

WRITTEN OBSERVATIONS

Submitted to the Grand Chamber  
of the European Court of Human Rights in

***F.G. v. Sweden***

(Application n° 43611/11)

by the

*European Centre for Law and Justice*

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In the present written observations, the ECLJ would like to submit to the Grand Chamber legal and factual elements of the plight of Muslims who have converted to Christianity in the Islamic Republic of Iran, termed “apostates”. In the first part of the document, the ECLJ will present an overview of Iran’s current constitutional and legal provisions on religious freedom. It also surveys the provisions that the Islamic Republic of Iran uses as grounds to criminalize apostasy and other crimes which are usually brought against converts. In the second part of the document, the ECLJ will discuss the general trends of how Iran exposes Christian converts only then to persecute and, on some occasions, subject them to torture. In the third part, the ECLJ’s observations will detail a number of recent cases involving Iranian apostates decided by national jurisdictions. Finally, the ECLJ will present recent reports of persecution against apostates in Iran.

## **I. Legal Framework in Iran**

The Constitution of the Islamic Republic of Iran (“Constitution”) states that Islam (Twelver Ja’fari school of Islamic jurisprudence) is the nation’s official religion.<sup>1</sup> Accordingly, all Iranian laws must be derived from and consistent with Islamic law.<sup>2</sup> Even so, the actions of the Iranian government towards the Christian minority violate not only Iran’s Constitution, but numerous international treaty obligations to which Iran has solemnly agreed to be bound. Iran’s constitutional and treaty obligations require the Iranian government to provide a fair and public trial as well as various human rights protections, including freedom of religion and protections against torture. The Iranian government’s treatment of the Christian minority consistently violates these obligations.

Under the Constitution, Christianity is one of the three legally recognised ethnic religious minorities in Iran. Through this recognition, ethnic Christians maintain the right, at least in principle, to exercise their faith.<sup>3</sup> Article 13 of the Constitution states: “Zoroastrian, Jewish, and Christian Iranians are the only recognised religious minorities, who, *within the limits of the law*, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education”. As interpreted by the Iranian government, these rights pertain only to ethnic Christians, not converts to Christianity, in Iran who act within the limits of the law, including non-codified principles of Islamic law.

Concerning freedom of thought, conscience, and religion, Article 23 of the Constitution provides that the “investigation of individuals’ beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief”.<sup>4</sup> Article 26 of the Constitution grants the recognised ethnic religious minorities the freedom to form associations, such as churches. The Constitution also dictates respect for the human rights of non-Muslims, but qualifies this protection by stipulating that “this principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran”.<sup>5</sup> Notably, prosecutors often bring charges against Christians, asserting that their Christian activities amount to crimes such as “propaganda against the Regime” and “acting against national security”.<sup>6</sup> Recently, the Iranian government has increasingly prosecuted Christians under the charge of “enmity against God”, a crime punishable by death.<sup>7</sup> The reality is, although Iran acknowledges constitutional protections, it fails to uphold them for its Christian community.

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<sup>1</sup> QANUNI ASSASSI JUMHURII ISLAMAI IRAN [THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF IRAN] 1980, art. 12.

<sup>2</sup> *Id.* art. 4.

<sup>3</sup> *Id.* art. 13 (emphasis added).

<sup>4</sup> *Id.* art. 23.

<sup>5</sup> *Id.* art.14.

<sup>6</sup> See generally U.N. Special Rapporteur on Human Rights to Iran, *Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran*, U.N. Doc. A/HRC/22/56 (28 Feb. 2013) [hereinafter SR 2013 Report].

<sup>7</sup> See, e.g., Converts to Christianity Still Risk Capital Charges, News.VA, <http://www.news.va/en/news/asiairan-converts-to-christianity-still-risk-capital> (last accessed 10 Sept. 2014).

The Iranian government brings national security charges against Christian converts under the rationale that apostates are not Christians as recognised by the Iranian Constitution and threaten the security of the Islamic state. Iran's Supreme Leader Ayatollah Khamenei and other government officials have demonised Christianity and expressed that “[n]othing shall be accepted from others outside of those three [recognised] groups but Islam or death”.<sup>8</sup> Morteza Tamaddon, currently the head of the Tehran Provincial Public Security Council and former governor-general of Tehran, expressed that evangelical Christians are a “deviant” sect of Christianity and accused them of using Christianity as a “cover” for their true intent to undermine Islam.<sup>9</sup> Through this concerted propaganda of hate towards Christianity, many Christians, especially converts to Christianity, are denied legal protection that would otherwise be granted to them under Article 13.

