FREEDOM OF RELIGION AND BELIEF IN THE ISLAMIC REPUBLIC OF IRAN
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In many ways, the situation facing religious minorities in Iran is indicative of the country’s wider human rights crisis. The existing tensions between Iranian laws, practices, and its commitments to preeminent international law are at the heart of this deteriorating situation. As a party to the International Covenant on Civil and Political Rights, Iran is obligated to respect article 18 of the treaty, which guarantees both the right to hold a particular religious belief (or to not believe) and the right to manifest that belief. Unfortunately, in many cases, the Iranian government has interpreted this right to only include belief systems it recognises as religions, and in other cases Iran has resolved to discriminate against recognised religious minorities in law and practice. Today, over a hundred Bahai’s are detained in Iranian prisons, hundreds of Christians have fled the country as a result of sustained persecution, and religious converts face apostasy and national security charges. This situation warrants international concern and must continue to mobilize international and national efforts to engage and work with the Iranian government in an effort to provide the public space for Iran’s religious minorities to fully enjoy all of the rights guaranteed by the treaties Iran has pledged to observe.

Freedom of Religion and Belief in Iranian Law

The Iranian Constitution recognises Islam as its official religion. The Constitution also recognises Zoroastrians, Jews, and Christians as religious minorities. The adherents of these religions are legally free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education. Other articles of the Iranian Constitution recognise the right of these religious minorities

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1 Article 4 of Iran’s Constitution states that all Iranian laws must conform to Islamic criteria, as determined by the Guardian Council, and article 167 obligates judges to give precedence to Islamic sharia in ruling upon cases presented to them. QANUNI ASSASI JUMHURII ISLAMAI IRAN [THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF IRAN] 1358 [1979], arts. 4, 167, English translation available at http://www.iranchamber.com/government/laws/constitution.php. These provisions appear to undermine Iran’s international obligations under the International Covenant on Civil and Political Rights. See infra note 2 and accompanying text.


4 Id.
to form associations, such as churches, and protect the freedom of opinion and the
privacy of opinion, stating that the “investigation of individuals’ beliefs is forbidden, and
no one may be molested or taken to task simply for holding a certain belief”\(^5\).

The Iranian Constitution also prohibits discrimination, stating that “all citizens of
the country, both men and women, equally enjoy the protection of the law and enjoy all
human, political, economic, social, and cultural rights, in conformity with Islamic
criteria”\(^6\). The Constitution also states that “all people of Iran, whatever the ethnic
group or tribe to which they belong, enjoy equal rights . . .”\(^7\).

Conversely, Iranian law places restrictions on the capacity of religious minorities
to hold certain public sector positions. For example, the Constitution requires that the
positions of the Supreme leader, the president, judges, and all members of Parliament—
with the exception of five parliamentary positions designated for minority religious
communities—be occupied by Muslims\(^8\). These restrictions are arguably at odds with
other legal provisions granting the right to work without discrimination\(^9\).

The Iranian Civil Code discriminates against religious minorities in the areas of
inheritance, marriage, and child custody. Article 881 of the Civil Code prohibits non-
Muslims from inheriting property from Muslims\(^10\). The article also stipulates that if any of
the heirs of a non-Muslim is Muslim, Muslim relatives (regardless of that person’s
relationship with the deceased) collect the entire inheritance, over non-Muslim heirs\(^11\).
Further to this are civil laws such as article 1059 of Iran’s Civil Code that prohibits
marriage between a Muslim woman and non-Muslim man, though it allows marriage
between a non-Muslim woman and a Muslim man, and article 1192 of the Civil Code that
prohibits a Muslim child’s guardian from appointing a non-Muslim as a guardian of the
child upon death\(^12\).

Iranian policy also explicitly requires that university students profess their
religious beliefs, and it requires that students belong to Islam or other recognised
religions in order to enter universities, regardless of proven capacity on university
entrance exams. This policy severely curtails the right of adherents of unrecognised faiths
to education, especially members of the Baha’i faith.

