

## Special Rapporteur on freedom of religion or belief A/HRC/13/40/Add.1 para 145

### Full recommendation

*The Special Rapporteur regrets that she has so far not received a reply from the Government of the Islamic Republic of Iran concerning the above-mentioned allegations. She would like to recall that the Human Rights Council in resolution 6/37 urges States to take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities.*

### Assessment using Impact Iran human rights indicators<sup>1</sup>

Article 14 of the Constitution stipulates that the government and Muslims in Iran are “duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their citizen rights”.<sup>2</sup> Additionally, although Article 19 of the Constitution protects the equal rights of “ethnic group or tribe” regardless of “color, race, language, and the like” it omits an explicit provision recognizing religion or belief as a protected characteristic against discrimination.<sup>3</sup> Article 23 of the Constitution stipulates 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>

These protections, however, only apply to those “who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran”, a charge that is regularly held against certain religious minorities.

The Constitution of the Islamic Republic of Iran names the Twelver *Ja’fari* School of Shia Islam as the state religion. Only Muslim minorities (including Sunnis), Zoroastrian, Jewish and Christian Iranians are recognized under the Constitution.<sup>5</sup> There are no laws safeguarding the right of religious minorities to worship, maintain places of worship or assemble, leaving religious minorities without legal protection to manifest and practice their religion or belief.

<sup>1</sup> CCPR.18.1.S.1; CCPR.18.2.S.1; CCPR.18.3.S.1; CCPR.18.1.P.1; CCPR.18.2.P.1; CCPR.18.3.P.1; CCPR.18.O.4; CCPR.18.2.O.1; CCPR.18.3.O.1

<sup>2</sup> The Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<sup>3</sup> The Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<sup>4</sup> The Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<sup>5</sup> Articles 12 and 13 of the Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

Further, regulations may actively discriminate against members belonging to unrecognized religious minorities. For instance, a new rule proclaimed in January 2020 allows citizens to register as one of the country's recognized religions to the state-issued National Identity Card—which is required for almost all government and other transactions.<sup>6</sup> A bill currently under review of the Iranian Parliament, as of November 2020, would criminalize “any deviant educational or proselytizing activity that contradicts or interferes with the sacred law of Islam” when it is, among others, part of a “sect”, or uses “mind control methods and psychological indoctrination”. Such bill may well disproportionately impact individuals belonging to unrecognized religious minorities, such as *Baha'is*, numbering 350,000 in Iran,<sup>7</sup> who are often arrested and detained on the basis of their religious beliefs, notably on the charge of proselytizing the *Baha'i* faith.<sup>8</sup>

Additionally, many elements of Iran's domestic legal framework discriminate between *Shia* Muslims, Muslim and non-Muslim minorities, including recognized minorities. According to the Constitution of the Islamic Republic of Iran, candidates for the presidency, members of the Assembly of Experts, the Guardian Council, and the Expediency Council, all must follow the official religion of the State, excluding Muslim and non-Muslim minorities from holding high governmental positions.<sup>9</sup> Further, Article 881 of the Civil Code bars non-Muslims from inheriting property from Muslims. The Islamic Penal Code (IPC) also prescribes different penalties depending on the religion of the perpetrator and/or the victim of some crimes.

According to the Government, the Charter of Citizenship Rights, decreed by the President in 2016, functioned as an administrative mechanism providing guidance for the implementation of the principles, norms and laws stipulated in the Constitution.<sup>10</sup> Article 26 of the Charter stipulates that “the Government shall, according to the law, guarantee freedom of speech and expression”.<sup>11</sup> Article 43 of the Charter provides that citizens of the Islamic Republic of Iran “have the right to form, join and participate in political parties, societies, social, cultural, scientific, political and trade associations and non-governmental organizations in compliance with the law”.<sup>12</sup> In practice, however, the mechanism does not resolve the absence of legal protection for religion minorities against discriminations.

<sup>6</sup> Center for Human Rights in Iran, <https://www.iranhumanrights.org/2020/01/bahais-unrecognized-minorities-in-iran-must-now-hide-religion-to-obtain-government-id/>

<sup>7</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F74%2F188&Language=E&DeviceType=Desktop>

<sup>8</sup> ARTICLE19, <https://www.article19.org/resources/iran-lawmakers-must-urgently-drop-the-bill-that-criminalises-fundamental-rights-and-freedoms/>

<sup>9</sup> The Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<sup>10</sup> Report of the Working Group on the Universal Periodic Review Islamic Republic of Iran, 27 December 2019, <https://undocs.org/A/HRC/43/12>

<sup>11</sup> Charter of Citizen's Rights English translation, December 2016, <http://president.ir/en/96865>

<sup>12</sup> Charter of Citizen's Rights English translation, December 2016, <http://president.ir/en/96865>

The lack of legal safeguards afforded to religious minorities results in instituted discriminatory policies and practices. Notably, concerning *Baha'is*, in 1991, the Government institutionalized a policy against *Baha'i* citizens in a memorandum entitled 'The *Baha'i* Question', produced by Iran's Supreme Revolutionary Cultural Council and approved by the Supreme Leader. The document outlines a series of measures aimed at restricting Iranian *Baha'is* access to education, and economic and cultural life. Although the Government affirmed that the *Baha'is* had not been singled out for discrimination,<sup>13</sup> the document remains in force today. On 26 March 2018, the Supreme Leader Ali Khamenei issued, via his website, a new religious decree (*fatwa*) concerning "association and dealing with *Baha'is*". He stated that, "[y]ou should avoid any association and dealings with this perverse and misguided sect."<sup>14</sup>