Decisions handed down in the Iranian judiciary reflect the belief that all apostates deserve to die. Although apostasy is not codified in the Iranian Penal Code, Article 167 of the Constitution instructs judicial authorities to make their judgments based on “authoritative Islamic sources and authentic fatwa,” rather than dismissing a case for lack of a codified crime or sentence.<sup>10</sup> Additionally, the Penal Code instructs a judge to rely on Article 167 of the Constitution and *fatwas* to convict converts from Islam of “apostasy”, a charge punishable by death according to prevailing *fatwas*.<sup>11</sup> A judge can also order the death penalty under more ambiguous charges, such as “attempts against the security of the state,”<sup>12</sup> “crimes against God” including insulting the prophet Mohammad,<sup>13</sup> and “outrage against high-ranking officials”.<sup>14</sup>

Besides its domestic laws that purport to protect religious minorities, Iran voted in favour of the Universal Declaration of Human Rights and ratified (without reservations) the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Cairo Declaration on Human Rights in Islam.<sup>15</sup> Within each of these international laws, Iran has obliged itself to protect *every individual's* right to religious freedom, expression, peaceful assembly, to be free from arbitrary detainment, to be free from discrimination on the basis of religion, and to have a fair trial in the presence of an impartial tribunal. But in reality, Iran has shown utter disrespect for these obligations when it comes to its treatment of Christian converts in Iran. Recently, at least one news source reported that Iran's Judiciary Chief, Ayatollah Sadegh Larijani has “criticized the Universal Declaration of Human Rights” and stated that Iran made a mistake when it signed the Declaration.<sup>16</sup>

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<sup>8</sup> INTERNATIONAL FEDERATION FOR HUMAN RIGHTS (2009), available at [http://www.fidh.org/IMG/pdf/Rapport\\_Iran\\_final.pdf](http://www.fidh.org/IMG/pdf/Rapport_Iran_final.pdf).

<sup>9</sup> INTERNATIONAL CAMPAIGN FOR HUMAN RIGHTS IN IRAN, THE COST OF FAITH 25 (2013) [hereinafter THE COST OF FAITH], available at [http://www.iranhumanrights.org/2013/01/cost\\_of\\_faith](http://www.iranhumanrights.org/2013/01/cost_of_faith); see also U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 2011, at 86 (2011) [hereinafter USCIRF Report 2011], available at <http://www.uscifr.gov/images/ar2011/iran2011.pdf>.

<sup>10</sup> THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF IRAN art.167; see also *infra* section IV detailing Iran's Revolutionary Court's reliance on Article 167 and prevailing *fatwas* to sentence Christian convert Youcef Nadarkhani to death for apostasy.

<sup>11</sup> Ayatollah Ruhollah Khomeini, Tahrir Al-Wasilih, 494-95 (Vol. 2). Apostates are to be given three days to return to Islam. If they do not recant their faith they are to be executed on the fourth day. Notably, after the international outcry for Youcef Nadarkhani, see *infra*, a convert to Christianity who was sentenced to death for apostasy, Iranian prosecutors have been hesitant to formally bring apostasy charges against converts. Instead, the prosecutors have relied heavily on national security related charges and used the threat of an apostasy charge during interrogations.

<sup>12</sup> See also Proposed Penal Code, art. 284.

<sup>13</sup> Proposed Penal Code, art. 236.

<sup>14</sup> BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR U.S. DEP'T OF STATE, 2011 Human Rights Report: Iran sec. 1.a. (2012) [hereinafter U.S. DEP'T OF STATE 2011], available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

<sup>15</sup> See Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (10 Dec. 1948); International Covenant on Civil and Political Rights (ICCPR), adopted Dec. 16 1966, G.A. Res. 2200A (XXI), U.N. Doc A/6316 (1966), 999 U.N.T.S. 171 (entered into force March 23, 1976, ratified by Iran in 1975); International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3, U.N. Doc. A/6316 (16 Dec. 1966) (entered into force 1976); Cairo Declaration on Human Rights in Islam: World Conference on Human Rights, 5 Aug. 1990, U.N. GAOR, 44th Sess., Agenda Item 5, U.N. Doc. A/CONF.157/PC/62/Add.18 (1993).

<sup>16</sup> *The Head of Iran's Judiciary: the Universal Declaration Mistakenly Joined*, BBC PERSIA (Persian) (2 Feb. 2012), [http://www.bbc.co.uk/persian/iran/2012/02/120202\\_123\\_sadeq\\_larijani\\_iran\\_un\\_human\\_rights.shtml](http://www.bbc.co.uk/persian/iran/2012/02/120202_123_sadeq_larijani_iran_un_human_rights.shtml).

## II. Detection, Persecution, Abuse, and Torture of Christian Converts in Iran

While international law prohibits arbitrary arrest and detention, this is one of the most regularly used methods of persecution against the Christian minority in Iran. Since the election of former President Mahmoud Ahmadinejad in 2005, the rate at which Christians are arrested, interrogated, detained, and prosecuted in violation of their fundamental human rights has dramatically increased.<sup>17</sup> After the 2009 election uprisings, the pattern of arrests, warrantless raids, and persecution of Christians further intensified.<sup>18</sup> While President Rouhani has not publicly expressed the same anti-Christian sentiments as his predecessor, the persecution of the Christian convert minority has continued without any sign of decrease. While it may be possible for some Christian converts to live out their lives in Iran without being subjected to ill-treatment and physical torture if they do not publicly manifest their faith, doing so has become increasingly difficult as the Iranian government has systematically implemented mechanisms to expose all Christian converts.