The Situation of Religious Freedom

In my March report, I noted that over 110 Baha’is, 13 Evangelical Christians, and
12 Dervishes are imprisoned in Iran, all apparently for exercising elements of their faith
that are otherwise legally permissible—in other words, prisoners of belief or conscience.
From a legal perspective—at least when it comes to arrests and prosecutions—Iran’s
persecution of religious minorities is not much different from its persecution of
government critics or its restrictions of free expression. Baha’is, Evangelical Christians,

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\(^5\) Id. art. 23.
\(^6\) Id. art. 20.
\(^7\) Id. art. 19.
\(^8\) Id. arts. 115, 144, 163.
\(^9\) Id. art. 28.
\(^10\) QANUNI MADANI [CIVIL CODE] Tehran 1307 [1928], art. 881 (Iran), available at
http://www.unhcr.org/refworld/country,legal,,legislation,irn,,49997adb27,0.html.
\(^11\) Id.
\(^12\) Id. arts. 1059, 1192.
and Muslim Dervishes are seemingly charged with the same Penal Code violations as, for example, dissident journalists, political activists, or human rights defenders.

Even though these religious communities—as communities—oftenshy away from politics, they are often seen by the Government through a political and “national security” lens. Baha’is, Christians, and other targeted religious minorities are routinely charged with espionage and acting against national security. They are accused of conspiring with the Islamic Republic’s foreign “enemies” and of collusion against the Government by “organising” Baha’i gatherings or house churches. And they are usually tried in Revolutionary Courts, which are effectively national security courts.

It is important to take note of the Government’s approach to its international human rights obligations. In my recent report, I make reference to several prisoners of conscience, and reported that a number of prisoners were detained for alleged crimes like “propaganda against the regime”\textsuperscript{13}. In its response to my report, the Iranian Government argued that the crime of “propaganda against the regime” effectively punishes those accused of talking to foreign media outlets or criticizing the government\textsuperscript{14}. They also maintained that these individuals have been imprisoned according to legal and judicial procedure, and that conviction is evidence of a fair trial.\textsuperscript{15}

A number of United Nations Special Procedures have asserted that detention and prosecution for internationally protected activities cannot be in accordance with the law when that law conflicts with international human rights law, as it appears to often be the case in Iran. Nor is the provision of such legal criteria proof that fair trial standards are respected in practice.

Iranian trials related to so-called “national security” crimes rarely meet due process standards, as I and many others have documented elsewhere. So in a preponderance of cases presented in my report, the facts are not at issue but rather how the Iranian Government chooses to understand—or misunderstand—related international human rights law.

**The Situation of the Baha’is in Iran**

Baha’is are arguably the most persecuted religious group in the country. In addition to exclusion from constitutional recognition and legal limitations on their religious practices, members of the Baha’i community continue to face arbitrary arrest, torture and ill-treatment, restrictions to higher education, employment discrimination, destruction of property, and more. Many Iranian religious and governmental leaders view


\textsuperscript{15} *Id.*
the faith as antithetical to the particular religious doctrines adopted by the leadership of the Islamic Republic.

In its response to my September 2012 report to the General Assembly, the Government claimed that while the Baha’i faith is not officially recognised, Baha’is have equal rights under the law, and that in accordance with article 23 of the Constitution they may not be “imprisoned or prosecuted for adhering to a certain belief”\(^{16}\). Yet in the very same document, the Government also stated that “some Baha’is are organized and propagate their cult beliefs in society”\(^{17}\). The Government added that “[o]bviously those activities are in breach of the existing laws and regulations, and while provoking sentiments of people, they cause disruption in the public order of the society”\(^{18}\).

This response seemingly attempted to invoke limitations built into article 18 of the ICCPR with regard to maintaining public order, national security, public health, and morals without a corresponding explanation as to how Baha’i “activities” would, by their nature or in practice, violate these conditions. The international community should therefore be concerned that the Government is interpreting the narrow limitations expressed in article 18 in an overly broad manner. Indeed, the right to organize and propagate one’s beliefs would seem to be the exact type of behavior intended for protection by article 18.

