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21 February 2020

IRN200129.E

Iran: Dress codes, including enforcement (2016-February 2020)
Research Directorate, Immigration and Refugee Board of Canada

1. Legislation

Article 638 of the Islamic Penal Code of Iran provides the following:

Anyone who explicitly violates any religious taboo in public beside [*sic*] being punished for the act should also be imprisoned from ten days to two months, or should be flogged (74 lashes).

Note - women who appear in public without a proper *hijab* should be imprisoned from ten days to two months or pay a fine of 50,000 to 500,000 Ryal [Iranian rials (IRR)] [C\$1.58-16]. (Iran 1996, Art. 638)

According to sources, no legal definition is provided for what constitutes a proper hijab (Ceasefire Centre, CSHR and MRG Sept. 2019, 36; US 13 Mar. 2019, 41). In practice, women must cover their hair with a headscarf and their arms and legs with loose clothing in public (Amnesty International 12 Mar. 2019; Australia 7 June 2018, para. 3.82). According to Amnesty International, authorities "have imposed forced *hijab* on girls as young as seven years old" (Amnesty International 12 Mar. 2019).

Sources report that article 639 of the Penal Code has been used by Iran to prosecute women who protest wearing the hijab (CHRI 19 Aug. 2019; Human Rights Watch 24 Feb. 2018; Observatory Aug. 2019, 8).

Article 639 of the Islamic Penal Code of Iran states the following:

The following people should be imprisoned from one to ten years, and in the case of category (a) the property should be confiscated according to decision of the court.

- a. anyone who manages a property where activities against public moral take place;
- b. anyone who encourages people to violate public moral [*sic*]. (Iran 1996, Art. 639)

In addition to articles 638 and 639 of the Penal Code, sources report that Iran has used other articles of law against anti-hijab protesters, including Article 134 [1], which can be used to either increase (Observatory Aug. 2019, 14) or limit sentences imposed (Ceasefire Centre, CSHR and MRG Sept. 2019, 11). According to sources, article 134 was used against a prominent lawyer who defended anti-hijab protesters and was sentenced in 2019 to 33 years in prison and 148 lashes (Observatory Aug. 2019, 13-14; Ceasefire Centre, CSHR and MRG Sept. 2019, 11) to increase the punishment (Observatory Aug. 2019, 13-14).

2. Law Enforcement

Australia's Department of Foreign Affairs and Trade (DFAT) indicates in its country information report on Iran that penalties under article 638 "are very rare" and that "in practice, women accused of having bad *hijab* would most likely be escorted to a police station and asked to have a family member bring acceptable *hijab*, after which they could leave without sanction" (Australia 7 June 2018, para. 3.82).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. Australia's DFAT

adds that "enforcement of these dress codes has varied considerably over time and between locations" (Australia 7 June 2018, para. 3.83). Sources report that authorities conduct annual dress code "crackdowns" in the warmer months (AFP 14 May 2019; RFE/RL 8 June 2017). In December 2017, authorities said that people who did not comply with the dress code would no longer be arrested (Australia 7 June 2018, para. 3.83; AP 29 Dec. 2017). The Associated Press (AP) indicates that offenders would have to attend classes given by the police instead, but that the dress code remained in place outside Tehran and that repeat offenders could still face legal actions (AP 29 Dec. 2017). According to Australia's DFAT, authorities retracted themselves "almost immediately" (Australia 7 June 2018, para. 3.83).