The lack of legal safeguards also enables the Iranian authorities to criminalize activities such as attending a house church or being part of religious conferences on the basis that they can threaten the existence of the Islamic Republic and thus constitute a national security threat.<sup>15</sup> The Iranian judiciary has reportedly used articles such as 498, 499 and 500 of the Iranian Penal Code to prosecute minority faith adherents, including non-*Shia* Muslims, for such activities on charges related to national security.<sup>16 17</sup>

Since February 2018, *Gonabadi Dervishes* have experienced crackdowns, with hundreds arrested following a peaceful protest and over 200 sentenced to lengthy prison terms, flogging and other punishments. Dozens remain imprisoned on charges including "gathering and colluding to commit crimes against national security".<sup>18</sup> Reports show that members of the Christian converts minority were regularly arrested on the charges of "Christian activity" or "acting against national security through propaganda against the regime".<sup>19</sup> Members of the *Baha'i* faith have faced a range of charges for manifesting their faith, including "collusion and assembly against national security" and "formation and management of an illegal *Baha'i* group with intent to disturb national security".<sup>20</sup> Reports have shown that members of the Sunni minority have been

<sup>13</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019,

<https://undocs.org/Home/Mobile?FinalSymbol=A%2F74%2F188&Language=E&DeviceType=Desktop>

<sup>14</sup> Baha'i International Community, [https://www.bic.org/sites/default/files/pdf/iran/the\\_bahais\\_of\\_iran\\_-\\_a\\_persecuted\\_community.pdf](https://www.bic.org/sites/default/files/pdf/iran/the_bahais_of_iran_-_a_persecuted_community.pdf)

<sup>15</sup> Joint submission to the Human Rights Committee from The World Evangelical Alliance, Open Doors, Christian Solidarity Worldwide, Middle East Concern, Article 18, 29 May 2020, [https://articleeighteen.com/wp-content/uploads/2020/06/F3430b-2020-JointReport\\_Iran\\_HRCttee\\_ListOfIssues-dragged-1.pdf](https://articleeighteen.com/wp-content/uploads/2020/06/F3430b-2020-JointReport_Iran_HRCttee_ListOfIssues-dragged-1.pdf)

<sup>16</sup> Articles 498 ("establishing a group that aims to disrupt national security"), 499 ("membership in a group that aims to disrupt national security"), and 500 ("spreading propaganda against the system"), Islamic Penal Code of the Islamic Republic of Iran (2013), Iran Human Rights Documentation Center, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>17</sup> Rights Denied: Violations against ethnic and religious minorities in Iran, <https://minorityrights.org/wp-content/uploads/2018/03/Rights-Denied-Violations-against-ethnic-and-religious-minorities-in-Iran.pdf>

<sup>18</sup> Amnesty International, <https://www.amnesty.org/download/Documents/MDE1318292020ENGLISH.PDF>

<sup>19</sup> EN-HRANA, <https://www.en-hrana.org/a-report-on-fateme-mary-mohammadi>

<sup>20</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 28 January 2020, [https://www.ohchr.org/Documents/Countries/IR/Report\\_of\\_the\\_Special\\_Rapporteur\\_on\\_the\\_situation\\_of\\_human\\_rights\\_in\\_the\\_Islamic\\_Republic\\_of\\_IranA4361.pdf](https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf)

arrested for acts such as praying publicly.<sup>21 22</sup> There are similar reports of Sufis being arrested on charges of “promoting Sufism”.<sup>23 24</sup> In 2018 and 2019 alone, more than 53 Sunnis, including clerics, have reportedly been arrested and a number of them were charged with national security-related charges, including “propaganda against the state” and “membership in Salafist groups”.<sup>25</sup>

Despite the existence of several means and mechanisms that accept complaints regarding all violations against citizens, including discrimination based on religion and belief, such as the Article 90 Commission of the parliament, or Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts. There is no evidence to suggest these complaints are independently reviewed and investigated. Hate crimes, such as motivated killings and desecration of cemeteries, particularly against *Baha'is*, have not been investigated by the Iranian authorities.<sup>26</sup>  
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In light of the above, the Islamic Republic of Iran has not taken all necessary and appropriate actions, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities.

#### Recommendation Status:

This recommendation has **NOT** been implemented.

<sup>21</sup> Center For Human Right in Iran <https://www.iranhumanrights.org/2017/08/sunni-arabs-beaten-and-arrested-in-iran-for-praying-in-public/>

<sup>22</sup> HRANA <https://www.en-hrana.org/authorities-unforthcoming-on-status-of-sunni-prisoner?hilite=%27sunni%27> and HRANA <https://www.en-hrana.org/prisoner-of-conscience-namegh-deldel-on-hunger-strike?hilite=%27sunni%27>

<sup>23</sup> Al-Jazeera: <https://www.aljazeera.com/indepth/features/iran-gonabadi-dervishes-long-history-persecution-180227193000395.html>

<sup>24</sup> EN-HRANA, <https://www.en-hrana.org/karim-zarger-executed-rajai-shahr-prison?hilite=%27sufi%27>

<sup>25</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F74%2F188&Language=E&DeviceType=Desktop>

<sup>26</sup> Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT\\_CCPR\\_NGO\\_IRN\\_42317\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf)

<sup>27</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F74%2F188&Language=E&DeviceType=Desktop>

<sup>28</sup> See more: Baha'i International Community, <https://www.bic.org/focus-areas/situation-iranian-bahais/current-situation>