Top Iranian officials have called for an end to Christianity in Iran and called on local authorities to expose Christian converts.<sup>19</sup> As a result of these public calls, in the last few years, the government has systematically put pressure on and closed many of the official building churches denying majority of Iran's Christians the freedom to associate and gather peacefully for religious services. Long-established and licensed building churches, such as the Assemblies of God churches throughout the country (Central and Jannat Abad in Tehran, Ahvaz, and Shahin Shahr of Isfahan) and a Pentecostal Church of Kermanshah, were all forcibly closed. Churches in Mashhad, Western and Eastern Azerbaijan, Arak, Shiraz, and Ahvaz have also been shut down.

Even non-protestant liturgical churches have faced problems. In August 2013, Iranian authorities prohibited Farsi-speaking Christians and those who had not yet been baptised from attending St. Abraham Dominican Church. The government threatened that if the church allowed Farsi-speaking Christians to attend church service the government would close down the church. Similarly, St. Paul's Church in Tehran, with an overwhelming majority of its congregants speaking Farsi, was forced to ban Farsi-speakers entrance into its services in December 2013, just prior to the Christmas celebrations.

The few remaining churches allowed to operate are heavily controlled and monitored by the government. Many Iranians have reported that the government has installed surveillance cameras aimed at the point of entrance for official building churches to monitor those in attendance. The government also requires official building churches to submit membership reports and to report the addition of any new members or visitors to expose converts from Islam.<sup>20</sup> In some churches it is reported that the intelligence ministry has agents permanently stationed inside the churches who actively interfere in the day-to-day affairs of these churches.

The government also attempts to identify converts through restricting means of employment. To apply for a job applicants are required to list his or her religion on the application; thus, Christian converts, who almost certainly have Muslim names, must choose either to risk exposure or are forced to lie on a job application regarding the truth of their faith.

Such government restraints in society and on official churches' abilities to accept converts and non-Christians during their worship services, combined with the inherent fear that converts could be sentenced

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<sup>17</sup> *Id.*; USCIRF Report 2011, *supra* note 9, at 77.

<sup>18</sup> U.S. DEP'T OF STATE 2011, *supra* note 14; Roxana Saberi, *Iran Must Stop Persecuting Minority Religions*, CNN.COM (21 Dec. 2011), <http://www.cnn.com/2011/12/21/opinion/saberi-iran-religion> (journalist who had been detained in Iran describing "a rise in Iranian authorities raiding church services and harassing worshippers" after the 2009 election).

<sup>19</sup> USCIRF Report 2011, *supra* note 9, at 77.

<sup>20</sup> U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 8 (2012) [hereinafter USCIRF Report 2012], *available at* [http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf).

to death for apostasy, has forced many Christian communities to develop underground churches in private homes. Many Christian converts have, however, reported that even in these house churches the government has systematically placed government agents to reveal converts to Christianity. Importantly, as the Court of Justice for the European Union recently held, the fundamental right to religious freedom encompasses the right to manifest one's religion in public and collectively, and to require an asylum seeker to abandon his or her public practise of religion is a form of persecution.<sup>21</sup>

Since mid 2010, Iran has arrested or detained roughly 400 Christians.<sup>22</sup> "In 2013 alone, the authorities reportedly arrested at least 42 Christians, of whom 35 were convicted for participation in informal 'house churches', association with churches outside the Islamic Republic of Iran, perceived or real evangelical activity, and other standard Christian activities. Sentences range from one to 10 years of imprisonment".<sup>23</sup> At the time of submission, there are seventy-one known Christians who remain detained in Iran.<sup>24</sup> These reported numbers are only the known cases – many Christians are threatened that if they seek legal counsel or speak of their detainment, more harm will come to them and their family – thus, this a very low estimate of the actual number of Christians presently detained. Additionally, this number does not reflect a significantly higher number of Christians who have been arrested and released, but who remain under the intimidation of their case being brought to trial.

In October 2013, UN Special Rapporteur for Human Rights in Iran Dr. Ahmed Shaheed stated "members of recognized and unrecognized religions alike, including members of the Bahai, Christian, Sunni Muslim, Yarsan and other religious communities, are increasingly subjected to various forms of legal discrimination, including in employment and education, and often face arbitrary detention, torture and ill-treatment".<sup>25</sup> In September 2012, Dr. Shaheed reported that of the 221 individuals he interviewed for his report who had been arbitrarily detained,

[a]pproximately 73 per cent . . . alleged that they were blindfolded during interrogations; 58 per cent reported the use of prolonged solitary confinement; 62 per cent reported intimidation of family members for the purpose of placing pressure on the target of interrogations; 78 per cent stated that they were beaten during interrogations; and 8 per cent reported being hung from ceilings for the purpose of soliciting confessions. Moreover, 64 per cent of those interviewed alleged that they were denied adequate access to a lawyer after the investigative phase of their case, and another 82 per cent stated that they believed that the judge had already made up his mind about their case, and that he was being directed by the Prosecutor's Office.<sup>26</sup>

Christian converts detained in Iran have faced various forms of physical and psychological torture at the hands of the Iranian government. According to the U.S. Commission for International Religious Freedom 2014 report, "[k]illings, arrests, and physical abuse of detainees have increased in recent years, including for religious minorities and Muslims who dissent or express views perceived as threatening the government's legitimacy".<sup>27</sup> A 2012 report by the Christians in Parliament All Party Parliamentary Group

<sup>21</sup> C-71/11 and C-99/11 *Bundesrepublik Deutschland Stop / Y and Z* [2012].