In May 2017, a social media campaign called "White Wednesdays" was launched and encouraged women to wear white headscarves [or other white clothing (UN 14 Aug. 2017, para. 91) or to remove their hijab (*The Guardian* 2 Feb. 2018)] on Wednesdays (*The Guardian* 2 Feb. 2018; UN 14 Aug. 2017, para. 91). For further information on White Wednesdays, see Response to Information Request IRN106257 of March 2019. Since December 2017, there have been protests against the compulsory hijab with Iranian women taking off their headscarves in public (Human Rights Watch 24 Feb. 2018; Observatory Aug. 2019; AFP 14 May 2019); protesters have been referred to as the "Girls of Revolution Street" (Human Rights Watch 24 Feb. 2018). Australia's DFAT states the following regarding the protests:

In the midst of the 2017–18 protests ... an anti-*hijab* movement gained some traction among Iranian women. The movement has maintained momentum into 2018, particularly through a number of online platforms which have garnered significant follower numbers. On 8 March, in response to online calls for a special protest effort to mark International Women's Day, a large group of women demonstrated in front of the Ministry of Labor. Plain clothed and uniformed police broke up the protest, arresting at least 84 people. The response of authorities has hardened noticeably since the first emergence of the anti-*hijab* movement: while there was initial reluctance to arrest the small number of women who publicly removed their *hijab*, authorities have subsequently arrested more than 100 activists who have done so in 2018, including those arrested on 8 March. Courts have handed down prison sentences to two anti-*hijab* activists: one received a 24 month sentence, with 21 months suspended for five years (with the sentence handed down the day before the 8 March protests); the other a 12 month sentence to be served in full. Both were

convicted under Article 639 of the Penal Code, which prohibits facilitating or encouraging people to commit immorality, rather than under Article 638. (Australia 7 June 2018, para. 3.84, italics in original)

The Center for Human Rights in Iran (CHRI), a non-partisan civil society organization based in New York (CHRI n.d.), indicates that between January 2018 and August 2019, at least ten women and two men received prison sentences for not wearing or protesting against the hijab (CHRI 19 Aug. 2019). Sources report that in response to "'increasing defiance' of the compulsory wearing of hijabs," Iran added 2,000 units to the "morality police" in 2019 (Iran HRM 9 June 2019; *The Telegraph* 7 June 2019).

2.1 Enforcement Authorities

According to a joint report by the Ceasefire Centre for Civilian Rights, the Centre for Supporters of Human Rights (CSHR) and Minority Rights Group International (MRG),

[v]arious institutions are engaged in ensuring the maintenance of the Islamic dress code and other standards of conduct expected from women. Under Article 29 of the Criminal Procedure Code (adopted in 2014) trained and qualified officers of the Basij Forces (a paramilitary volunteer militia incorporated into the Islamic Revolutionary Guards Corps) are considered judicial officers with the power to arrest and carry out judicial police tasks. Other actors engaged in combating 'bad *hijab*' include Guidance Patrols (known as Gasht-e-Ershad), Ansar-e-Hezbollah, and vigilante morality police. (Ceasefire Centre, CSHR and MRG Sept. 2019, 35)

Radio Farda, the Persian broadcaster of Radio Free Europe/Radio Liberty (RFE/RL) (Radio Farda n.d.), indicates that "[dress code] restrictions were never codified in law but are enforced through standards conveyed to a variety of police and 'morality patrols' nationwide" (Radio Farda 9 Oct. 2019). Similarly, sources report that one method Iran uses to enforce dress codes is the "morality police" (*The Telegraph* 7 June 2019; Amnesty International 12 Mar. 2019).

Sources report that Iran's morality police both conduct mobile patrols and operate "checkpoints" to enforce dress codes (Amnesty International 28 May 2019; Assistant Professor 30 Jan. 2020). Attempts to circumvent checkpoints by Iranians through the use of a crowdsourced mobile android application [app] appear to have been blocked by the government (*The Independent* 11 Feb. 2016; Reuters 12 Feb.

2016). In telephone interviews with the Research Directorate, an assistant professor [2] and a doctoral candidate [3] were unable to verify whether the checkpoints avoidance app was still in use, but indicated that that since 2017, morality police have reduced the use of checkpoints and increased mobile patrols (Assistant Professor 30 Jan. 2020; Doctoral Candidate 30 Jan. 2020a), especially using private vehicles or motorcycles, allowing them to operate undetected (Assistant Professor 30 Jan. 2020). Sources further report that some of Iran's morality police operate in plain clothes (Amnesty International 12 Mar. 2019; NPR 3 May 2016). National Public Radio (NPR), an American "independent, nonprofit media organization" (NPR n.d.), reported in 2016 that Iran added 7,000 undercover morality police officers (NPR 3 May 2016).

