



Abdorraahman Boroumand Center

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Human rights violations in Iran: Causes and Modalities

Pondering the roots of recurrent miscarriages of justice in the Islamic Republic of Iran



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Iran has the highest per capita execution rate in the world. Numbers however are an approximation, for independent human rights organisations are not allowed to investigate and report freely in Iran. Nevertheless, Iranian and international human rights groups manage to reach out to victims and witnesses, and record meticulously the statistics published by judicial authorities and law enforcement agencies. One such organisation is the Abdorraahman Boroumand Foundation (ABF), which has created an online memorial dedicated to the victims of the Islamic Republic of Iran.^[1] Listed here are the ABF's annual execution numbers since 2011/695, 2012/ 579, 2013/913, 2014/964, 2015/1052, 2016 /567 and as of January 30th 2017 ABF has collected reports of 79 executions. These numbers are unsettling per se, but for those of us more knowledgeable about the scope of human rights abuses and the systemic violation of due process that undermines the administration of justice in Iran, the execution statistics become dreadful indicators of recurrent miscarriages of justice resulting in the murder of innocent people. And for those of us who work on the victims' cases and for whom every single number that adds up to make the annual statistics, has a face, a smile, a story, and a family, statistics become transfigured into a crowd of familiar faces whose helpless gaze and silent screams are a constant and enduring indictment of our conscience. The aim of this piece is to connect the three levels of reality regarding the prescription of the death penalty in Iran: the number of executions, the systemic violation of due process and defence rights, and the stories of those who fall victims to such a corrupt justice system.

Before the 1979 Islamic Revolution, Iran's judicial system was comparable to that of other modern and developing nation states. 'Judicial organization was separated from religion. Judicial precedents throughout Iran were centralized and uniform, and the issuance of unlawful judgement was prevented. Recognized principles of procedure, such as the rule of independence of judges, rule of *res judicata*^[2], basing of judgments on the enacted laws were implemented. Independent public prosecutor's offices were established for the purpose of defending public rights; an independent Bar Association was established and right of defense for accused persons was created. Modern educated judges presided over court proceedings'.^[3] The independence of the judiciary^[3] may not always have been respected in practice, but it was constitutionally and legally established.

This modern judiciary became the main target of Iran's new rulers in the wake of the 1979 Islamic revolution. Soon a five-member Committee was established to purge the judicial system of *undesirable elements*, pursuant to the Legal Bill for the Modification of the Judiciary and the Law for Hiring Judges of 8 March 1979.^[4] The power of the committee was absolute and its decisions, resulting in a widespread purge of the judiciary, final.

The Law for the Conditions of Selection of Judges of 4 May 1981 established the conditions of eligibility for judges.^[5] The latter were to be hired among *men* who were *legitimate children* and had a '*practical commitment to Islam*' and *allegiance to the Islamic Republic*. The law also allowed hiring practically anyone as a judge who could 'obtain the Judicial High Council's permission'. Moreover, Note 2 of the Amendments of 4 October 1982 to this law allowed widespread employment of seminary students 'who had general knowledge equivalent to a high school diploma' as judges or working at prosecutor's offices as well as Revolutionary Courts. By 1989, the judiciary counted about 2,000 new judges trained in theological seminaries (graduates and students) and political appointees, many having replaced judges trained in law schools.

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The risk of judicial incompetence is not the only problem defenders are facing, the constitution of the Islamic Republic denies the judiciary's independence and submits this branch to arbitrarily serve at the pleasure of the Supreme Leader who represents God on earth and enjoys an absolute and unaccountable power. The Supreme Leader appoints the Head of the Judiciary, who is the highest judicial authority of the land. The Head of the Judiciary has the power to appoint, promote and dismiss judges in accordance with loosely defined legal guidelines: 'Employment of just and worthy judges, their dismissal, appointment, transfer, assignment to particular duties, promotions, and carrying out similar administrative duties, in accordance with the law.' (Art. 158. 3). Article 164 empowers him to remove a judge from a case, without his consent, 'if the interest of society necessitates it.' In fact, if the head of the judiciary does not approve of the judgement of a case, he may at his own discretion, remove the judge from the case. To make matters worse, the law empowers him to invalidate a court verdict that has been approved by the Supreme Court, if he considers it to be in contradiction with Shari'a law, and such contradiction is only a matter of opinion and interpretation. In addition to these structural shortcomings regarding the independence of judges, it is important to add the systematic violation of the right of the accused to the

presumption of innocence^[6], to a proper investigation, and the severe restrictions on the work of defence lawyers^[7], many of whom are silenced and given long prison sentences for defending the rights of their clients and publicising the violation of due process^[8]. Confessions obtained under torture and other methods of duress are accepted by judges as part of a proper mode of investigation.