<sup>22</sup> U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 2014, at 60 (2014) [hereinafter USCIRF Report 2014], available at <http://www.uscirf.gov/sites/default/files/USCIRF%202014%20Annual%20Report%20PDF.pdf>; see generally U.N. Special Rapporteur on Human Rights to Iran, *Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran*, U.N. Doc. A/67/369, ¶ 34 (13 Sept. 2012) [hereinafter SR Sept. 2012 Report].

<sup>23</sup> U.N. Special Rapporteur on Human Rights to Iran, *Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran*, U.N. Doc. A/HRC/25/61, ¶ 39 (13 Mar. 2014), <http://shaheedoniran.org/wp-content/uploads/2014/03/A-HRC-25-61-updated.pdf>.

<sup>24</sup> Middle East Concern, Report on Detainees (13 Aug. 2014).

<sup>25</sup> U.N. Special Rapporteur on Human Rights to Iran, *Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran*, U.N. Doc. A/68/503, ¶ 36 (4 Oct. 2013), <http://shaheedoniran.org/wp-content/uploads/2013/10/N1350031.pdf>.

<sup>26</sup> SR Sept. 2012 Report, *supra* note 22 ¶¶ 5, 46.

<sup>27</sup> USCIRF Report 2014, *supra* note 22, at 59.

in the United Kingdom found evidence of the “use of torture against Christian prisoners, both physical torture and psychological torture, including extreme use of solitary confinement”.<sup>28</sup> Additionally, the U.S. Department of State recently reported that Iranians with whom the Iranian government disagrees or perceives as threats to the government security, which would include Christian converts, are subjects of “disappearances; cruel, inhuman, or degrading treatment or punishment, including judicially sanctioned amputation and flogging; politically motivated violence and repression, such as beatings and rape; harsh and life-threatening conditions in detention and prison facilities, with instances of deaths in custody; arbitrary arrest and lengthy pretrial detention”.<sup>29</sup>

As recognised by the joint dissent from the chamber judgment in this case,<sup>30</sup> Saeed Abedini, a Christian convert (discussed in detail *infra* section IV) serving an eight-year prison sentence based solely on his Christian faith, has reported severe internal injuries that require surgery due to physical abuse he endured at the hands of his interrogators. Currently, Abedini is being denied medical treatment for his wounds. The ECLJ and its American affiliate presently represent Abedini’s family and have first-hand knowledge of the abuse and torture he has endured. Abedini is just one of many converts who have been physically and psychologically tortured. Abbas Sarjalou-Nejad, a convert to Christianity, has detailed the physical and psychological torture he endured after his family found out about his conversion to Christianity and reported him to the Iranian authorities.<sup>31</sup>

Additionally, many Christian converts have reported that their interrogators applied various means of coercion, including threats of execution, to force them to revert back to Islam; while other Christian converts have reported that they were forced to sign affidavits swearing that they would no longer participate in Christian activities in order to secure their release. Many are threatened with criminal prosecution, physical and psychological abuse, and the arrest or threat of harm to family members to pressure them to stop participation in Christian activities publicly or privately.<sup>32</sup> Furthermore, apostates in Iran, even after being acquitted of charges and released from prison, have a history of mysterious disappearances and suspicious murders.<sup>33</sup>

### III. Recent Case Law Involving Iranian Apostates

By granting asylum status, several countries recognise that Christian converts from Islam would face persecution or even death if forced to return to Iran. Some courts specifically recognise that the circumstances for converts in Iran have significantly changed over the last decade. One court noted: “Self-evidently, Iran and its region are volatile, not static. . . . At least arguably, the *Shari’a* law presents risks to apostates in Iran that cannot be treated as trivial . . . ”<sup>34</sup>

In September 2011, a Christian convert appealed to the New Zealand Immigration and Protection Tribunal. He had moved to New Zealand in 2010 and converted to Christianity shortly thereafter. The Tribunal found his conversion credible and affirmed that the appellant would almost certainly attempt to spread Christianity upon his return to Iran. The Tribunal judged that the appellant had a well-founded fear of persecution if he was to return to Iran, where “a fear of being persecuted is...well-founded when there is a

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<sup>28</sup> CHRISTIANS IN PARLIAMENT ALL PARTY PARLIAMENTARY GROUP, REPORT ON THE PERSECUTION OF CHRISTIANS IN IRAN 7.9, 5.4.1, 5.4.2 (2012).

<sup>29</sup> BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP’T ST., *International Religious Freedom Report for 2012: Iran*, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204359.2>.

<sup>30</sup> *F.G. v. Sweden*, No. 43611/11, judgement 16 January 2014, at 13.