2.2 Dress Code Violations in Vehicles

According to sources, members of the public may, via text, turn one another in to the police for perceived violations of the dress codes observed in vehicles (*The Independent* 11 June 2019; Radio Farda 9 Oct. 2019). Owners of reported vehicles are summoned by text to the police station and have to sign papers stating that the offense will not be repeated, in order to avoid further police action (Iran HRM 28 Apr. 2019; Radio Farda 9 Oct. 2019). Along with public reporting, sources indicate that Iran is using traffic cameras to detect women who are improperly veiled in vehicles (AP 15 July 2019; *The Telegraph* 7 June 2019).

According to an article by the *Jesusalem Post* with Reuters, measures taken by police against reported individuals include impounding of vehicles, jail sentences, fines and lashes (*The Jerusalem Post* with Reuters 31 July 2019). The doctoral candidate reported that [vehicle] owners summoned or detained by the police for failing to follow dress codes may be held until proper clothing is delivered to the police station, subject to fines or have their vehicle impounded (Doctoral Candidate 30 Jan. 2020a). Subsequent offences may result in lashes or jail sentences (Doctoral Candidate 30 Jan. 2020a). The doctoral candidate also noted that offenders are "sometimes able to pay bribes" to avoid punishment or give "fake names" to avoid being charged with succeeding offences (Doctoral Candidate 30 Jan. 2020a). Similarly, according to the Assistant Professor,

[p]enalties that reported individuals face will initially be a fine and impounding of their vehicle for several days to weeks. For subsequent offences, offenders may receive lashes. ... [O]utside of a few days' detention, jail time is more [often] applied to anti-hijab protesters, as incarceration is expensive for the regime and they would rather receive income from fines. ... [T]he judicial system is corrupt and ... individuals may bribe their way out of jail or lashes. (Assistant Professor 30 Jan. 2020)

2.3 Social Attitudes

In 2019, Amnesty International stated that

the policing of women's bodies is not confined to the state. Iran's ... veiling laws have enabled not only state agents but also thugs and vigilantes who feel they have the duty and right to enforce the Islamic Republic's values to harass and assault women in public. Consequently, on a daily basis, women and girls face random encounters with such strangers who beat and pepper-spray them, call them "whores" and make them pull their headscarves down to completely cover their hair. (Amnesty International 28 May 2019)

The Assistant Professor similarly indicated that women in larger cities may be harassed or attacked on the street by members of the public and that the threat of harassment comes from "hard line supporters of the regime" (Assistant Professor 30 Jan. 2020). The same source further stated that in smaller towns and cities, women will face more peer pressure regarding how they should dress from neighbours and members of the public, "rather than outright violence" (Assistant Professor 30 Jan. 2020). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. In follow-up correspondence with the Research Directorate, the Doctoral Candidate stated that [a]side from liberal views women may have, there are also more women in bigger cities who are engaging in "bad hijab" in comparison to smaller cities, and the general public—especially in Tehran—are more used to seeing women in such clothing. Because of this, it is easier for women to challenge dress codes in a city like Tehran as opposed to smaller cities that are more socially conservative and where women would more likely stand out. (Doctoral Candidate 30 Jan. 2020b)

Human Rights Watch indicates that women can be "discriminated against" in workplaces on account of their clothing (Human Rights Watch 24 Feb. 2018).

A 2019 article by the *Telegraph* reports that, according to a survey conducted by the Iranian parliament, 70 percent of Iranian women are in favor of a "relaxing of laws" regarding the dress code (*The Telegraph* 7 June 2019).

