembly which was held in 1374/1995, 14 women were among those was elected for the Islamic Consultative Assembly representation, and Women participation in the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> courses of the election of the Islamic Consultative Assembly was indication of the activity of 4, 3, and 9 women in the Islamic Consultative Assembly.

923. In the 3 courses of elections of the Islamic Consultative Assembly, only the representatives of Tehran were winner and could find there way to the Islamic Consultative Assembly But in the 4<sup>th</sup> course for the first time there were also women from other cities that won the election and could get some seats in the Islamic Consultative Assembly. In the 5<sup>th</sup> course 7 from 14 female representatives of Islamic Consultative Assembly that won the election and got their way to the Islamic Consultative Assembly were from the Ostans/provinces (two representatives from Isfahan, two representatives from Mash`had, one representative from Mallayer, one representative from Hamadan, and one representative from Urumieh).

924. In the recent course there were 502 women who run for the victory in the election among which 70 per cent were from cities other than Tehran, and 30 per cent of remaining were from Tehran. In this course the women of Ghom with 16.7 per cent have had the highest rate of participation in the Islamic Consultative Assembly's election. On the other side the province of Iilam was the sole province the any woman was not candidate for the Islamic Consultative Assembly election.

925. While the rate of participation in election is still very low, i.e. 7.3 per cent of all candidates in recent election were women, but this participation rate is two time of the rate of participation of women in the year of 1375/1996. The trend of women participation in the election of Islamic councils will paved the way for better and higher participation of them in election in the future.

## XXVII. Article 26

926. In the constitution there are several articles that are on the equal rights of the men and women from the legislator's viewpoint. In these articles legislators have brought the word "anyone" and there is no any distinction between the persons from the gender and ethnical belonging, religion, nationality, or race, points of view.

927. In the third article of the constitution we read: "In order to attain the objectives specified in Article 2, the government of the Islamic Republic of Iran has the duty of directing all its resources to the mentioned cases ...:

(a) Paragraph 6: the elimination of all forms of despotism and autocracy and all attempts to monopolize power ...;

(b) Paragraph 9: the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all, in both the material and the intellectual spheres ...;

(c) Paragraph 14: securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law ....

928. The article 20 of the constitution also states:

"All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria."

929. And article 34 of the constitution says:

"It is the indisputable right of every citizen to seek justice by recourse to competent courts. All citizens have right of access to such courts, and no one can be barred from courts to which he has a legal right of recourse."

930. And article 35 of the constitution says:

"Both parties to a lawsuit have the right in all courts of law to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel."

931. And article of 37 of the same law says:

"Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court."

932. And article forty of the constitution says:

"No one is entitled to exercise his rights in a way injurious to others or detrimental to public interests."

933. And the article of 46 of the same law says:

"Everyone is the owner of the fruits of his legitimate business and labor, and no one may deprive another of the opportunity of business and work under the pretext of his right to ownership."

934. And the article of 56 of the constitution says:

"Absolute sovereignty over the world and man belongs to God, and it is He Who has made man master of his own social destiny. No one can deprive man of this divine right, nor subordinate it to the vested interests of a particular individual or group. The people are to exercise this divine right in the manner specified in the following articles."

935. In connection to the equality of the authorities with other citizen, the article 140 of the constitution says:

“Allegations of common crimes against the President, his deputies, and the Ministers will be investigated in common courts of justice with the knowledge of the Islamic Consultative Assembly.”

936. The article 141 also says:

“The President the deputies to the President Ministers and Government employees cannot hold more than one Government position, and it is forbidden for them to hold any kind of additional post in institutions of which all or a part of the capital belongs to the government or public institutions, to be a member of the Islamic Consultative Assembly, to practice the profession of attorney or legal adviser, or to hold the post of president managing director, or membership of the board of directors of any kind of private company, with the exception of cooperative companies affiliated to the government departments and institutions. Teaching positions in universities and research institutions are exempted from this rule.”

937. And the last line of the article 109 about the position of leadership says:

“In case of multiplicity of persons fulfilling the above qualifications and conditions, the person possessing the better jurisprudential and political perspicacity will be given preference.”

938. Article 142 of the constitution also says:

“The assets of the Leader, the President, the deputies to the President, and Ministers, as well as those of their spouses and offspring, are to be examined before and after their term of office by the head of the judicial power, in order to ensure they have not increased in a fashion contrary to law.”

### **Ordinary laws**

939. It should be mentioned that according to the regulation of Code of Civil Procedure, and Code of Criminal Procedure, there is no any distinction between Iranian and non Iranian and discriminatory tone is prevalent in both laws since this subject has been very clear to the legislator and there is no any where in the law that legislature refer to a specific individual and for example has referred to private complaint or private claimer or for example in article 9 of the Code of Criminal Procedure it is referred to the person that is inflicted from a crime and undertook loss and damage. This person could be from any nationality with any religion or color and from any race. There is only one exception for non Iranian and it refer to the case that such person want to resort to an Iranian court in order to lodge a complaint. In this case for accepting the petition of non Iranian subjects the judge is obliged to obtain of guarantee.

940. Article 144 of code of civil procedure says:

“The foreign citizen that either want to pursue a case as principal or the want to enter in a case as third party, according to the demand of the respondent has to deposit proper guarantee for securing the payment of possible loss and damage that should pay as the cost of proceedings or advocate fees. Demand for obtaining the guarantee will be accepted from the Iranian party to the case and it should be deposited till the end of first session of proceeding.”

941. Of course, if the government of Iran has signed treaty regarding the legal aid and in these sort of treaties it be mentioned that either party do not ask for such guarantee from the

nationals of each other, the judges of the courts are obliged to accept the petition of the foreign national without asking the guarantee.

942. Besides, asking the guarantee will take place under special condition that is why the article 145 of the Code of Civil Procedure says:

“In following cases the foreign nationals are exempted of giving guarantee:

In its country the Iranian nations be exempted of giving such guarantee;

Claims regarding cheque and bill of payment;

Counter claim;

Claims that be documented by the official documents;

The claims that are lodged due to the official announcement such as claims on registration of the property and claims against the bankrupt.”

943. Article 7 of the Civil Code, in order to safeguard the rights of foreigners says:

“Foreign nationals resident territory shall within the limits laid down by treaties, be bound by the laws and decrees of the Government to which they are subject in questions relating to their personal status and capacity. And similarly in questions relating to rights of inheritance.”

