



Special Procedures of the UN Human Rights Council and the Human Rights Situation in Iran

Seminar Report

On the 26 March 2012 the British Institute of International and Comparative Law hosted an evening seminar in association with the University of Essex Human Rights Centre. Guest speaker for the seminar was Dr Ahmed Shaheed, UN Special Rapporteur for Human Rights Iran.

In his keynote lecture to an audience of legal professionals, academics and students, Dr Ahmed Shaheed addressed the current human rights situation in Iran. The seminar was chaired by Professor Malcolm Evans (University of Bristol). Other members of the panel included Scott Sheeran (University of Essex), Shadi Sadr (Iranian Lawyer and women's rights defender), Mohammed H. Nayyeri (Attorney at Law, Iranian Bar Association) and Dr Nazial Ghanea-Hercock (University of Oxford) who all provided their additional insights on the situation of human rights in Iran.

Dr Shaheed commenced his lecture with an overview of his mandate. He stated that a Special Rapporteur with a country-specific mandate will usually have a one year renewable tenure in comparison to those with a thematic mandate which usually last three years. There has been a recent shift towards more thematic rapporteur appointments; however, country specific mandates have the advantage of being seen as less politicised, since under the 'Universal Periodic Review' all 192 UN Member States are subject to review over a four year cycle.

The independence of a Special Rapporteur is integral to his position. All other mechanisms of the UN operate on an inter-governmental basis with an emphasis on co-operation. In contrast a Special Rapporteur will report only to the Human Rights Council and not the UN itself which ensures the impartiality of the office.

Globally, very few countries have invited Special Rapporteurs to undertake country visits. However, Iran in particular has had the highest number of communications from Rapporteurs. Although in the past Iran has invited all thematic mandated Rapporteurs to visit, there has been a noticeable hardening of Iran towards human rights and there have been no visits since 2005.

The reason for Dr Shaheed's specific mandate was a concern over the need for further scrutiny of Iran following a periodic review to which Iran had been very receptive, accepting over 126 recommendations from the review but rejecting 44 recommendations. This is an effort to create transparency for Iran in relation to human rights.

Dr Shaheed has principally interpreted his role in respect of holding Iran to account in accordance with its own laws and agreed upon international commitments, such as the International Covenant on Civil and Political Rights.

He has recognised a clear need to co-operate with Iran utilising diplomatic methods which have included engaging in discussion with both the Government and diplomats. Although discourse has ensued, he has not at present been given consent to visit the country. Despite this difficulty, he has already been able to build up a considerable body of testimony based research. At present he has collected testimonies from over 163 individuals (a third of which he used in his last report; a quarter were from witnesses within the country).

Documentation plays an important role in ensuring protection for human rights. Dr Shaheed's research provides a platform for those who feel their rights are being violated, enabling abuses to be documented which can extend a level of protection for individuals. Victims can contribute actively to international discourse on human rights protection.

Although there is considerable value in the work in its provision of a platform for those whose rights are violated, there are practical limitations to what can be achieved by the office of a Special Rapporteur. Significant constraints include budget difficulties, lack of administrative support and the restriction of a 10,000 word count upon the two reports.

Dr Shaheed provided a current analysis of the Human Rights Situation in Iran under four categories: executions; freedom of expression, thought and religion; women; and moving forward.

Executions

The number of executions which took place over the last year in Iran exceeded 700; this figure is currently the second highest in the world. Although trials preceded these executions, Dr Shaheed expressed concern about the legitimacy of them; since many of these took only several minutes there are strong implications that in practice respect for human rights was not in operation. Of particular concern is the fact that minors are also placed on death row and there is evidence of deliberate governmental targeting of human rights defenders.

Freedom of expression, thought and religion

Iran faces considerable problems in relation to the freedom of speech. At the present time, there are 45 journalists held in prison and over 450 have fled Iran. The Iranian government exercises stringent control of information, via limitation technology and censorship of the media. In relation to the situation of minorities, the Government is not recognising certain religions.

Women

The status of women remains a complex issue within Iran. Although Iran has presented rising literacy rates in women as a success, the reality is that gender equality is a culturally entrenched and difficult subject. Such discrimination still plays an active role in the legal regime of Iran; its existence is prevalent in relation to divorce and marriage.

Moving forward

In conclusion Dr Shaheed emphasised that Iran is a country which seeks to be seen as legitimate within the international sphere. Consequently it is influenced by the desire for approval from other states, and is aware of the need to address criticism and comments made about its practices from other countries. The Iranian government is open to dialogue on its situation and it is essential to maintain communication with diplomats in order to effectively work towards his mandate.

The discussion was then opened to the panel members. Dr Nazial Ghanea-Hercock highlighted that reports from Rapporteurs have increasingly taken advantage of new forms of media and technology. Dr Shaheed's report had even included a reference to a video on *youtube*; these developments represent an innovative and creative approach to information gathering.

One of the difficulties in addressing the human rights situation in Iran is the idea that there is a conflict between certain rights and Sharia law. Dr Ghanea-Hercock argued that in fact Sharia law is a misnomer; many things are cloaked by the term 'Islamic'. It is easy to manipulate language and use terms like 'acting against god' as cheap accusations against human rights activists and lawyers. There is nothing Islamic about the wrongs which have been caused.

Mr Nayyeri commented on the participation of activists and NGO's and their contribution of information to Special Rapporteur reflecting on how the work of Special Rapporteurs would contribute to bringing human rights to Iran. He hoped, in the future, to see a deeper analysis of causes of human rights abuses and not only the consequences.

Shadi Sadr suggested that currently the focus upon nuclear activity within Iran has eclipsed other pressing issues within the country. The human rights situation for lawyers in Iran is rapidly disintegrating. Journalists and lawyers are the pillars which attempt to uphold human rights, if they are not protected there may not be anyone left to speak up against abuses. Giving a voice to the voiceless is important because there are very few other ways to defend them. There is a real need to address impunity within Iran in relation to abuses and offences.

Mr Sheeran highlighted the closeness of Islam to the Iranian constitution. Article 5 of its constitution holds the concept of the 'senior guardianship of religious scholarship', which essentially means that state governance should be carried out by those most knowledgeable in Islamic law. Sharia law is thus given primacy over other forms of law. There is also an absence of meaningful freedom of religion within Iran which might provide a counterbalance.

The issue of human rights is highly politicised and a fundamental concern of UN Special Rapporteurs must be the maintenance of his independent and impartial position; they must be aware but not affected by the existence of such a political context.

In an open discussion between the panel and the audience that followed, many participants gave testimonies of human rights violations in Iran; some of them were personally subjected to persecution by the Islamist regime and were forced to leave the country. Although they praised the work of the Special Rapporteur, they

suggested that his work alone does not contribute to the improvement of the human rights record in Iran. Some participants suggested that the international community should put more pressure on Iran, perhaps even in the direction of a regime change. Others argued that the regime change is not always the best option and that the situation following such a change may prove even more precarious for the respect of human rights. The message from the panel was that diplomatic efforts focused on screening of human rights in Iran can be productive since they can contribute to a gradual evolution and improvement of the situation in the country.

Report prepared by Rebecca Francis and Willa Huang