3. Men

Information on the dress code for men was scarce among the sources consulted by the Research Directorate within the time constraints of this Response

The BBC reports that men may be stopped by the morality police for haircuts that may be seen as "Western" (BBC 22 Apr. 2016). Additionally, Australia's DFAT reports the following:

Men are required only to cover their 'private areas', although social norms dictate wearing long trousers rather than shorts. ... There is no similar rule [to Article 638 of the Penal Code] for men. ...

[S]ome men have claimed to have been discriminated against on the basis of their dress – for example, for having 'Western-style' hairstyles or clothing styles, visible tattoos, or visible hair removal (such as plucked or waxed eyebrows).

Notwithstanding such reports, it is common to see young men fitting all of the above descriptions on Iranian streets, particularly in larger cities such as Tehran. (Australia 7 June 2018, para. 3.82, 3.85)

According to NPR, "[m]en are occasionally stopped — perhaps if their beards are too long, making them resemble jihadists — but usually, it's women who attract the attention of the Gashte Ershad [guidance patrol]" (NPR 3 May 2016). Australia's DFAT similarly indicates that "authorities are far more likely to target women than men" in regards to the dress code (Australia 7 June 2018, para. 3.85).

4. Transgender People

AP reports that according to religious leaders, "gender reassignment surgery aims to cure to a 'disease' and refit a person into a recognized binary of straight male or straight female. Those who chose not to undergo surgery and get new documents can face arrest by police for dressing in a way that contradicts their government-

recognized gender" (AP 21 May 2018). Similarly, according to OutRight Action International (OutRight), a New York-based human rights organization that advocates for LGBTIQ people and has offices in six countries,

[p]eople perceived as trans by the broader society are likely to experience violence and abuse by both state and non-state actors. Trans men are often arrested for not wearing the mandatory *hijab*, and trans women for "cross-dressing in public", wearing heavy makeup, or generally dressing in a manner perceived to be inconsistent with the strict government-enforced dress code. This harassment and targeting by the police can occur even when trans individuals have secured an official letter from the LMO [Legal Medicine Organization] certifying a GID [Gender Identity Disorder] diagnosis. (OutRight 2016, 31, italics in original)

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Article 134 of the Islamic Penal Code of Iran provides the following:

In the cases of offenses punishable by ta'zir [discretionary punishment], where the offenses committed are not more than three, the court shall impose the maximum punishment provided for each offense; and if the offenses committed are more than three, [the court] shall impose more than the maximum punishment provided for each crime provided that it does not exceed more than the maximum plus one half of each punishment. In any of the abovementioned cases, only the most severe punishment shall be executed and if the most severe punishment is reduced or replaced or becomes non-executable for any legal reason, the next most severe punishment shall be executed. In any case where there is no maximum and minimum provided for the punishment, if the offenses committed are not more than three, up to one-fourth, and if the offenses committed are more than three, up to half of the punishment prescribed by law shall be added to the original punishment.

Note 1 - If multiple criminal outcomes resulted from a single criminal conduct, it shall be dealt with according to the abovementioned provisions.

Note 2 - If the offenses committed cumulatively fall under a specific title of an offense, then provisions regarding multiplicity of offenses shall not be applicable and the offender shall be sentenced to the punishment provided in law.

Note 3 - In the case of multiplicity of offenses, if there are mitigating factors, the court can reduce the punishment of the offender down to the average between the maximum and minimum, and if there is no maximum and minimum provided for the punishment, down to a half.

Note 4 - The provisions regarding multiplicity of offenses shall not be applied to ta'zir offenses of the seventh and eighth degree. Such punishments shall be added together as well as to ta'zir punishments of the first to sixth grade. (Iran 1991, Art. 134)

[2] Assistant professor of political science and public service at an American university with a PhD in political science from Tehran University and a research focus on international and comparative politics of authoritarian regimes with an emphasis on the Middle East and North Africa.

[3] Doctoral candidate in education whose research interests include the politics of clothing in nationalist contexts, and gender and sexual politics in North America and the Middle East who has interviewed sources and published material on dress codes in Iran.

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