944. In all courts and the offices of the prosecutors and other judicial authorities and the Inspection organization, all claim and complains will classify in term of subject and monthly statistics as well as annual statistics of these bodies and authorities will collect and there is no any registration on bases of ethnical groups, gender, religion or race and ... will not prepared.

945. All related collecting Rulings that are presented has been on the memory of the personnel and judges and are gathered (through several communication) in random manner. In any case all Iranian and foreign nationals with any religion, ethnical identity, gender and with any tendency have the possibility to refer and lodge a complaint, and without attention to the mentioned peculiarities, their problems will be considered.

946. In the Islamic Republic of Iran there is no any action or crime under the title of discrimination and this sort of things are not defined by the legislator. Therefore no claim under this title will be examined unless to be registered under another title. Due to this reason computation of such files is impossible and consequently there would be no registration under such category but it is possible to present the Rulings that are considered and issued without any discrimination. In the meanwhile if there be any case of breaching the rights of any individual there is always the possibility of lodging the complaint in the upper courts. For example one can refer to the laws and procedures regarding consideration of the government employees' offences under which if there be any discrimination against any of the government employee the case will be examined.

### **The law concerning administrative offences ratified on 7.9.1372**

947. Article 8 of The law concerning administrative offences says:

Paragraph 7 of article 8: discrimination showing partial views or unofficial relation in execution of the laws and regulation towards the persons.

948. Article 22: The high supervisory delegation headed by the secretary of the Administrative and Recruitment Organization of the Country and the membership of one representative of the judicial power, and three representative of the Ministers or representative of the highest ranking of the independent governmental organizations will be

established. This delegation will reconsider the Rulings issued by the elementary delegations or rehearing delegations and if it find out there has been any absence of diligence in their work, either will cancelled the issued Rulings or will dissolve the delegation and in case of occurring any of the following offences, it will reconsider the case and will take decision about it:

Paragraph a: Non applying the law concerning administrative offences and similar offences;

Paragraph b: Applying discrimination in execution of the law concerning administrative offences and offending similar regulations.

949. Article 46 of the by-law on examination of the administrative offences states: Breach or annulment of the final judgment of the delegations in following cases is assumable:

(a) ... and – Those cases that the high supervisory delegation believes that the law has not observed or there has been discrimination in applying the law or there has been confirmed criminal partiality through the competent judicial body regarding issuing the Ruling (Note 2 of the article 22 of the law concerning administrative offences) or other cases that the delegation necessitate it.

950. The guideline of The high supervisory delegation in article 5 state: secretary of The high supervisory delegation in case of non observation of The law concerning administrative offences and similar disciplinary regulations in organizations falling under the law concerning administrative offences, or applying discrimination in execution of the said law or related disciplinary regulations and making excuse in examination of the administrative offences or lack of observation in issuance of the Ruling, while will pursues the case will have legal encounter with the offenders, and will prepare the reports on what has happened and will submit to the high supervisory delegation for further examination. (There are some samples of the Rulings issued by the delegation of offences in judicial power regarding application of discrimination that we are searching and collecting them).

951. In any case in the courts, the judges are in a position in order to refer to the convention but since this action has not defined as a crime yet, and non of laws is applicable to it, relying on this case would not bear any fruit and has no any application regarding defining the punishment and penalty, but by noting the availability of the law of civil responsibility, already any kind of inflicting the material loss and damage is subject to the consideration and legal proceeding.

952. The judges are not sole person that do not refer to the Convention on the Elimination of All Forms of Discrimination against Women, The advocates and other people also do not refer to the Convention on the Elimination of All Forms of Discrimination against Women. Of course one reason could be non awareness or lack of education of the people.

953. The deputy of the judicial power for education from many years ago has begun to educate the people through holding seminars, workshops, publishing leaflets and preparing the educational programs in the voice and vision and even world network of Jam-i Jam.

954. In direction of rendering this paragraph of the convention this office has had a meeting with the judicial authorities of the Ostans in which the minorities are settled down, in order to counter any discrimination among the ethnical, racial, religious and .... In the meeting the necessity of receiving the different approaches for considering this problem was raised. In this meeting also the detail of the convention and its importance and non discriminatory operation of the courts was discussed.

955. Noting the lack of the registration of any claim and complaint under the title of discrimination, up to now any Ruling or precedent that in courts could be invoke for

proscription of discrimination, is not seen. It is necessary to mention that in most courts registration of the case is done in handwriting manner and therefore the subject is not easily researchable but two judgment related to the discussion of provoking disunion among the ethnical minorities is presentable:

- Verdicts related to the Shams publication of Tabriz (please refer to the sub appendix of 136)
- Indictment and opinion of the jury and the issued verdict on Iran newspaper (please refer to the sub appendix No. 137)

956. Regarding the Administrative Justice Court' s precedent that its description is brought in the preliminary report, so far there any claim that in which the case of discrimination has been raised, is not seen. But there are some verdicts that are issued by the Administrative Justice Court that in them the case of discrimination is noted, including following cases. (It is necessary to be mentioned that the verdicts of the full bench are assumed as law).

- Verdict related to the demand for annulment of the first part of the article 18, and ... By-law regarding the law on urban lands approved by the council of ministers. (Please refer to the sub appendix No. 140).
- Verdict related to the approval of the high council of social security (dated 4.8.159/26.8.1980). (Please refer to the sub appendix No. 141).
- Verdict related to the obligation of the general director of housing and urbanization of Bakhtaran Province on selling and transferring of the organizational houses. (Please refer to the sub appendix No. 142).
- Verdict related to the annulment of decision taken on 15.6.1362/6.9.1983 by the Regional Organization of Health in Ostan/province of Gilan. (Please refer to the sub appendix N. 143).
- Verdict related to the improvement of the payment procedure of extra salary due working out of center and harsh weather condition and hardship of living to the judges of Mehriz. (Please refer to the sub appendix No. 144).
- Verdict related to the annulment of the paragraph t section 7 of article 5 of the by-law concerning the joint recruitment in banks (Please refer to the sub appendix No. 145).
- Verdict related to the annulment of the circulation No. 113, a d dated 20.12.1365/10.3.1987, of the Ministry of Education and Training. (Please refer to the sub appendix No. 146).
- Verdict related to the annulment of paragraph 3 of the circulation No. 47, 710 dated 6.4.1368/27.6.1989, of the Ministry of Education and Training. (Please refer to the sub appendix No. 147).
- Verdict related to the annulment of guideline No. 88 NA 13370 dated 17.5.1365/8.8.1986 Central Bank of Iran (Please refer to the sub appendix No. 148).
- Verdict related to the annulment of the approvals No. 144594 T 112 dated 25.12.1366/15.3.1988, of the Council of the Minister, and No. 1242 dated 20.1.1369/9.4.1990 of the Council of the Minister, and No. 96620 T dated 12.11.1367/1.2.1989, of the Council of the Minister, and No. 29710 T 377 dated 14.2.1373/4.5.1994, (Please refer to the sub appendix No. 149).