Members of the Baha’i religious community are also systematically denied access to public and private universities in Iran. A small number of Baha’is are able to enter university without their religion being formally identified. However, when the faith of these students becomes known, they are often expelled and banned from enrolling in other universities. Baha’i-owned businesses have also reportedly faced closure and revocation of operating licence. For example, it has been reported that in the northern cities of Hamedan and Semnan, the majority of formerly Baha’i-owned businesses have now been forcibly closed.

**The Situation of Christians in Iran**

Christians and those that convert to Christianity in Iran are also subjected to a wide range of human rights violations, including threats to life, ill-treatment, restrictions of assembly and association, arbitrary arrests, and violations of due process rights. It has been reported that Christians have been singled out by Iranian authorities either because they were converts from Islam, because they proselytized, or as a result of participation in informal “house-churches” with congregations consisting of mostly converts.

In Iran, conversion is seemingly criminalized. While “apostasy” is not specifically criminalised under Iranian law, Iran’s new penal code allows for judges to rely on Islamic jurisprudence in the absence of written law. In doing so, Iranian judges frequently seek the opinions of clerics which often view apostasy as a capital offence. Many of these


\(^{17}\) Id.

\(^{18}\) Id.
Christians also report being asked to sign documents pledging to cease their church activities to gain release.

At the start of 2013, there were at least thirteen known cases of detention of Protestant Christian leaders for participation in informal house churches or proselytizing.

On 23 February 2008, Branch 30 of the Appellate Court in Tehran sentenced Pastor Behnam Irani, from Karaj, to a five-year suspended prison term on charges of “acting against national security”, and in January 2011, an additional year in prison was added to his sentence. Although he was prosecuted for a national security crime, the court’s verdict accused Mr. Irani of apostasy, which is a capital crime. Mr. Irani remains in Ghazal Hesar prison in Karaj, his health has reportedly deteriorated during his incarceration, and he is in critical condition as a result of alleged beatings and poor conditions of confinement. Nine other active members of the Mr. Irani’s house church network were arrested in October 2012. Churches that offer Persian-language services have also apparently been pressured to terminate their Friday services and Persian-language services. Authorities have allegedly requested the national identity numbers of Christian church members and, on occasion, have reportedly monitored congregants entering churches. It has also been reported that several leaders from recognised churches have been arrested for preaching to Iranians from Muslim backgrounds, and some churches have been permanently closed. For example, on 21 May 2013, authorities reportedly interrogated and detained the former Superintendent of Iran’s Assemblies of God (AOG), Pastor Vartan Avanessian. The AOG Central Tehran branch was one of Iran’s last congregations that offered Persian-language services. The church has been closed since 26 May 2013.

Other Religious Minorities

The Gonabadi Dervish order, a Sufi Muslim group, has also endured attacks on its places of worship. Members are frequently subjected to arbitrary arrest, torture, and prosecution. It is estimated that thirteen Gonabadi Dervishes remain in official custody, including four lawyers and three website administrators who have publicly challenged the government’s treatment of their religious group.

Representatives of the Yarsan, a religious minority active mostly amongst Kurdish Iranians, are also reportedly subjected to routine repression. Like adherents of the Baha’i faith, members of the Yarsan who pass university entrance exams, but profess that they belong to the Yarsan, appear to be routinely refused admission.

Finally, authorities have begun to harass and even arrest practitioners of various spiritual and semi-spiritual traditions, including transcendental meditation.

Conclusion

A Government’s treatment of minority groups is often an indicator of its wider commitment to human rights. Thus, the Iranian Government’s treatment of minorities, including, religious minorities, is a necessary precursor to overall progress on its human rights commitments. In a nation as diverse as Iran, the legal and de facto structures of discrimination and repression must be altered in accordance with international legal standards for such progress to occur.