<sup>31</sup> *A Christian Convert describes his torture and beating by security authorities + photo*, MohabatNews.com (20 Dec. 2011), [http://mohabatnews.com/index.php?option=com\\_content&view=article&id=3603:a-christian-convert-describes-his-torture-and-beating-by-security-authorities-photo&catid=36:iranian-christians&Itemid=279](http://mohabatnews.com/index.php?option=com_content&view=article&id=3603:a-christian-convert-describes-his-torture-and-beating-by-security-authorities-photo&catid=36:iranian-christians&Itemid=279).

<sup>32</sup> THE COST OF FAITH, *supra* note 9, at 9.

<sup>33</sup> *Id.* at 8; see also *infra* sec. IV.

<sup>34</sup> *Applicant NABD of 2002 v. Minister for Immigration and Multicultural and Indigenous Affairs* [2005] HCA 29 (Austl.), available at <http://www.unhcr.org/refworld/docid/42d11c4b4.html>.

real, as opposed to a remote or speculative, chance of it occurring”.<sup>35</sup>

In August of 2010, the Refugee Review Tribunal in Australia granted refugee status to a couple who had converted to Christianity while on vacation in Australia on the grounds that “the applicants have a well founded fear of persecution in Iran, for reason of their religion” and that in Iran, “Christian converts may be charged with apostasy, and may be subjected to arrest and detention, *which is often accompanied by physical or mental mistreatment of sufficient severity as to constitute persecution*”.<sup>36</sup> That same year, the New Zealand Refugee Status Appeals Authority granted refugee status to an Iranian Christian convert because it found the appellant would face both “*serious harm*” and an “absence of State protection” because “Christian converts who proselytise in Iran face the risk of being persecuted by the authorities, or by agents acting with their consent, in the form of arbitrary detention, physical mistreatment and severe discrimination”.<sup>37</sup> Within the last decade, several other countries including Canada, Ireland, and the United Kingdom have also recognised the grave situation in Iran for converts from Islam and accordingly have granted converts’ appeals from denials of refugee status.<sup>38</sup>

An immigration tribunal in the United Kingdom noted: “There is no doubt that the general human rights situation in Iran is deteriorating, rather than improving”.<sup>39</sup> The tribunal noted that “Iranian authorities act

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<sup>35</sup> *AP (Iran)*, [2011] NZIPT 800012, New Zealand: Immigration and Protection Tribunal, 29 Sept. 2011, available at <http://www.unhcr.org/refworld/docid/4f4243692.html>.

<sup>36</sup> *RRT Case No. 1002841*, [2010] RRTA 681 (Austl.), available at <http://www.unhcr.org/refworld/pdfid/4cbf20af2.pdf> (emphasis added). Another case in Australia recognized that fear of death is not the standard, but rather that the applicant may fear deprivation of liberty through assaults and continued harassment on the basis of his or her faith.

[F]or an apostate, the risk of extreme punishment will always exist.... [P]erhaps a person who has committed a capital offence of apostasy under Iranian law may be fortunate enough to escape the consequence of that conduct if returned to Iran, but ... the risk of discovery, apprehension and punishment would continue and it may be sufficient to ground a well-founded fear of persecution. Furthermore, the persecution feared, of course, is not restricted to execution and may include the suffering of substantial harm or interference with life by way of deprivation of liberty, assaults and continuing harassment on account of the perceived apostasy.

*W68/01A v MIMA* [2002] FCA 148 (Austl.), 25 Feb. 2002, available at <https://jade.barnet.com.au/Jade.html#!article=105094>.

<sup>37</sup> *Refugee Appeal No. 76401, No. 76401*, New Zealand: Refugee Status Appeals Authority, 23 Feb. 2010, available at <http://www.refworld.org/docid/4b91285e2.html> (emphasis added).