- Verdict related to the annulment of the circulation of the Organization of Social Security on getting benefit from the unemployment insurance. (Please refer to the sub appendix No. 150).
- Verdict related to the annulment of the paragraph j of article 11 of the circulation N. 12 dated 20.10.1377/10.1.1999, of the Organization of Social Security regarding legal limit of the years of the rendering services by the official staff of the government. (Please refer to the sub appendix No. 151).
- Annulment of the circulations No. 196 dated 9.9.1359/30.11.1980, and No. 74130/4 dated 29.1.1359/18.4.1980 of the Ministry of Education and Training. (Please refer to the sub appendix N. 152).
- Annulment of decision taken by the Commission of the article 64 of the direct taxes regarding the method of valuation of the water irrigating lands. (Please refer to the sub appendix N. 153).

957. In the High Court of Cassation there are two kind of judicial precedents that are referring to the discriminatory proceeding on two criminal cases: (Verdicts of unity of precedent of the High Court of Cassation are treated as law and are binding).

- Verdict of the unity of precedent No. 549 dated 21.12.1369/11.3.1991, regarding the conflict in examination of one sort of crime in different courts (Please refer to the appendix No. 138).
- Verdict of the unity of precedent No. 43 dated 10.8.1351/1.11.1972, regarding conflict in two different verdicts issued by two branches of the High Court. (Please refer to the sub appendix No. 139).

958. Inspection Organization of the Country, as it is mentioned in detail in preliminary report, in all provinces has its branches which will consider complains received from the citizen on the government's departments. Collected precedents of the reports dispatched by these branches in two different parts can be presented:

(a) Reports of Inspection Organization of the Country on examination of the cases that are resulted from the non discriminatory approaches toward the complains of the people from ethnical or religious minorities in the provinces that these minorities are settled down, which are mentioned in appendix No. 68;

(b) Reports of Inspection Organization of the Country on examination of the cases that are indicating non discriminatory approaches toward the complains of the people from ethnical or religious minorities which are mentioned in appendix No. 69.

959. In year of 1384/2005, it was also some meetings, visits and inspection done by the judicial body of the province of Tehran for the safeguarding of citizen rights which bear very good results. If you are willing to know about these activities please refer to the sup appendix No. 154.

960. In the sub appendix No. 155 you can read the results of one of these visits. Judicial organization is researching and considering a scheme for editing the bill of citizen rights. (It is good to be mentioned that this bill initially was proposed and edited in the government, but the legal and judicial development deputy of Judicial Power noting the several existing problems).

961. In this research it is referred to several cases, as they are mentioned bellow, regarding discrimination that are supposed to be submitted to the legislation authority.

962. Any individual in full equality be entitled to want that his/her rights and freedom regardless the ethnical origin and lineage and other factor of discrimination such as race,

gender, color, an so an, to be recognized. Any exception or preference that may jeopardize this right will cause the situation of discrimination.

963. Those cases that are explicitly are in the law for special support and protection of specific groups of people and mainly are brought in the laws for alleviation of the inequalities in the past are not treated as discrimination.

964. Nobody can:

(a) Disseminate an opinion, a logo, a symbol among the all population that be indicative of a discrimination;

(b) To reject on discrimination concluding a legal action that its aim is the properties or services that normally should be bestowed to the public;

(c) To insert a clause in a legal action that its contents be discriminatory;

(d) To bar others to enjoy from a social services on discrimination or allocate the to himself/herself;

(e) In recruitment and employment to commit the mode of discrimination.

965. Discrimination, exception and preferences cases are justifiable if they should be based on merit or necessary qualifications for occupying a job or cases based on philanthropy manner or educational aspect of a non profiting institute that is solely allocated for the welfare of a particular group.

966. In order to make this rights enforceable and to put social justice and elimination of the work at disposal of the public, it is planned that a commission for elimination of discrimination to be set up. This commission would be comprised from the representatives of three power, minorities, and the women, and by finding any discrimination will recommend an elimination program to the government and in case of carelessness of the government regarding the said proposal, the commission that enjoying the legal entity, and therefore is entitled to go to the court, will do so and the court will decide about the raised subject. Moreover, the government can, in defined respites, asks from its institutes and societies, to represent a program for eliminating the inequalities.

967. In the Islamic Republic of Iran besides the official minorities that are mentioned in the constitution, other unofficial minorities are also enjoying from the freedom of activities and even at the time of examination of their legal affair the judges do respect to their personal status and are authorized to do them in the court. For example one can refer to the observation of the personal status of the Sabian of Mandan. (Please refer to the sub appendix No. 156).

968. As a sample, the collected documents indicate that consideration of the complains of the ethnical and religious minorities in the provinces pointing by the commission supervising the convention such as Kurdistan and Sistan and Baluchestan, has been rendered without any discrimination.(Please refer to the sub appendix No. 157).

969. Another evidence denoting lack of discrimination in Judicial system and is presentable, is the establishment of council for problem solving councils specially for the religious minorities and appointment of one person from that minorities for working in the said councils, including the special councils for Zoroastrian, Assyrians, Armenian, Sabian of Mandan. (Please refer to the sub appendices Nos. 158, 159, 160, 161).

970. If there be needed that the word of “discrimination” in the existing law be subject to the reference, one can refer to the following cases as examples.

## Law concerning the fourth development plan and other laws

971. Article 101: The government has duty to prepare the plan regarding development of proper work, as new dialogue in the field of supplying the work and development based on “three party inclination” which bear greatness of soul, equal opportunity, freedom and security of the work, with the necessary safeguarding and be containing of following axis, and till the end of the first year of the fourth economic, social, and cultural plan of the Islamic Republic of Iran present to the Islamic Consultative Assembly.

972. Paragraph z of article 101: amendment of the law and regulation in direction of compatibility of the national laws and regulation with the consular and international standard and conventions, World developments of work/labor, and elimination of discrimination in all social fields in particular in the fields of labor relation and employment. (It is suggested that page 10 (of part b) of the draft of 18<sup>th</sup> national report in this part to be amended).

