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Report of the Working Group on the Universal Periodic Review*

Islamic Republic of Iran

Addendum

**Views on conclusions and/or recommendations, voluntary
commitments and replies presented by the State under
review**

* The present document was not edited before being sent to the United Nations translation services.

1. The Government of the Islamic Republic of Iran reviewed all the recommendations made during the Seventh Session of the UPR Working Group on 15 February 2010 as contained in document A/HRC/WG.6/7/L.X. From the total of 188 recommendations, 123 were accepted in the Working Group's session and 45 recommendations did not enjoy the support of the Islamic Republic of Iran. The Islamic Republic of Iran decided to state its position vis a vis 20 remaining recommendations in the 14th Session of the Human Rights Council. The position of the Islamic Republic of Iran with regard to the rejected and pending recommendations is as follows:

I. Position of the Islamic Republic of Iran on 20 pending recommendations

A. Recommendations those are partly acceptable:

2. **Recommendations 6 and 7:** The Islamic Republic of Iran has a very progressive attitude toward women and has also taken practical and effective measures, which are fully presented in our national report. Islamic Republic of Iran follows a continuous policy of guarantying the rights of women in legislation and practice and promoting the principle of non- discrimination.

3. **Recommendation 19:** The Constitution and the ordinary laws of the country guarantee citizens' rights of all nationals of Iran regardless of their religious affiliations. The government is making all its efforts to this end. Elimination of discrimination is a firm policy of the Islamic Republic of Iran and therefore the discrimination stated in the recommendation is not a factual judgment.

B. Recommendations which do not enjoy the support of the Islamic Republic of Iran:

4. **Recommendation 20:** this recommendation contains non- factual assumptions and prejudgments and therefore could not enjoy the support of the Islamic Republic of Iran.

C. The recommendations that the Islamic Republic of Iran takes note of:

5. **Recommendations 3 to 5:** The Special Rapporteurs mentioned in the three above recommendations, have visited Iran on previous occasions and presented their reports. The government will continue its constructive cooperation with the Rapporteurs in line with its human rights promotional programmes. In this regard, Iran welcomes visits by the Rapporteurs in due course of the time.

6. **Recommendations 1, 8, 9:** Accession to the international conventions including the International Convention against Torture, entails certain legal processes. The Parliament constantly reviews and evaluates accession to international conventions as well as amendments to previous reservations, in light of the internal circumstances and laws. Therefore, the government is not in a position to make any prejudgment and predictions concerning the outcome of debates by the Parliament. Meanwhile it is noteworthy that Islam is against all forms of torture and the Iran's constitution forbids it in the strongest terms. Moreover, the concept and meaning of capital punishment is different from what *Sharia* intends in applying *Qisas*. *Qisas* is in the domain of private law (civil matter), while execution comes from the power of the state in public law.

Recommendations 2, 10, 11, 12, 13, 14, 15, 16, 17, and 18:

7. The Government has enforced and implemented its domestic laws and regulations according to its international obligations. With respect to death penalty, Iran fully observes the content of Article 6 of ICCPR and exercises its reservation right in accordance with Article 37 of CRC relating to the age of criminal responsibility which emanates from principles of *Sharia* and the laws of the country.

8. The Judiciary does its utmost to solve the issues relating to offences committed by the offenders under age of 18 through converting Qisas into financial punishment.

II. Position of the Islamic Republic of Iran on those recommendations which it didn't support during 7th UPR Session

9. **Recommendation 1:** Accession to the International Conventions requires going through certain legal formalities and processes. In fact, this issue is a legislative process and the government is not in a position to make any prejudgment and predictions concerning the outcome of debates by the Parliament on accession to the new treaties.

10. **Recommendation 13:** Article 19 of the Constitution stipulates that all people of Iran, whatever the ethnic group or tribe they belong to, enjoy equal rights. Color, race, language, and the like, do not bestow any privilege. Chapter 3 of the Constitution is dedicated to the rights of people. According to the articles under this chapter all citizens of the country, both men and women, regardless of ethnic and religious background, equally enjoy the protection of the law and enjoy all rights including political, economic, social, and cultural rights.

11. **Recommendations 14, 15, 38, 39, 40 and 41:** In the Constitution, like many other countries, a certain number of religions are recognized as official religions. Bahais, although not recognized as an official religion, enjoy all citizens' rights. It is noteworthy mentioning that the Bahaism is not recognized as a religion either by other Islamic countries or OIC because of the content of their cult, sectarian character and violations of human rights by their leaders. Bahais have their own cemeteries throughout the country and their dead are buried according to their own burial rites. Their enrolment in schools is done without any regard to their sectarian affiliation. They enjoy freedom of movement both inside and outside of the country, like other citizens and can obtain passport freely. In the economic areas, they enjoy relatively good situation and access to engage in various businesses and professions. There is also the possibility to continue their education in universities and many Bahais receive academic degrees every year. In Iran no person is prosecuted simply because of his/her faith.