The question now is how these appalling legal deficiencies translate into reality and shape the fate of individuals caught in the grip of the judicial system. ABF's Omid Memorial is populated with more than 18,700 victims, all of whom were deprived of due process guarantees of fair trial established by international human rights laws.

Arash Rahmanipur was 20 years old. He was a supporter of a group called the Royal Association of Iran; he was arrested on April 15th, 2009.^[9] His pregnant sister was arrested with him. Mr. Rahmanipur had told his attorney that -- in two of the interrogations in which his sister had also been present -- they [interrogators] had told him that if he wanted his sister to be released, he had to make the confessions that they asked of him. Arash was charged with, 'war against God', through membership of the 'terrorist mini-group, the *Royal Association of Iran*, and effective collaboration with this group, as well as association and collusion for committing crimes against security'. He was also charged with fomenting unrest during the post 2009 elections protests in Iran. Arash was tried on August 8 2009. His lawyer, Ms. Nasrin Sotoudeh, was not allowed to attend his trial. The authorities appointed another lawyer for him, who rejected his client's charges 'due to a lack of corpus delicti^[10] for charges based on Articles 186 and 610 of the Islamic Penal Law, because he has not been armed and he has not actually attempted any crime'. Mrs Sotoudeh made clear that Arash had been arrested before the elections and could not have fomented post-election unrest while in prison. She also pointed to numerous other violations of due process. Arash was denied the right to call witnesses and cross examine 'the evidence' presented against him which included 'reports by officials; the defendant's own confessions; and other documents present in his file'. In a letter he wrote in prison he claimed his innocence and considered his only crime to be 'his disbelief in official beliefs'. Commenting on his death sentence, Arash wrote: 'It pains me to see that, in this land, love is a crime for which the innocent is hanged'(November 1 2009). Arrested when he was just 19 years old, Arash was hanged on January 28 2010, at the age of 20.

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Hashem Sha'baninejad (Amuri) wrote poetry in both Farsi and Arabic and taught Arabic language and literature at high schools in Ramshir, Khuzestan Province, while simultaneously studying for a Master's degree in political science.^[11] He was the founder of the *Al-Hiwar Scientific and Cultural Organization* ('Hiwar' meaning 'Dialogue' in Arabic). In 2005, the Arab population of Khuzestan province demonstrated against the government's alleged intention to reduce Khuzestan's Arab population to one third of the total population of the province through the promotion of the migration of non-natives to the province. These peaceful demonstrations were met with police violence and resulted in the death of a number of protestors. In the wake of these demonstrations Al-Hiwar was banned. But Hashem and his friends continued their cultural activities and were accused by security people of promoting 'ethnic thinking'. Hashem was arrested on February 13 2011, along with other members of the *Al-Hiwar*

Organization. He spent 7 months in solitary confinement at the detention center of the Ministry of Information, undergoing severe physical and mental torture. He was transferred to Karun Prison only after he had been forced to confess on television. At his trial, Hashem talked about the torture he had undergone, including having boiling water poured on his body, and stated that he had attempted to commit suicide twice, because of the pressure. His attorney had limited access to the content of the case and could not meet him without the presence of prison authorities. The Court did not accept Sha'baninejad's retraction, nor did the Supreme Court for 'the defendants and their counsel have not submitted any evidence to prove the said claim [of torture] ...'. As if interrogators were documenting the torture in order to help their victims substantiate their claim! After learning of his death sentence, Hashem wrote: 'I must stress the fact that under no circumstances did I ever engage in armed action. I do not believe in violence'. Sha'baninejad and his friends were secretly executed in January 2013, while their request for a new trial was being examined by the Supreme Court. Their families were not told of the precise date of execution; their bodies were not returned to their families who were not told of their place of burial. They were just warned against holding mourning rituals in mosques or other places.