973. Article 130, Judicial Power is obliged to prepare the following bills and to submit to the competent authority for the ratification:

(a) The bill concerning the crime cleansing from the criminal laws in order to prevent from the mal-effect resulting the crime supposition of not very important offences, reduction of the costs of the system of Justice and prevention of unlimited extension of the realm of penal law and spoiling the public rights and freedoms;

(b) To prepare and present the bill “substituting the imprisonment punishment” in order to prevent of the new methods of improvement and training of the culprits in the society and also creating more balance between the crime and punishment and the character of the culprit;

(c) The bill of “Protection of the rights of witnesses and accused persons”;

(d) The bill of “Protection from the social inflicted persons from the crime”;

(e) The bill of “Protection and promotion of citizen rights and protection of the private limits/Harim of the individual in direction of the article 20 of constitution”. (For further information regarding this bill please refer to the previous pages);

(f) The bill of “Defining the political crime and separation of this kind crime from other crimes”;

(g) To act on following cases:

1. Setting up the rapid, precise, equally achievable, cheap, legally foreseeable, fair and decisive judicial system.
2. Elimination of any sort of ethnic and grouping discrimination in the legal and judicial realm.

974. Article 7 of the law of the government punishment ratified in 1367/1988: Hiding and refusal if the supplying the goods is refusing to supply the goods that have official rate with the intention of selling at the higher rate or discrimination in selling. (That is subject to the punishment).

975. Paragraph 14 of Note c (annexed in 1368/1989) of the by-law of law of the government punishment: Creation of discontent among the people and applying discrimination in supplying the bread. (That is subject to the punishment).

976. Part 5 of variant (z) of note c of the above mentioned law (annexed in 1368/1989): applying any discrimination and any sort of misuse in distribution of yeast-Sodium

bicarbonate, fuel, or the portion of commodities of the bakeries and units of wheat, flour, and the bread. (That is subject to the punishment).

977. By-law of selling meat ratified in 1320/1941 by the Ministry of interior and the Ministry of Justice:

Article 40: the sellers are obliged to act toward the customers with etiquette and good temper and restrain from discrimination among them and give the bread to the children and women sooner that what should be.

978. Bakery code ratified in 1314/1935 by the Ministry of Interior and Ministry of Justice:

Article 28: Baker and the staff of the bakery are obliged to act toward the customers with etiquette and good temper and restrain from discrimination among them and give the bread to the children and women sooner that what should be.

979. Labor law (ratified in 1369/1990) – article 38: Discrimination in determining the wage based on age, gender, ethnic group and religious and political convictions if prohibited.

980. The by-law of organization of prisons and securing and training action of the country ratified on 26.4.1380/17.7.2001, by the esteemed Head of Justice Power:

Article 70: Daily program of the prisons and detention houses must be carried out to all prisoners in equal and non discriminatory manner.

Article 93: Cleaning of the kitchen, food serving hall and washing and drying the vessels and their outfits without any exception and discrimination according to the program of the prison is at charge of all prisoners.

Article 140: Rendering the services affairs inside the cells and advice places and industrial, service, agricultural institutions, and workshops would be done by the all prisoners by turn and without discrimination.

981. But other laws in relation with other organizations and in them the question of discrimination is involved, and could be propounded to the supervisory committee of the convention are as follow.

982. Decree of the Leader regarding establishment of the headquarter for fight against economic and financial corruption and preparation of the project for fight against corruption 10.21380/30.4.2001:

Paragraph 7: any discrimination in fight against corruption there should be not seen. Nobody and no organization or institution should not be excluded. Nobody and no organization can not by excused of being attributed to me or to any other authorities of the country, and should not be exempted from auditing. Encounter with the corruption at all places and location should be done in equal manner.

983. Article 5 of the law concerning the cooperative companies ratified in 1350 with its subsequent amendments also says: There would be no any discrimination or limits for the membership in the cooperative company unless due to the technical inefficiency and insufficiency of the installations and tools and means and possibilities of the company provided has been noted in its charter.

984. Decree on the policy of the electronic trade in the Islamic Republic of Iran approved on 29.2.1381/19.5.2002, by the council of the minister, in its subdivision 4 of paragraph 2 is pointing out to the elimination of any discriminatory restriction in electronic trade.

985. The law concerning organization, duties, and elections of Islamic Council of the country and election of the mayors ratified in 1375/1996, in its article 1 (amended in

1382/2003) is saying of the proscription of discrimination on attracting cooperation in order to prepare development plant in all provinces and the article 78 bis (annexed on 6.7.1382/28.9.2003) is also in regard of elimination of discrimination and just distribution of the possibilities.

986. Article 5 of the policies of the occupation of the women in the Islamic Republic of Iran ratified in 1377/1998 is saying:

Noting the role of women in social advancement and economic development as the half of the population, necessary facilities should be prepared by the executives bodies for the employment of the women and proper planning would be done in term of their priority and moreover extraordinary law and possibilities for the employment of the women up to place that it needed in lines a and b of other occupations should be anticipated and on line c, women same as men be able to get , without discrimination, to get their favorable job.

(a) The jobs that working in them is favorable from the religious law maker, *Sha`re*, such as midwifery, physician, and teaching;

(b) The jobs that are proper for women from the spirit and bodily point of view, such as laboratory science, electronic engineering, pharmaceutical, aid working, and interpretation;

(c) The jobs that in them there is no any advantage for either women or men or their selection is a natural choice and its criteria is experiences and not the gender (simple worker in other range of technical or service).

987. The regulation of the social and cultural councils approved in cession 400, dated 17.4.1376 of sub committee of the council of the cultural revolution in paragraph 2 states: preparation and proposing necessary policies in order to know the positive peculiarities of the tribes and fight against weakening of it, and also root finding and encountering with the vice manifestation of alien culture and moral divagation and also to cleanse the remained petrified insights that in the name of religion is in the society and the traces of oppression and discrimination that is imposed to the society of women in the Toghoot regime.

988. Law concerning examination of administrative offences ratified on 7.9.1372/28.11.1993:

Paragraph 7 of article 8: discrimination showing partial views or unofficial relation in execution of the laws and regulation towards the persons;

Article 22: The high supervisory Board headed by the secretary of the Administrative and Recruitment Organization of the Country and the membership of one representative of the judicial power, and three representative of the Ministers or representative of the highest ranking of the independent governmental organizations will be established. This delegation will reconsider the Rulings issued by the elementary delegations or rehearing delegations and if it find out there has been any absence of diligence in their work, either will cancelled the issued Rulings or will dissolve the delegation and in case of occurring any of the following offences, it will reconsider the case and will take decision about it:

Paragraph a: Non applying the law concerning administrative offences and similar offences;

Paragraph b: Applying discrimination in execution of the law concerning administrative offences and offending similar regulations.

