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5.1. The State

COMMON ANALYSIS
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The term ‘State’ (Article 7(1)(a) QD/QR) encompasses any organ exercising legislative, executive, judicial or any other functions and acting at any level, be it central, federal, regional, provincial or local. Sometimes, private entities may also be given State powers and be made responsible for providing protection under the control of the State. In order to qualify as an actor of protection, the State has to be able and willing to protect persons under its jurisdiction.

The protection in the country of origin has to be effective, non-temporary and accessible to the applicant.

The Islamic Republic of Iran is a hybrid governing system with theocratic authority and republican elements, under the Constitution of which separation of power exists between the executive, legislative and judiciary bodies. However, all State institutions are controlled by the Supreme Leader.

Iran’s judicial system is based on *Sharia* (Islamic law). The judiciary in Iran consists of a Supreme Court, a Supreme Judicial Council, and lower courts and is defined as an independent power. However, the independence of the judiciary is constrained by the role of the Supreme Leader. The security apparatus is said to have gained more influence over the courts in recent year. Non effectiveness of appeals, issues to access independent legal aid, and violations of due process have extensively been reported.

The Iranian police force is part of the Law Enforcement Command of the Islamic Republic of Iran (FARAJA), and it operates as a national armed force organisation. The FARAJA was drawn from the urban police, the judicial police, the Gendarmerie, and the Islamic committee. More specifically, both the anti-riot police (*yegan-e vizhe*) and plain-clothed security agents were deployed in large numbers during protests, during which the Special Units of Iran's Law Enforcement Forces (LEF Special Units) used excessive and lethal force against unarmed protesters.

The Iranian Islamic Penal Code does not explicitly criminalise violence against women. Iranian law lacks the means to provide adequate protection for victims of domestic violence. Intentional homicide cases, including honour killings and murder for adultery, may be punishable with retribution in kind (*qesas*) and, in case of forgiveness by the next of kin, may lead to a prison sentence of less than 10 years.

Furthermore, killings related to the protection of honour are addressed according to *sharia* and often entail reduced sentences for the perpetrators.

Effective protection is presumed not to be available when the State or agents of the State are the main actors of persecution or serious harm (Recital 27 QD/QR).

When assessing the availability of State protection against other (non-State) actors, individual circumstances, such as home area, ethnicity, gender, social status, wealth, personal connections, actor of persecution and type of human rights violation must be taken into account.

State protection is generally not considered available in situations where the applicant faces persecution or serious harm at the hands of society at large for reasons related to the prevalent social norms in Iran. This includes:

- In light of the climate of impunity for acts of violence against women, it is considered that **State protection is generally not considered available for women facing domestic or honour-related violence, and gender-based violence, including harmful traditional practices.**
- Some Kurds who served the IRGC or the Basij denounced their community members if they were involved in activism. As a consequence, Kurds that served the IRGC and Basij were perceived by their community as collaborators and/or 'traitors' and targeted by Kurdish armed groups. **State protection is generally not considered available for Kurds, especially for those who served the IRGC and Basij.**
- **State protection is generally not considered available for individuals perceived to have transgressed Islamic norms of laws** and facing persecution by the society at large since the State is in itself an actor of persecution.
- S**tate protection is generally not considered available for atheists and converts from Islam to another religion.**
- Because of the legal constraints and the hate speech of the authorities against persons with diverse SOGIESC, **State protection is generally not considered available for persons with diverse SOGIESC facing social discrimination, violence from their families, their communities and healthcare providers.**

See more contents related to Actors of protection:

- *5.1. The State*
- 5.2. Parties or organisations

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