12. **Recommendation 23, 25, 26, 37 and 45:** Torture is strongly prohibited by the Constitution and other laws of the Country. Torture is a punishable criminal offence and the perpetrator is severely punished. Article 38 of the Constitution prohibits torture and different provisions of the Islamic Penal Code of Iran clearly forbid torture and stipulate severe punishments for the perpetrators. Prison sentence, termination of employment in the government and compensation for damages and losses are envisaged. The Government deals with cases of torture seriously both in law and practice.

13. **Recommendation 29:** On the basis of article 24 of the Penal Procedure Code, 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 judge may issue an order requiring a kind of guarantee for the provisional release of the accused. If the offence is a felony or serious offence, the judge orders detention of the accused on remand.

14. Accordingly, to issue a ruling for remand detention in serious offences three judges review the case: inspector judge issuing the remand order, the prosecutor that agrees and the presiding judge reviewing the appeal.

15. **Recommendations 28, 42, 43, 44:** According to the International Covenant on Civil and Political Rights, freedom of expression is not an absolute right. In articles 24 and 27 of the Constitution, freedom of expression and assembly are guaranteed. Annually numerous political and trade unions assemblies and meetings are being held.

16. According to article 6 of the Law Concerning Activities of Political Parties, groups and societies and trade unions, permission from relevant authorities is required for assemblies and public meetings. Based on the same above-mentioned articles of the Constitution and article 6 of the Press Law, press and publications are free to express their opinions except when it is detrimental to the fundamental principles of Islam or the rights of the public. According to article 3 of the same law, the press has the right to express its views, criticisms, proposals and suggestions and views by the people and officials. Considering the fact that there is no purely political offence, individuals that have violated the law have been tried according to fair and due process and have been duly found guilty. In light of these circumstances, the request for the unconditional release contravenes the law.

17. **Recommendation 19:** the principled position of Iran on sexual orientation is crystal clear. The issue of same sex marriage is in full contradiction with domestic laws and regulations and Iran does consider it neither as legal issue nor as an issue of human rights.

18. **Recommendations 20 and 21:** Death sentences are only issued for the most serious crimes and none of the international instruments totally reject them and countries may choose to use capital punishment. Elimination of capital punishment emboldens the criminals and leads to repetition of crimes. Islamic countries believe that punishment of those found guilty will prevent repetition of commission of a grave and serious crime like murder. For issuing death sentence or *Qisas* for commission of a serious and grave crime, the judicial system in Iran exhaust all procedures and remedies available in the law. It goes through a long process in the lower, provincial and supreme courts and according to article 18 of the Penal Code the approval of the head of the Judiciary is required for the enforcement of death sentence ruling. According to the laws of Iran, punishment for intentional homicide is *Qisas*. The punishment of *Qisas* is only applied at the request of “owners of the blood” and can be commuted to financial penalty (blood money) at their request.

19. **Recommendation 22:** The term of “cruel punishment” is applicable to none of the punishments stipulated in the laws of the country.

20. **Recommendation 33:** Paragraph 1 of the article 2 of the Charter of the United Nations emphasizes on the sovereign equality of all Member States. In light of the above principle, any kind of intervention in domestic courts of any Member State of the United Nations is a clear breach of the undisputable and generally accepted principles of law and obligations of Member States emanating from the Charter of the United Nations. In view of the fact that the courts in Iran try the cases by maintaining the independence of judges, and issue their rulings in light of the possibility for appeal and further review by higher courts and by fully observing legal principles and due process, since rulings are not final before exhaustion of all legal remedies, any intervention and supervision by a body outside the legal supervisory authority will have no effect for the judges enforcing final rulings. In practice, all trial procedures are observed, the defense lawyers are present in the trial and

after the ruling becomes final, the proceedings are reflected in the press in full transparency.

21. **Recommendations 3 and 4:** Considering that the draft of the bill on amending the Islamic Penal Code is presently being reviewed by the Parliament, the Government has no specific comment on these recommendations at this stage. Meanwhile, we emphasize that the pre-judgments made concerning existing grounds for abuse of laws of Iran for imposition of restriction on fundamental freedoms are false.

22. **Recommendations 5, 6, 7, 8, 9, 10 and 11:** By extension of a Standing Invitation to Human Rights Council's Special Procedures, taking into account 6 visits taken place so far by them, Iran has demonstrated its intention to promote cooperation with the international human rights mechanisms. Iran has further consolidated these cooperative relations by planning and conducting meetings and direct contacts with the Office of the High Commissioner for Human Rights. In line with its promotional plans for human rights, the Islamic Republic of Iran will prepare and draw up relevant mechanisms for interactions with Special Rapporteurs.