989. Article 46 of the by-law on examination of the administrative offences states: Breach or annulment of the final judgment of the delegations in following cases is assumable:

(a) ... and – Those cases that the high supervisory delegation believes that the law has not observed or there has been discrimination in applying the law or there has been confirmed criminal partiality through the competent judicial body regarding issuing the Ruling (Note 2 of the article 22 of the law concerning administrative offences) or other cases that the delegation necessitate it.

990. The guideline of The high supervisory delegation in article 5 state: secretary of The high supervisory delegation in case of non observation of The law concerning administrative offences and similar disciplinary regulations in organizations falling under the law concerning administrative offences, or applying discrimination in execution of the said law or related disciplinary regulations and making excuse in examination of the administrative offences or lack of observation in issuance of the Ruling, while will pursues the case will have legal encounter with the offenders, and will prepare the reports on what has happened and will submit to the high supervisory delegation for further examination.

991. Law of Army ratified in 1366/1987:

Chapter ninth (personnel services affairs): article 173: Army and Ministry of Defense are obliged in the framework of the limits and possibilities and credit that according to the paragraph 1 article 43 is allocated in order to provide the basic necessities and welfare of the active, retired personnel and also those who benefit from the duty salary and pension and create the possibility of the enjoying of it in a just and without discrimination manner.

Paragraph 5 of article 116 (First chapter from fourth section) (fault and administrative offences and penalties): law of Ministry of Foreign Affairs ratified in 1352/1973 with its subsequent amendments: Applying discrimination in execution of the law and regulation toward colleagues and the referrals (Subject to punishment).

992. Article 8 law of goals and duties of the Ministry of Foreign Affairs:

(Education) article 66: giving enhancement and strengthening the spirit of accepting justice and to spread justice and fight against injustice and fight with the inadmissible discrimination and support of oppressed and those who are inflicted from injustice.

993. By-law on manner of the enacting and receipt of the duties by the Islamic Councils of the cities, district, and small town, subject of the law on organization, duties, and elections of the Islamic Councils of the country and election of the mayors approved in 1375/1996 (Approval of the council of ministers):

Article 14: The council are obliged when they decide about duties, besides paying attention to general policies which are foreseen in the five years plans and the laws of annual budgets, to have in mind the general policies of the government and observe them as follow:

Paragraph (a).

Paragraph (sh) non discriminatory elimination of the duties according to the third principal of the constitution.

994. Law of third development plan (1379):

Article 35: The government is obliged to annul those monopolies that are granted by the guidelines and regulations approved by itself and or are given by granting the allocation of the sources, within one year.

995. In assigning the work and government transaction through the government and public sectors there should be no discrimination between the governmental and public bodies and companies with the cooperative and private companies.

996. The government is also obliged within one year after the approval of the third development plan, to render the legal actions for annulment of monopoly and bar of the monopolistic activities. (It is suggested that paragraph 12 of part b of the draft of eighteenth national report to be amended).

997. Law of the charter of Islamic Conference year 1351/1972:

Preamble: ...

REAFFIRMING their commitment to the United Nations Charter and fundamental Human Rights, the purposes and principles of which provide the basis for fruitful cooperation among all people;

DETERMINED to consolidate the bonds of the prevailing brotherly and spiritual friendship among their people, and to protect their freedom, and the common legacy of their civilization restoring particularly on the principles of justice, tolerance and non-discrimination;

Article 2: The goals of the Islamic conference is as follow:

Paragraph 3 article 2: to endeavor to eliminate racial segregation, discrimination and to eradicate colonialism in all its forms.

998. Law of the charter of the Red Crescent Population of the Islamic Republic of Iran ratified in 1367/1988 with its subsequent amendment:

Article 2: The objectives of the Population are:

Effort for alleviation of human pains, securing respect of human and endeavor for creation of friendship and mutual understanding and stable peace among nations and also supporting the life and health of the individual without the consideration of any discrimination.

Article 4: In the war time and in armed conflicts and encounters, the Population and its emergency personnel according to the national and international regulation, and immune of any inhibition and aggression of the either party, have mission to aid the injured, inflicted harms, refugees, vagrants, captives, and to find those who are untraceable in impartial manner, and to present their humanistic aid to either party without discrimination and the antagonist parties are obliged to cooperate with the Population and its personnel.

999. Law concerning the execution of the article 48 of the constitution of the Islamic Republic of Iran:

Single article: the government is obliged up to two years after the ratification of this law and in order to execute the article forty eight (48) of the constitution of the Islamic Republic of Iran in order to:

Eliminate any kind of discrimination in utilization of different regions (Cities and provinces) from the natural sources and national capitals;

Preparation of the ground of all regions (Cities and provinces) appropriate to the talent, capability and by keeping the constructive rivalry;

Proper distribution of the economic activities in different regions of the country (Cities and provinces);

Better utilization from the potentialities and comparative advantages in direction of the regional and international role of the country;

Based on necessary studies and expertise consideration and by considering the volume of the invested capital in the previous years and by noting the indices of the development of the regions (Cities and provinces), scheme of testing the land (Proper distribution of the population and activities of the economic sectors in national space) should be prepared and the legal necessary actions for implementation of it from the beginning of the year of 1383/21 March 2004, should be rendered.

1000. Regulations concerning employment of labor, insurance and social security in the free trade and industrial zones of the Islamic Republic of Iran ratified on 19.2.1373/9.5.1994 by the Ministers member of high council of the free zones with its subsequent amendment:

Article 27: For equal work that is done in equal condition in one workplace, the wages of man and woman should be equal. Any discrimination in determining the wage on bases such age, gender, race, ethnicity, and religious and political believes is prohibited.

## **XXVIII. Article 27**

1001. Although in the constitution there is no name of verbal, ethnical and national minorities, but one can say that their existence is not denied but their existence is referred to implicitly, as it is done in article 15 and article 19 of the constitution such references is visible.

1002. The Constitution in relation to the indiscrimination based on language, race, and ethnicity and is emphasizing the equal enjoyment of all nations and races from the rights and freedoms.

1003. Article 19 of the constitution explicitly announces: "All people of Iran, whatever the ethnic group or tribe to which they belong, enjoy equal rights; color, race, language, and the like, do not bestow any privilege."