<sup>38</sup> *E.g., MM (Iran) v. Secretary of State for the Home Department*, [2009] EWCA Civ 1167 (U.K.) Court of Appeal (England and Wales), 10 Nov. 2009, available at <http://www.unhcr.org/refworld/docid/4afbe4df2.html>; *Refugee Appeal No. 76367, No. 76367*, (N.Z.): Refugee Status Appeals Authority, 5 Oct. 2009, available at <http://www.unhcr.org/refworld/docid/4afc2f602.html>; *Refugee Appeal No. 76204, No. 76204*, (N.Z.): Refugee Status Appeals Authority, 16 Feb. 2009, ¶ 163, available at <http://www.unhcr.org/refworld/docid/4a76b1e52.html> (The Court re-examined the appellant’s case based on the grounds that there had been a “change of circumstances” in Iran since his previous appeal had been first refused in 2007. On the occasion of this second review in 2009, the Court found that: “Serious human rights abuses are regularly experienced by those suspected of apostasy, including imprisonment, harassment and intimidation. Of particular concern is incommunicado detention in solitary confinement for days or weeks with no official charges or legal representation. It is common for people to be badly beaten in short term detention”); *Applicant NABD of 2002 v. Minister for Immigration and Multicultural and Indigenous Affairs*, [2005] HCA 29 (Austl.), available at <http://www.unhcr.org/refworld/docid/42d11c4b4.html> (granting judicial review of asylum application denial where an Iranian national feared being executed by authorities in Iran due to his conversion from Islam to Christianity); *Mostafa Ejtehadian v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 158, ¶ 17 (Can.), available at <http://www.unhcr.org/refworld/docid/48eb5f912.html> (allowing application for judicial review of denial of asylum applications for a husband, wife, and son, Christian converts who fled from Iran to Canada because “the documentary evidence show[ed] that conversion from Islam to Christianity (apostasy) is a very serious crime, punishable by death. . . . [The evidence] show[ed] that people are arrested, beaten, tortured and even murdered because they converted to Christianity”); *Ghasemian c. Canada (Ministre de la citoyenneté et de l’immigration)*, 2003 CF 1266, (2003), [2004] 2 R.C.F. D-13 (Can.), available at <http://www.unhcr.org/refworld/docid/48abd59d0.html> (finding reversible error where the Immigration Refugee Board failed to consider whether an Iranian applicant, a woman who converted to Christianity after she fled to Canada, would be viewed as an apostate by the Iranian authorities, given that “the crime of apostasy is severely punished in Iran”); *Shirazi v. Secretary of State for the Home Department*, [2003] EWCA Civ 1562 (U.K.), available at <http://www.unhcr.org/refworld/docid/47c2aa9c2.html> (allowing appeal of a denied asylum application where an Iranian Muslim had become an apostate by conversion and the lower tribunal did not give adequate consideration to recent decisions and reports that pointed to the threat of harm to apostates in Iran).

<sup>39</sup> *SZ and JM Iran v. Secretary of State for the Home Department*, CG [2008] UKAIT 00082, ¶ 141 (U.K.), available at <http://www.unhcr.org/refworld/docid/491af9092.html> (granting a converts refugee status appeal because returning the Iranian man to Iran would violate Article 3 of ECHR because of the limited access to the Roman Catholic church).



in an arbitrary and unpredictable manner . . . mak[ing] the task of assessing risk more difficult than it would otherwise be”.<sup>40</sup> The tribunal, however, stressed the importance of “bear[ing] in mind that [Iranian officials have] been reported as saying that he wants to end the Christian problem”; emphasising that “there is no doubt . . . that these are intended as messages and are more than opportunistic rhetoric”.<sup>41</sup>

#### IV. Recent Cases Involving Persecution of Converts

Below are a few accounts of persecution and punishment against Iranian Christians that directly violate Article 3 of the Convention, which forbids torture and inhumane or degrading treatment.<sup>42</sup> While some of these Christians were eventually released, they often face exorbitant bail amounts<sup>43</sup> and some of their cases were never closed or brought to trial; instead, the threat of prosecution hangs over these Christians as a form of intimidation and perpetual harassment.<sup>44</sup> These cases represent just a small sample of the many Christian converts who have been persecuted, some to the point of death.

##### *Saeed Abedini*

The American affiliate of the European Centre for Law and Justice currently represents the wife of Saeed Abedini, a Christian who has been severely punished by the Iranian Regime for exercising his faith. On 26 September 2012, Abedini was arrested while in Iran on a humanitarian mission to build an orphanage. After being put under house arrest for several months, he was forcefully moved to solitary confinement in Evin Prison without being informed the charges against him, in direct violation of Article 32 of Iran’s Constitution which requires detained persons to be informed “immediately” of the reasons and charges against them.<sup>45</sup> Abedini was only granted access to his lawyer less than 24 hours in advance of his trial, and he and his lawyer were barred from attending the second day of his trial. After these opaque proceedings, during which Abedini was denied adequate opportunity to present his case, he was sentenced to eight years in prison solely on the basis of gathering with Christians in private homes.

Abedini has faced both physical and psychological torture while in prison, and has been threatened by his interrogators with death for his conversion to Christianity. In a letter Abedini wrote from prison on 10 January 2013, Abedini reported that he had been told he “will hang for [his] faith in Jesus” and that he suffered “intense pains after beatings in interrogations”.<sup>46</sup> He notified his family that the medical staff in Evin prison refused to provide him even a basic painkiller because he was considered “unclean” as an infidel because of his conversion to Christianity. Abedini is currently suffering from internal injuries as a result of his physical abuse, and to date has been refused necessary medical treatment.

##### *Farshid Fathi*

As the pastor of a network of house churches, Farshid Fathi has been the victim of severe persecution solely because of his Christian activities and conversion to Christianity. After arresting him on 26 December 2010, Iranian authorities held Fathi for roughly 12 months without a formal indictment.<sup>47</sup> Much of this time was spent in solitary confinement.<sup>48</sup> A year after his arrest, in his first appearance before a court, Judge Salvati informed Fathi of his charges: acting against national security, contact with enemy

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<sup>40</sup> *Id.* ¶ 141.

<sup>41</sup> *Id.*

<sup>42</sup> European Convention on Human Rights, art. 3, available at [http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/Convention\\_ENG.pdf](http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/Convention_ENG.pdf).

