

Guidance for the Families of Those Killed in Demonstrations in Iran

A considerable number of casualties have thus far been reported from protests in Iran. In most of these cases, the armed forces have opened fire on protesters in order to quash protests. Iranian law contains rules for armed officers opening fire on demonstrators. There are also regulations for the punishment of officers who have illegally fired their weapons, and for payment of damages to the victims. We will address these regulations in this brief article.

By law, armed officers are allowed to use their firearms in certain situations. One such situation is the prevention of disorder and riots. The law has not provided a definition for what constitutes disorder and riots. The Law on the Use of Weapons by Armed Forces Officers in Urgent Circumstances of 1994 sets certain criteria for the use of weapons, the most important of which is the principle of urgency, meaning that armed officers can fire only in emergencies. Regarding demonstrations, Articles 4 and 5 of the Law allow officers to use their weapons to restore order and quell riots in certain situations. Article 4 provides:

Law enforcement officers may use their weapons upon the order of the commander of the operations in order to restore order and control illegal demonstrations, and in order to quell riots, revolts and commotions which cannot be controlled without the use of weapons, provided that the following conditions are met:

- a. Other equipment has been used pursuant to regulations to no effect.*
- b. Prior to using weapons, a warning and ultimatum has been given to the rioters and agitators regarding the use of weapons.*

Note 1. Determinations regarding riots that are the subject of Article 4 shall be within the purview of the Head of the Province Security Council or Town Security Council, and in their absence, their deputy, and in the event the town governor does not have a deputy, the duty shall be delegated to a Security Council member.

Note 2. In the event that the armed forces are assigned by law the mission of restoring order and security that is the subject of this Article, their use of weaponry shall be subject to the provisions of this Article...

This Article clearly provides that officers must first use other equipment, and only use weapons if the situation does not come under control, all the while issuing warnings to the demonstrators. This Article governs unarmed demonstrations. Regarding armed protests, Article 5 provides:

Military and law enforcement officers may use weapons in order to restore order and security in illegal armed demonstrations and in armed riots and revolts. Upon the order of the commander of the operations, said officers must swiftly take action to restore order and security, disarm the individuals, collect their ammunitions, arrest and present them to judicial authorities.

In all of the above instances, it is necessary for the officers to, first, have no other option but the use of weapons, and secondly, to observe the following to the extent possible: a) firing a warning shot; b) firing below the waist; c) firing above the waist (Article 3, Note 3).

In the event that an officer fires his weapon in accordance with the above regulations and the victim is determined to have been at fault, the officer and the governmental or military organ to which he belongs shall

bear no responsibility whatsoever (Article 12). However, if the officer acts in violation of the above regulations, he shall be punished. If the armed officer fires in violation of the law and intentionally, and as a result, injures or kills an individual, he will be condemned to Qesas (law of retribution) or Diah (payment of blood money), as applicable. In this regard, the Law on Crimes Committed by the Armed Forces, Article 41 provides:

Any military personnel who, while on duty or on a mission, intentionally fires his weapon in violation of the laws and regulations, shall be sentenced to three months to one year imprisonment in addition to payment for damages; and if the event results in death or bodily injury, in addition to the foregoing punishment, he shall be condemned to Qesas or Diah, as applicable; and if the event falls under Articles 612 and 614 of the Islamic Penal Code of May 23, 1996, he will also be sentenced to the punishments contained therein.

The law has also provided for another instance: that the officer has observed all of the above criteria, but the victim is determined to have been innocent by a court of law.

Note 1. In the event that the firing of the weapon takes place in accordance with the regulations, the perpetrator shall be exempt from punishment and payment of Diah and damages, and if the dead or injured victim is determined to be without fault and innocent, Diah shall be paid from government funds. Pursuant to the Law on the Use of Weapons by Armed Forces Officers in Urgent Circumstances, Article 13:

In the event that officers use their weapons in accordance with the provisions of this law, and as a result, an innocent person or persons is killed or injured or suffers financial loss, then pursuant to a decision issued by a competent court of law, the relevant government organ shall pay Diah and damages [to the victim]; the government must allocate a budget annually for this purpose and put the same at the disposal of the armed forces.

Given the above, families of those killed in the recent protests should bring homicide complaints in military courts against the Police Force. Although that Court and its Prosecutor's Office must conduct its own investigations, it is best that complaints be brought quickly, in advance of the victim's burial, and a demand be made for an autopsy and a determination of the weapon that was discharged. Furthermore, if there are witnesses to the event, such witnesses must be introduced to the court, if possible, and the Prosecutor's Office must be asked to check the cameras in the geographic area and analyze their content. In cases such as these, the main problem is lack of interest on the part of the military prosecutor's office in conducting full investigations. It is very difficult to identify a particular officer as the murderer without conducting precise investigations. It is also not easy to ascertain whether the firing of the weapon was intentional or not.