1004. Article 20 says:

"All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria."

1005. Therefore in none of the articles of the constitution or ordinary laws or regulation, for enjoyment of any right or occupying any profession, job, position, the privilege of belonging to any ethnical, racial, verbal minorities has not mentioned as a clause and or those who belong to such minorities are not deprived or barred from enjoyment of such rights.

1006. Of course regarding the recognition of individual's identity of those who belong to the ethnical, racial, and verbal minorities, although the constitution do not explicitly refer to these meaning but it foresee some regulations which are indicating that the constitution has not neglected safeguarding the rights of these minorities. For example article 51 of the constitution is saying: "The Official Language and script of Iran, the lingua franca of its people, is Persian. Official documents, correspondence, and texts, as well as text-books,

must be in this language and script. However, the use of regional and tribal languages in the press and mass media, as well as for teaching of their literature in schools, is allowed in addition to Persian.”

1007. What one understand from this article, is the fact that the followers of national groups and non Farsi speaking nationals (minority) not only free to speak their own language but are entitled to have publications in their own languages and can teach their language in school and by doing so preserve their own identity. Presently approximately 15 newspapers and magazines in Arabic, three newspaper in Azari, one in Kurdish, four newspaper in Armenian, and one newspaper in Ashourian is publishing and of course some publications have some pages in Armenian.

1008. The constitution in two cases has referred to the religious minorities, once in article 13 in which mentions that there only three official minority religions; Jewish, Christian, and Zoroastrian, and another time in article 67 where it refers to the performing oath by the representative of the Islamic Consultative Assembly in beginning of the term of representation where say the representatives of these minority can perform the oath by their own religious book. In article 41 it is mentioned that: “Iranian citizenship is the indisputable right of every Iranian, and the government cannot withdraw citizenship from any Iranian unless he himself requests it or acquires the citizenship of another country.”

1009. Article 14 of the constitution also says: “the government of the Islamic Republic of Iran and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their human rights ...”.

1010. By considering these articles, this picture from the constitution of the Islamic Republic of Iran comes to the minds that this law do recognize a range of fundamental rights such as equality in treatment of laws, safeguarding of the life, property, profession, house, freedom of opinion, choosing the job, enjoyment from the social security, legal action, education and training, enjoyment from the just proceedings, having nationality, participation in affairs of the country and so on for all nationals of Iran regardless their belonging to any ethnical, verbal, and religious groups so that all people without any discrimination can enjoy from these rights. But at the meanwhile, one should admit that there is some difficulties in both realization and full execution of this viewpoint of the constitution.

1011. Regarding the religious minority it can be said that according to the constitution besides the overall view based on equality and indiscrimination, legislator has paid attention to the existence and identity and their continuation too, and this is evident by noting the following evidence.

### **Freedom of practising the religious ceremonies**

1012. In article 13 of the constitution the freedom of performance of religious ceremonies is explicitly stated and actually believers of these three official religions enjoy from having several Churches, Fireplaces, and Synagogues in which they perform their religious ceremony, individually or commonly.

### **Observation of their religious regulations in their personal status**

1013. According the article 13 of the constitution regarding the followers of the three official religious minorities, these people in their personal status i. e. marriage, divorce, inheritance, and last testimony act according to their religious regulations and even there be

a claim or a question in Iranian courts, the judge will settle the case by applying the certain regulation of their religion.

1014. According to the article 26 of the constitution, the recognized religious minorities can constitute the association by observing the related criteria. In the law concerning the activities of parties ratified in 1360/1981, the establishment of the association of the religious minority is recognized and in article 4 of the said law it is mentioned that: "The society of religious minorities, subject to Article 13 of the Constitution, is an organization consisting of voluntary members of the same religious minority, whose aim is to solve the religious, cultural, social and welfare problems that are peculiar to that minority."

### **Having representative in the Islamic Consultative Assembly**

1015. In the constitution it is foreseen that the recognized minorities can have their representative in the Islamic Consultative Assembly and chose among the follower of their religion their representative and send him/her to the Islamic Consultative Assembly. According to the article 64: "The Zoroastrians and Jews will each elect one representative; Assyrian and Chaldean Christians will jointly elect one representative; and Armenian Christians in the north and those in the south of the country will each elect one representative."

1016. Besides of these three official religious minorities as it was said we can say that the constitution's views in the field of indiscriminately attitude (by considering the said reservations) and also in regard of safeguarding their identity and existence is positive and favorable. Other religious and creed tendency and the followers of these religions and creeds are citizen of Iran and are subject to the general laws and judgments of the government.

1017. Religious minorities according to the official laws and regulations of the country are enjoying from a series of rights and advantages that some of them are.

1018. Based on the constitution of the Islamic Republic of Iran recognized and official minorities can freely perform their religious ceremonies, and apply their own religion regulations in their personal status. Article 12 of the constitution says:

"The official religion of Iran is Islam and the Twelve Ja'fari school, and this principle will remain eternally immutable. Other Islamic schools are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status (marriage, divorce, inheritance, and wills) and related litigation in courts of law. In regions of the country where Muslims following any one of these schools constitute the majority, local regulations, within the bounds of the jurisdiction of local councils, are to be in accordance with the respective school, without infringing upon the rights of the followers of other schools."

1019. Article 13 also says:

"Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education."

1020. From the law viewpoint, there is a single article that on its base for non Shiite Iranian, in their personal status their own religious regulation is applicable. Title of this law is "Law concerning the observation of personal status of non Shiite Iranian ratified in 1312/1933". According to this law, in regard of personal status, inheritance rights, and last

testimony of non Shiite that their religion are recognized, courts must observe the certain and current regulations and habits in their religion, save those cases that laws and regulations be on the public orders:

- In questions regarding marriage, divorce, the certain and current regulations and habits of the religion that the husband is following them
- In questions regarding the inheritance and last testimony, the certain and current regulations and habits in the religion of the deceased
- In question regarding the child adoption, the certain and current regulations and habits of the religion that Godfather or Godmother is following it. (Please refer to the sub appendix Nos. 162, 163, 164)

### **Cultural and press activities of the religious minorities**

1021. Consolidation of the friendly humanistic relation and deepening understanding and national solidarity is the basic pivot that Iran toward the religious minorities applies. More than one hundred thousand Christian including Armenians, Assyrians, Chaldeans that follow different sects of Christianity such as Catholic, Orthodox, and Protestant are living in Iran. There are also 50 thousand Zoroastrian are living in Iran side by side of their other fellow country men.