23. **Recommendation 27:** Based on Sharia, the Constitution and ordinary laws ratified by the Parliament forbid any form of gender-based violence. The three branches of the government have also adopted their own preventive measures. The Islamic Republic of Iran has pursued policies based on gender justice. Creating family courts, establishing safe houses for women without guardian, social emergency centers for women and many other facilities. Needless to say, punishment of individuals that commit rape, establish gangs of sex slaves and other immoral and evil acts is a totally different matter. These crimes are punishable offences in all legal systems and societies.

24. **Recommendation 30:** Article 57 of the Constitution separates the three branches of the government – Executive, Judiciary and the Legislative. Chapters 6, 9 and 11 of the Constitution explain the duties of the three branches. According to these articles in the Constitution, each branch is separate and independent and no branch can intervene in the affairs of other branches. Contrary to many countries that their judiciary branch is under the minister of justice, in Iran the minister of justice coordinates relations between the Judiciary and other branches of the government and has no role in appointing or removing judges. Concerning collective trials of individuals, stated in a number of recommendations, according to article 209 of Penal Procedures Code, if several persons act together in committing an offence; charges against them are heard jointly. This is the practice in many other judicial systems.

25. Regarding the right of defense and presence of a defense attorney in the court trial, article 35 of the Constitution stipulates that both parties to a lawsuit have the right to select a lawyer and if they are not able to do so, arrangements are made to provide them legal counsel. Moreover, articles 128, 185 and 186 of the Penal Procedures Code, the accused can even have a lawyer accompany him/her in the preliminary investigations. But in offences that their punishment according to the law is life imprisonment or death penalty, if the accused does not personally introduce a lawyer, designating a lawyer for him/her is mandatory.

26. **Recommendations 31, 32 and 34:** the Constitution, Penal Procedures Code, and other laws in Iran are very careful in ensuring fair trial proceedings. Fair trial enables the authorities and competent officials to protect the rights of individuals in the society by ensuring fairness in arrests, investigations, prosecution, trial proceedings, issuing verdicts, appeal process and enforcement of court orders and rulings regardless of race, religion, gender, ethnic background or any other advantages. Legal proceedings, such as legal decisions by the accused and regulations such as the right of defense and to select a lawyer in different stages of arrest, investigations and review and the right to protest decisions by

Prosecutor Office during initial investigations, during trial and final ruling by the higher courts, and having such tools as suspension of arrest warrant, delaying the arrest, expunging the case under special circumstances for minor offences and always assuming presumption of innocence are ways to ensure fairness. As is the case in many court systems in the advanced countries, in order to make trials more equitable and to compensate for judicial errors, trials are conducted at different phases. The Islamic Republic of Iran also follows this general principle and the courts in the country are divided into court of first instance and higher courts. All rulings may be appealed. According to articles 19 and 20 of the Constitution all citizens of the country equally enjoy the protection of the law and no official or authority is immune from prosecution if he/she commits a punishable offence. In actual practice, even the president who is the highest executive official of the country can be prosecuted and removed from the office. This right to impeach the president was exercised in the past. The provincial criminal court can investigate and try offenses by members of the Expediency Council, Guardian Council of the Constitution, ministers and vice-ministers, senior advisors to the three branches of the governments, ambassadors, prosecutor general, president of the Auditing Tribunal, judges, governors general, and military and police officers above the rank of brigadier general and directors general of intelligence ministry in provinces.

27. Meanwhile, the Islamic Republic of Iran regards above-mentioned recommendations to be irrelevant to internal situation of the country.

28. **Recommendations 35, 36:** we have held more than 32 elections over the past 30 years in accordance with the Constitution and ordinary laws of the country. These elections took place with extensive participation and large turnout of eligible voters. Altogether 500 million votes have been cast in these elections. On 11 June 2009 tenth presidential election was held in Iran. Four candidates from different political orientations were contesting that election. Close to 40 million out of 45 million eligible voters participated in this election. It was an unprecedented record of voter's turnout, more than 85%. The ballot boxes witnessed the most impressive demonstration of democracy. The votes of the people were collected under the supervision of trusted persons from the communities (650 thousand), and statutory bodies at 45,000 ballot boxes throughout the country. In all stages of taking the votes and counting them, more than 90,000 observers selected by the candidates supervised the boxes. Subsequently, the relevant legal and oversight mechanisms verified the election and then the legal president of the country was elected.

29. After the election certain events took place in the country which was properly investigated by the relevant and competent legal authorities.