Married and father of a two year old son, Mohsen Amir Aslani held a bachelor's degree in psychology and owned a psychology institute named Soroush Parsian, where he provided consultation and conducted classes in 'Inner Path' (spirituality), dream analysis, and the Qur'an. A devout Muslim, Amir Aslani promoted a tolerant and modern vision of Islam. His teachings were the cause of his popularity. The number of his students had gradually increased. In the [Islamic] months of Ramadan and Muharram 2005, around 400 people had attended his lectures to listen to his interpretation of Islam, a fact that brought the attention of the authorities. Intelligence sources told him to stop his activities prior to his arrest. A couple of 'new followers' had warned his students and their parents that his lectures were dangerous and that they should stop attending his classes. On May 2 2006, he was arrested at his home along with his wife and a number of his students. His secretary was strongly advised by interrogators to confess to an illicit sexual relationship with him. He was first charged with 'heresy to Islam, its principle and secondary tenets, and to the Shi'a religion; disparaging the Prophet Jonah; committing a Haram ('sinful') act (playing banal music in his classroom on the day of Ashura and public mourning); engaging in the practice of medicine without the necessary legal permit; illegally acquiring property through conducting psychotherapy classes; and committing an unchaste act with his secretary'. During his interrogations he had no access to his family or a lawyer. The intelligence authorities were seeking the death penalty for Mr. Amir Aslani. In the first instance, the court sentenced him to a total of four and a half years imprisonment, 120 lashes and a monetary penalty. Mohsen appealed his sentence and the appellate court upheld the conviction but reduced the sentence to two and a half years jail and 50 lashes (March 2007). Prison authorities refused to release Mr. Amir Aslani on bail. Instead they opened a new case against him on trumped up charges of rape. This time they required death penalty before the Revolutionary Court. The Revolutionary Court convicted Mr. Amir Aslani of 'Corruption on earth', and 'rape' and sentenced him to death, without giving him a chance to defend himself, call for witnesses, and cross examine the deficient 'proof' provided by the deputy prosecutor who did not attend the trial sessions. Twice during the procedure, the Supreme Court overruled the Revolutionary Court's verdict. It ruled that there were considerable substantive and procedural defects in the proceedings from the very beginning; it further ruled the decision defective for numerous reasons, overruling the same and sending it back to the Province Criminal Court for a re-trial. At this point, contemptuous of the Supreme Court's ruling, the Head of the Judiciary used his arbitrary prerogative and confirmed the death sentence. Mr. Amir Aslani was hanged on September 24th, 2014. He was 35.

These are just a few examples that illustrate how the arbitrary power of the judicial branch, and the systemic violation of due process that characterise it have transformed this branch into an instrument that spreads terror and suppresses political and religious dissidents. But miscarriages of justice are not limited to political and ideological cases, ordinary citizens fall victims to a system that covers and protects members of the ruling oligarchy when they commit crimes or allows incompetent investigators or whimsical judges to toy with citizens' honour, property and lives.

Take the case of Reyhaneh Jabbari for example, the 19-year-old interior decorator, who had been hired by a supposed intelligence officer, Dr. Morteza Sarbandi, to 'redecorate his medical office'. In reality Sarbandi took Reyhaneh to an empty apartment with the intent of sexually assaulting her. According to Reyhaneh, Sarbandi and Sheikhi, purportedly another intelligence officer, picked her up on July 7 2007 at 6pm. Sheikhi got out of the car before they reached their destination and on their way Sarbandi went to a pharmacy and bought condoms and a drug called Diphenoxylate, which was discovered in one of the juice glasses at the crime scene. Diphenoxylate is a combination of morphine and sedative and, depending on the dosage taken, side effects include dizziness, loss of consciousness, and drowsiness. He locked the door and offered a glass of orange juice to Reyhaneh and asked her to take her scarf off and grabbed her by force. She begged Sarbandi to let her go, but he didn't, she grabbed a knife she had spotted there and stabbed him on his right shoulder, and rushed to the door to try to unlock it. That was when Sheikhi unlocked the door and came in. At this moment Sarbandi was still alive. Reyhaneh ran away, and on her way out called the ambulance and went back home. Sarbandi was found in the stairs and died of hemorrhage. Reyhaneh was arrested, one day later, on July 8. She was in solitary confinement for about two months, during which she was denied the right to see a lawyer and family visit. During that time, she was subjected to various kinds of physical and psychological torture:

Miscarriages of justice are not limited to political cases: ordinary citizens also fall victim to a system which protects members of the ruling oligarchy

"The chubby man pulled my head back, and the beardless man slapped my ears a few times: left, right, left, right... I felt something in my back. I felt the swelling of my skin, and then ... rip.... my skin ruptured. I had a vision of my little sisters being made helpless like me. ... They bound your hands and feet. Then they hung you from a rod, like a piece of clothing, and kicked you in your stomach with their knees"^[12] Most of Reyhaneh's interrogations were conducted by two agents from the Ministry of Intelligence and not the agents of the prosecutor's office. They wanted her to make a false confession, that she had bought the knife with which she killed Sarbandi and they succeeded in coercing this confession from her. Reyhaneh was charged with first degree murder.

The first and the second sessions of Reyhaneh's trial were presided over by a Judge who, considering the young age of the defendant and the status of the victim, had declared that the court should carry out a more detailed investigation into the case. This first ruling was not to the liking of intelligence authorities, thus the first Judge was removed from the case and another, more compliant, was appointed to preside the court. Reyhaneh was ultimately found guilty of first degree murder after a flawed investigation and unfair trial. No mention was made in the case file of what the victim's intent was in slipping the drug into the juice he offered to Reyhaneh. According to her lawyer: 'Preparing the groundwork, such

as a vacant property, condom, a sheet on the sofa, demanding the removal of headscarf, embracing Reyhaneh, and saying that you have no way of escape, all indicate that failure to resort to self-defence would have actualised the rape. The court dismissed the legitimate defence argument in the case of Ms. Jabbari, despite the fact that it met all the necessary provisions.' Mr. Sheikhi, the second man, was never summoned to court nor was he interrogated as a witness. The investigation did not establish when and where the knife was bought by Reyhaneh and could never establish any motive for the crime. The judge also ignored the fact that Reyhaneh had called the ambulance and did not even destroy the crime's evidence which she would have if she had premeditated the crime. Reyhaneh was executed on October 25 2014, she was 26.

To the story of Hashem, Mohsen, Arash, Reyhaneh, we can add many more, each containing, in one form or another, an outrageous miscarriage of justice which are denounced not only by victims' relatives, lawyers, and human rights organisations, but by the very judicial authorities themselves. They better than anyone else know that 'something is rotten' in the judicial branch of the Islamic republic of Iran. In an internal report, *The Main Prevalent and Widespread Violations [Existing] across the Country's Judicial Districts*^[13], translated and published by ABF, the Judges' Disciplinary Prosecutor, Ahmad Shafi'i, denounces the recurrent violation of due process and miscarriage of justice by the judges. Ahmad Shafi'i highlights 70 recurrent transgressions committed by judges, based on an internal investigation by Iran's judicial disciplinary authorities. This report is accessible in English on the ABF website, but to end this article it is worth conveying some of these transgressions:

- Issuing arrest warrants without observing proper legal process
- Issuing surety and bail orders without specifying the amount
- Detention orders issued to hold the defendant in illegal detention centers, after issuance of an order [denying bail], resulting in detention
- Unlawful arrest
- Releasing the defendant without rendering an opinion in preliminary investigations
- Use of unnecessary, disorganised, and uncustomary language in rulings and orders
- Not rendering an opinion regarding certain defendants or the charges brought against them in criminal cases
- [Requiring and] obtaining [the defendant's] final defence, prior to completion of investigations
- Issuance of a new bail order without rendering a decision regarding the prior bail order
- Issuance of an order or ruling prior to the termination of investigations or adjudication

Judicial authorities know better than anyone else that 'something is rotten' in the judicial branch of the Islamic republic of Iran.