<sup>43</sup> THE COST OF FAITH, *supra* note 9, at 43 (Reports cited that bail amounts ranged from 1565.56€ to 156555€); Open Doors USA (cites a case in which a bail amount of 62,000 pounds was required to secure the release of a Christian named Masoud Delijani).

<sup>44</sup> USCIRF Report 2011, at 85.

<sup>45</sup> QANUNI ASSASSI JUMHURII ISLAMAI IRAN [THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF IRAN] 1980, ch. 11, art. 32.

<sup>46</sup> Jordan Sekulow, *American Pastor Saeed Sustains “Beatings,” Told He “Will Hang” for his Faith*, ACLJ.org, <http://aclj.org/iran/american-pastor-saeed-sustains-beatings-told-he-will-hang-faith> (last accessed 10 Sept. 2014).

<sup>47</sup> *Id.* at 45. The ECLJ is also in contact with a close family friend of Farshid Fathi and has verified this account.

<sup>48</sup> USCIRF Report 2011, *supra* note 9 at 85.

countries, and possessing religious propaganda.<sup>49</sup> The evidence to support these charges was based on his Christian activities as a convert from Islam. In April 2012, the court sentenced Fathi to six years imprisonment, which he is currently serving in Evin prison.<sup>50</sup> Since his imprisonment, Fathi “reported in a letter that he had been subjected to severe mental torture by officials at Evin Prison”.<sup>51</sup>

### ***Benham Irani***

Pastor Benham Irani, a leader in the Iranian house church movement was arrested in 2008 and charged with “acting against national security”.<sup>52</sup> At his trial, a judge raised an additional apostasy charge against him, expressing that the evidence demonstrated Irani had converted from Christianity, making him an apostate, and “the sentencing of innate apostasy is murder... Therefore... lack of apostasy in the case, is incorrect and not in accordance with Sharia and legal standards”.<sup>53</sup> The sentence in this case was suspended until January 2011, when Irani was again convicted of crimes against national security and was sentenced to one year in prison but notified that he would serve five years total because of his 2008 conviction.<sup>54</sup> Recently, Irani was treated for internal injuries sustained in prison but was not permitted adequate time to recover from his surgery before being returned to prison. Early in September 2014, prison authorities transferred Irani to solitary confinement and the government brought a reported eighteen new charges against him, including “Mofsed-e-filarz” or “spreading corruption on Earth”, which is punishable by death.

### ***Abdolreza Ali (Matthias) Haghnejad and Reza (Silas) Rabbani***

During the first week of September 2014, two Christian converts, Abdolrez Ali (Matthias) Haghnejad and Reza (Silas) Rabbani, were charged with “enmity against God and State” and “spreading corruption on Earth” by a Revolutionary court located in Karaj, Iran.<sup>55</sup> These charges are punishable by death. The Iranian government had harassed Haghnejad for years, bringing him up on repeated charges using his conversion and Christian activities as the basis for his crimes. He was initially arrested in September 2010 during a church service for using communion wine. After serving months in prison, he was acquitted of his charges only to be rearrested three months later with eleven other Christians during Easter Sunday. They were all charged with crimes against the state security and later acquitted.

### ***Ten Christian Converts***

On 22 February 2012, authorities conducted a number of mass arrests of Christians. On one occasion, ten members of St. Paul’s Anglican Church were arrested and accused of various national security crimes including involvement with house churches.<sup>56</sup> The Pastor was charged with *inter alia* “evangelisation” and “performing baptisms”.<sup>57</sup> St. Paul’s is a government-recognised Christian institution, but this did not protect its Christian members from being taken into custody on religious grounds. Each of the detainees were eventually released over the course of two months on heavy bails.

### ***Ali Golchin***

In 2010, Iranian authorities arrested a Christian convert named Ali Golchin for his possession and distribution of Persian-language Bibles.<sup>58</sup> U.N. Special Rapporteur, Dr. Shaheed, reports that Golchin was beaten and blindfolded during his arrest and was held in solitary confinement in Evin prison for 87 days, during which time he was threatened with execution and further physical violence.<sup>59</sup> Golchin describes

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<sup>49</sup> See generally VOICE OF THE MARTYRS, [http://www.persecution.com/public/newsroom.aspx?story\\_ID=NTIy](http://www.persecution.com/public/newsroom.aspx?story_ID=NTIy).

<sup>50</sup> SR 2013 Report, *supra* note 6, Annex IV.

<sup>51</sup> BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR U.S. DEP’T OF STATE, 2013 *Human Rights Report: Iran* (2014), <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2013&dliid=222289>.

<sup>52</sup> THE COST OF FAITH, *supra* note 9, at 32.

<sup>53</sup> *Id.*

<sup>54</sup> SR 2013 Report, *supra* note 6, Annex IV.

<sup>55</sup> Christian Prisoners Charged with Offences Which Can Lead to Death, HRANA (8 Sept. 2014), <https://hra-news.org/en/christian-prisoners-charged-offences-can-lead-death>.

<sup>56</sup> THE COST OF FAITH, *supra* note 9, at 43.