1022. From other religious minority we can say around 25 thousand Jews are living in Iran that side by side of the other minorities are enjoying the social, cultural, political and economical rights.

1023. The Islamic Republic of Iran always has tried to create the proper ground for expansion of the participation and cooperation of the religious minorities in the fields of cultural, scientific, artistic, social and literary affairs. For doing so, the necessary grounds for blooming the abilities and innovation has prepared and their initiatives and invention is supported and in this direction projects for the establishment of the cultural, art associations has been carried out and promotion of the cultural and artistic production, and establishment of religious and historical units, libraries, sport clubs, and support of some cultural activities including holding the cultural and artistic exhibitions, book fair, festivals, and seminars, and competition has been done.

1024. In direction of the consolidation of the cultural relations of Muslims and Christian, and bridging between cultural and scientific personalities in connection with the religious minorities, more serious and effective steps has been taken since 1370/1991 that some of them are as follow: Holding 9 rounds of dialogues among religions with the topic of "Peace coexistence of Muslims", from which three rounds of it has been with Catholic Christian, two rounds with the Protestant and Orthodox Christians, one round with the Iranian Armenians under the title of "Peace coexistence of Muslims and Armenian Christian", three rounds of dialogues with the disciples of Orthodox Church on topic of "Peace and Justice from viewpoints of the learned Muslims and Christian", are among those cultural programs of the Islamic Republic of Iran that has fulfilled for more participating of Iranian Christian in cultural, artistic, and creation of sense of self-believing of them in direction of enhancement of bilateral cultural relations and consolidation of national solidarity has been done and this trend is continuing.

1025. From 284 churches allocated to the Christians in Iran, 61 churches belongs to the east Assyrian, 11 churches are belong to the Assyrian Protestant, 7 churches goes with the Chaldean Christian, 5 churches goes to Armenian Catholics, 12 churches are belong to the Evangelian Assyrian, 6 churches is allocated to the Adventists, 2 churches is for Farsi speaking Evangelian, One church is episcopate church, 6 churches are belong to the Divine

Community, 160 churches are belong to the Armenian, and 8 churches are for Evangelian Armenians.

1026. In direction of paying attention to the preservation of cultural heritage of the country during the recent years 140 churches are repaired and renovated. Also 27 churches are registered in the list of the national works and 21 churches are ready to be enlisted in the list of national works, and church Tavousi Moghadasi (Ghara Klisia) is nominated to be registered in the list of world heritage.

1027. More than 52 association, center, and cultural, social, artistic, educational organization are especially for Christian.

1028. Numerous publications including Alik, Apaga, Louis, Arax, Message of Assyrian, and Peyman that is published by the Christian associations in Iran.

1029. During the last nine years around 4 Social movies is produced and screened with the theme of Christianity with the collaboration of Muslims and Christian groups of film and art; from them "Kouche-i Baniz"/Baniz Alley, "Maryam-i Moghaddas"/Sacred Merry, "Pesar-i Maryam"/Son of Merry, and "Didar".

1030. 60 titles of books on Armenians, Armenian literature – Armenian Church, and in Farsi and Armenian, and bilingual Farsi and Armenian is published.

1031. Holding continuous sport competition among sport groups of Christian in different cities of Iran among which one can refer to the competition of "Jam-i Tamozi 5751".

1032. Fellow Zoroastrian country men that are settled down in five provinces of Tehran, Yazd, Kerman, Shiraz and Isfahan, have the right of participation in cultural, Social, and artistic activities, same as other Iranian.

1033. This religious sect is enjoying from 38 educational units, 40 cultural units, 40 religious and worshipping units, 9 health and remedial units, 7 libraries, 10 sport units, 36 units in forms of association, center, and organization in the capital of the Islamic Republic of Iran, and also 22 worshipping units, 6 units pilgrimage site, 4 unit sport clubs and art club in the cities of Shiraz, Kerman, and Yazd.

1034. In year of 1379/2000, besides the current active association, 8 more association is established.

1035. Up to year of 1381/2002, 2 publications, one printing house, and four newspapers were issued by the Zoroastrians, and up to the end of the year of 1380, 20. 3. 2002, over 87 titles of books is published. Here is some more activities done by the Zoroastrians minority in Iran: holding throughout festival of Zoroastrian theater, holding sixth World Congress of Zoroastrians in Tehran in 1379/1980, holding the session of Zoroastrian art of Iran for four days in Tehran in 1379/1980, holding the congress of the honoring three thousand of Zoroastrians culture in Tehran in 1382/2003, holding 6 sport competitions among which one competition was allocated to Zoroastrian's women.

1036. Iran Jews mostly are in Tehran, Shiraz, Isfahan, Rafsanjan, Kerman, Sanandaj, Hamadan, Kermanshah, and Yazd. They perform continuously their religious ceremonies in more than 76 synagogues.

1037. There is 19 Jewish association and foreign organization that are active in Tehran. There are nearly 13 active association in Shiraz, and several other associations in other cities of Iran.

1038. One of the Jews cultural-artistic activities in Iran during last 6 years has been holding the cultural-artistic festival in Iran. Association of Iran Jewish Publication also has publishing activity in Iran and the last book that is published by this entity is "Tahilim", that is Voice of David, which is translated to Farsi.

1039. Today there is very deep and firm relation between Jewish poets with Farsi literature of Iran so that the youth more and most of Muslim or Jewish participate in the nights of poem and present their composed poems.

1040. The presence of one Jewish fellow country man who is film producer is among the other film makers of Iran that his work is praised. His work is the result of cooperation of the Muslim with other religious minorities resident in Iran.

1041. 6 hal and restaurant is allocated to Jewish , 5 Cultural centers and sport clubs for Jewish youth, women, men and also welfare-social centers, and charity such as aged person house, sport club, hospital. Center for slaughtering the animal in consistence of the Jews religion, and are indicating that this religious minority is enjoying its social, cultural, political, and social rights.

### **Situation of the minorities and ethnical groups in the framework of laws**

1042. Based on current definition from the Convention, in the Islamic Republic of Iran, There has been not in any time discrimination under the title of "Ethnical discrimination", because ethnical groups such as Turk, Balouch, Arab, Turkmen, Gilak are present in all cities and towns and are spread in all countries and in non of the application form for recruitment or in any exams, test, or interview there is no any question in connection with its origin or his/her belonging to one of such groups and they are regardless of their ethnicity are working in different post and position of the government and most of them are working in very high level, while those who speak Farsi in some cities and provinces are in minority position.