- Performing tasks not within the scope of the substitution [of venue] [document]
- Issuance of a guilty verdict without first obtaining the defendant's final defence
- Issuance of a ruling citing unrelated articles [of law]
- Issuance of a ruling outside the scope of the indictment
- Increasing the sentence upon appeal, without legal justification
- Unpleasant conduct, at times inappropriate and insulting behaviour
- Inappropriate relations with the parties to the case and the attorney
- Lack of attention to evidence
- [Issuance of a] court decision prior to writing the ruling
- Lower authority's non obedience of a higher authority
- Disregard for *res judicata*
- Disregard for the content of official records
- Not addressing preliminary objections in the first trial session
- Issuing a court date prior to the completion of a complaint

The above-mentioned are the judges who send hundreds and hundreds of people to the gallows every year. People like Alireza Madadpur, who was in the wrong place at the wrong time. Alireza's family was poor, he was his family's breadwinner. Alireza had studied to be an accountant but his financial circumstances forced him to abandon university a few months before earning his bachelor's degree. Lack of hope for the future drew him to drugs and addiction. In the fall of 2011, Alireza - always in search of additional income - accepted his colleague's offer to take over the care and cleaning of a house. He was dropped at the house early on the morning of November 12, when the house inhabitants were still asleep. He sat there waiting for them to wake up, but the police raided the house and arrested him and two other men he had never met before. 990 grams of crystal meth were discovered along with ingredients to produce the drug. Like many others, Alireza was held incommunicado for weeks and interrogated. By the time his interrogation was over, he had lost so much weight that, according to an eye witness, he looked like 'a skeleton'. Like many others in his case, he could not afford a lawyer. Less than two weeks before trial, the state assigned him a lawyer who never took the time to meet with him. Judge Reza Farajollahi at Branch 4 of the Revolutionary Court of Karaj tried the four men indicted in the case, including Alireza, on July 17 2012. Like he had done in many others cases, and after just twenty minutes of review, Farajollahi decided that they all should be fined, lashed and hanged for possession of drugs and precursor chemicals. The judge was deaf to the persistent denials of Alireza and the testimonies

of the two men arrested with him who insisted that Alireza had come to the house for cleaning work, that they didn't know him, and that he had not participated in the drug production. He also ignored the fact that Alireza had no criminal record, had never been arrested before, and that there was no evidence of any connection with the men who were arrested in the house. On August 24 2016, Alireza was executed along with 11 other death row prisoners. He was 34 years old.

Alireza's sister's screaming and tearful voice echoes indefinitely: *Where is human rights?*

We owe her a proper response, not only for her sake, but ultimately for our sake in democratic societies.

[1] Human Rights and Democracy for Iran, Omid Memorial, <http://www.iranrights.org/memorial>

[2] Whereby a matter that has been adjudicated by a competent court and therefore may not be pursued further by the same parties.

[3] Morteza Nasiri, A Review of Iran's Judicial System, in *Iran Nameh*, January 1997, English translation by Legatum Institute.
<http://www.iranrights.org/library/document/2016/a-review-of-irans-judicial-system>

[4] Islamic Parliament Research Center Of The Islamic Republic Of Iran, Law for Hiring Judges, March 1979, <http://rc.majlis.ir/fa/law/show/98067>

[5] Islamic Parliament Research Center Of The Islamic Republic Of Iran, Law for the Conditions of Selection of Judges, May 1981, <http://rc.majlis.ir/fa/law/show/90547>

[6] Javad Kargozari, "Proving Innocence in Iran: An Near Impossible Task and A Wrong Approach", December 2013, ABF English translation.
<http://www.iranrights.org/library/document/2881>

[7] International Bar Association' s report, *Balancing Independence and Access to Justice: the Justice System in Iran*, October 2007 via
<http://www.iranrights.org/library/document/2991>

[8] Human Rights Watch, *Iran: Lawyers' defence work repaid with loss of freedom*, October 2010, <http://www.iranrights.org/library/document/1476/iran-lawyers-defence-work-repaid-with-loss-of-freedom>

[9] Human Rights and Democracy for Iran, Arash Rahmanipur, <http://www.iranrights.org/memorial/story/-7226/arash-rahmanipur>

[10] Concrete evidence of a crime.

[11] Human Rights and Democracy for Iran, Hashem Sha'baninejad <http://www.iranrights.org/memorial/story/71725/hashem-shabaninejad-amuri>

[12] Diaries of Reyhaneh Jabbari, Parts 1,2,3,4, and 7, <http://www.tribunezameh.com/archives/47844>

[13] Sahmad Shafi'i. assistant prosecutor of Judges Disciplinary Court, *Internal Report on the Violations of Procedure and Due Process by Iranian judges*, ABF English translation and publication, <http://www.iranrights.org/library/document/2994>

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