<sup>57</sup> *Id.*

<sup>58</sup> SR 2013 Report, *supra* note 6, ¶ 24.

<sup>59</sup> *Id.*

solitary confinement in Evin as a room 1.5 metres by 2.5 metres and “no place to keep a human being, even if you are a suspect or a convict”.<sup>60</sup> He was finally released on a bail amount of 200,000,000 Tooman (the equivalent of approximately 126,000 Euros). In 2011, he was sentenced to one year in prison. Golchin appealed this sentence and, upon being acquitted of all charges, fled the country to escape the constant government harassment for his faith.<sup>61</sup>

### ***Youcef Nadarkhani***

In October 2009, Pastor Youcef Nadarkhani was arrested on official charges of apostasy.<sup>62</sup> A pastor of a large house-church movement called the Church of Iran, Nadarkhani was repeatedly asked to renounce his faith during his trial.<sup>63</sup> He refused each time and, on 22 September 2010, an Iranian court, relying on a *fatwa* issued by the late Supreme Leader Ayatollah Khomeini, sentenced Nadarkhani to death for apostasy.<sup>64</sup> He and his lawyer, Mohammad Ali Dadkhah, appealed his case to the Supreme Court of Qom Province. In 2011, the Supreme Court remanded the case but upheld that death was the proper sentence for apostasy. On 8 September 2012, after heavy international attention from various governments and NGO’s spotlighting his case, Nadarkhani was acquitted of apostasy, but sentenced to three years for evangelising to Muslims and released on time served.<sup>65</sup>

### ***Mehdi Dibaj, Haik Hovsepian-Mehr, Tateos Mikaelian, and Ghorbani Tourani***

Mehdi Dibaj was a convert from Islam to Christianity and became an evangelist spreading the gospel all over Iran until his arrest in 1983. He was a member of the Jama’at-e Rabbani Church, the Iranian branch of the Assemblies of God. The church was officially recognised by the Iranian government. The Iranian regime arrested Dibaj in 1983, but he spent 9 years in prison before being tried.

In December 1993, the regime convicted Dibaj of apostasy and sentenced him to death. Only after significant international outcry did the regime release Dibaj. One of the key individuals who fought for Dibaj’s freedom was Bishop Haik Hovsepian-Mehr, an Armenian pastor and superintendent of the Iranian Assemblies of God. Bishop Hovsepian publicised to the world the news of Dibaj’s death sentence as well as other violations of religious freedom of Christians in Iran. Ultimately, he gave his life for this cause.

Iran released Dibaj in January 1994. Three days after Dibaj’s release, Bishop Hovsepian was found stabbed to death. Dibaj’s life here on earth was also cut short. On June 24, 1994, Dibaj was scheduled to return home from a conference for his daughter’s birthday celebration, but never made it home. On July 5, 1994, his body was found; he had been shot to death. Many suspect the regime played a role in his murder.

Tateos Mikaelian, Bishop Hovsepian’s successor as the Chairman of the Council of Protestants, also died a suspicious death in 1994, reportedly shot several times in the head.<sup>66</sup> Other suspicious deaths of Christian leaders include the assassination of prominent Protestant leaders such as Reverend Arastoo Sayah, Bahram Deghani, Reverend Mohammad Bagher Yousefi, and the attempted assassination of Anglican Bishop Hassan Dehghani.<sup>67</sup> More recently, in 2005, Pastor Ghorbani Tourani, a house church leader and convert to Christianity, was murdered and found with his throat cut.<sup>68</sup>

## **V. Conclusion**

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<sup>60</sup> THE COST OF FAITH, *supra* note 9, at 47.

<sup>61</sup> SR 2013 Report, *supra* note 6, ¶ 24.

<sup>62</sup> U.S. DEP’T OF STATE 2011, *supra* note 14, at 10.

<sup>63</sup> THE COST OF FAITH, *supra* note 9, at 34.

<sup>64</sup> *Id.*

<sup>65</sup> SR 2013 Report, *supra* note 6, Annex IV.

<sup>66</sup> THE COST OF FAITH, *supra* note 9, at 8.

<sup>67</sup> *Id.* at 9.

<sup>68</sup> *The Martyrs of the Iranian Church*, ELAM, <http://www.elam.com/article/martyrs-iranian-church-ultimate-price> (last accessed 10 Sept. 2014).

Christian converts are one of the most persecuted religious minorities in Iran. The Islamic regime has systematic mechanisms in place in attempt to identify all members in their society who have converted from Islam to Christianity. These mechanisms have made it increasingly likely for the government to identify a Christian convert in Iran, even if practicing in secret. If identified by the Iranian government, Christian converts often, at minimum, suffer substantial harm or interference with life by way of deprivation of liberty, assaults and continual harassment; or in the worse case the individual could face severe mistreatment and even death. Despite allegations by the Iranian government that its laws respect and recognise the Christian community, the Christian community in Iran faces systemic and systematic state persecution and discrimination. Without addressing the specific merits of this case, it is the belief of the ECLJ that returning a genuine Christian convert to Iran would subject the convert to ill-treatment in violation of Article 3 of the Convention.