1043. In the judicial system staff and high ranking judges are consisted from all ethnical groups and do their job in their posts and there is no any questions regarding their ethnicity and by this reason it is not possible to give any statistics about this matter.

1044. But regarding the recruitment of Judges the sole possibility id recruitment of Muslim judges. Presently there are 51 judges from Sunnite sect. Here is statistics regarding the list of staff in judicial system and its affiliated bodies.

#### **Statistics on the Sunnite staff in judicial system and its affiliated organization**

| <i>Row</i> | <i>Organization</i>                               | <i>Sunnite</i>  |
|------------|---|---|
| 1          | Judicial organization of armed forces             | 9 persons (Kurdistan, Kermanshah, Sistan and Baluchistan) |
| 2          | Organization of prisons                           | 267 men and 19 women                                      |
| 3          | Legal medicine organization                       | Muslims are not separated                                 |
| 4          | Organization of general inspection of the country | 3 persons   |
| 5          | Organization of registration of estate property   | 435 persons   |
| 6          | Judicial power                                    | Muslims are not separated                                 |

### Statistics of women that run offices like official interpreters, official experts, and legal advisers

#### (a) Muslim women

| Row | Field                 | Number |
|-----|-----------------------|--------|
| 1   | Legal advisers        | 3 240  |
| 2   | Official experts      | 2 168  |
| 3   | Official interpreters | 84     |

#### (b) Women belong to religious minorities

| Row | Field                 | Number       |
|-----|-----------------------|--------------|
| 1   | Legal advisers        | Is not known |
| 2   | Official experts      | Is not known |
| 3   | Official interpreters | 25           |

### Staff of the judicial system in Sistan and Baluchistan province

| Organizational position                       | Number of person |
|---|------------------|
| Women employees                               | 112              |
| Men employees                                 | 320              |
| Sunnite Women                                 | 6                |
| Sunnite Men                                   | 62               |
| Members of council of problem solving         | 4 977            |
| Sunnite members of council of problem solving | 3 235            |

### Staff of the judicial system in East Azerbaijan province

| Organizational position                   | Number of person |
|---|------------------|
| Administrative staff                      | 1 049            |
| Judicial staff                            | 320              |
| Farsi speaking administrative staff       | 13               |
| Farsi speaking judicial staff             | 29               |
| Kurdish administrative and judicial staff | 10               |

### Equal question of the mulct of Muslim and religious minorities

1045. Regarding the equal mulct of the religious minorities and Muslims after the different discussion that held in the Legislative Power aiming the amendment of the law concerning the equal mulct of religious minority and Muslims, at last by annexing one note to the article 297 of the Islamic penal code and the approval of the Expediency Discernment Assembly, this problem was solved in this manner:

“Based on the comment given by Vally-i Amr, Mulct, *Dyeh*, of the recognized religious Muslim by the constitution of the Islamic Republic of Iran is defined as the mulct of Muslims” In this connection the sample of the factual procedure of the public courts and revision courts is collected that is an indication of the equal mulct

of the religious minorities with Muslims and in these verdicts all condemned are the Muslims that are condemned to pay full mulct. (Please refer to the sub appendices Nos. 165, 166, and 167).

1046. Noting that according to the article 14 of the constitution of the Islamic Republic of Iran Jewish resident in Iran are recognized as the religious minorities and in their personal status and religious teaching are acting in conformity of their religion, circulation No. 12898/76/1 dated 30.11.1376/9.9.1997 asks from the judicial authorities and the organization of registration of estate properties that in cases regarding the Jews minority, after consultancy with the Jewish association to do necessary action/s.

1047. Circulation No. 18871/81/1 dated 17.10.1381, in regard of respecting equal rights of the citizen in front of law and respecting the rights of the minorities says:

By considering the article 12 to 14 of the Constitution and equality of all in front of the law and the lack of their privilege to each other, equal enjoyment of equal right necessitates that in examination of the judicial files, there be no difference between the parties of the case and without maintaining any preference to one party to other party of the case, both parties treated equal.

The judges will avoid from those thing that may bar them from performing their duties in best manner way. Moreover, they will avoid from to utter the insulting phrases or allusive and what may hurt the sensitivities and feelings of the addressers.

In cases like differences of the couples and or referring of different sets to the courts, the creed believes and sect and creed tendencies of the referrals must not be subject to the despising and mockery.

1048. When and where the witness has not the prescribed conditions by law or due to the religious law, its witness be not hearable or be ineffective the matter should not be rejected in a way that to have outside of the court unfavorable reflection, or the court contrary to the content of the article 239 of the procedure [The public and revolution courts] intervene in civil cases.

1049. The judicial body in any point of the country, through impartial examination (and far from bias and effectual factors) of the litigations and propounded differences and issuance of the sedate and justified Rulings on them, and administering justice of the oppressed and injured persons can give glad tidings for unity and be enforcing entity of the Islamic justice, and by doing so to prevent the emerging the thing that causes pessimism and possible tension and give confidence to the dwellers of the region that there are learned, impartial and aware judges and prosecutors that far from the ethnic differences or indifference to their cultural and thoughtful differential will decide in benefit of all.

1050. And the securing and training actions of the country (ratified in 1380) says: "At the time of admission of a prisoner official religion of him. He/she will be noted in the questionnaire form till with the aid the ministry of culture and Islamic guidance through the authorities of the related prison will provide the mean and necessary facilities for performance of the prisoner's religious ceremony in direction of strengthening and consolidation of the religious foundation of the prisoners."

1051. Article 144 of the same by-law is saying:

"Every prisoner that follows one of the recognized religion of the country can have one volume of his/her heavenly books, Pray book, prayer carpet in the public or individual rest house for praying and performing his/her religious ceremonies."

1052. And article 145 of the same law says:

“Every prisoner that follows one of the recognized religion of the country if it be necessary can ask, with the consent and approval of the chief of the prison, his/her religious representative to come to the prison and guide him/her in performing religious rites.”

1053. Circulation No. 1/76/5604 dated 14.5.1376/4.7.1997, by mentioning the duties of judges regarding safeguarding the rights of the people, is saying that: “Equality of all people in front of law and negation of any discrimination and respecting the rights of the recognized religious minorities will be considered and no personal, grouping taste clause, whatsoever, and no political circumstances will not negate the enforcement of justice and observation of the rights and lawful freedom of the people, and nobody can prosecuted fore to be recognized as guilty by the competent court and solely based on his belief and convictions.”

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