

Special Rapporteur on freedom of religion or belief A/HRC/10/8/Add.1 para 112

Full recommendation

Furthermore, she would like to recall that the General Assembly resolution 63/181 urges States to step up their efforts to eliminate intolerance and discrimination based on religion or belief, notably by taking all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility or violence, with particular regard to members of religious minorities in all parts of the world. In this regard, the Special Rapporteur is very concerned by the continued violations of freedom of religion or belief suffered by members of the Bahá'í community. She urges the Government of the Islamic Republic of Iran to ensure that the Bahá'í members who are currently detained receive a fair trial and she would like to recommend the presence of independent observers during the trials.

Assessment using Impact Iran human rights indicators¹

The Constitution of the Islamic Republic of Iran names the Twelver *Ja'fari* School of Shia Islam as the state religion (Article 12).² Article 13 of the Constitution provides that the Zoroastrian, Jewish, and Christian Iranians “are the only recognized religious minorities” under Iranian law. Additionally, Article 19 of the Constitution guarantees that all people enjoy equal rights, “whatever the ethnic group or tribe to which they belong” and that “color, race, language, and the like, do not bestow any privilege”.³ However, the Constitution omits an explicit provision recognizing religion or belief as a protected characteristic. Consequently, because the *Bahá'ís* are not recognized under Iranian law, they have no legal safeguards to protect the practice of their religion.

Since 2013, 521 *Bahá'ís* have reportedly been arrested because of their religious beliefs.⁴ As of the end of June 2019, there were reportedly 49 *Baha'is* arbitrarily detained in the Islamic Republic of Iran.⁵ On 1 January 2019, nine *Baha'i* citizens were condemned for a total of 48

¹ CCPR.18.1.S.1; CCPR.18.1.S.2; CCPR.18.1.S.3; CCPR.18.1.S.4; CCPR.18.1.S.5; CCPR.27.1.S.1; CCPR.27.2.S.1; CCPR.18.1.P.1; CCPR.18.1.P.2; CCPR.18.1.P.3; CCPR.18.1.P.4; CCPR.18.1.P.5; CCPR.18.3.P.1; CCPR.27.1.P.1; CCPR.27.2.P.1; CCPR.27.1.P.2; CCPR.27.2.P.3; CCPR.18.1.O.4; CCPR.18.1.O.5; CCPR.18.1.O.10; CCPR.18.1.O.12; CCPR.18.1.O.16; CCPR.18.2.O.1; CCPR.18.3.O.2; CCPR.27.1.O.1; CCPR.27.2.O.2; CCPR.27.2.O.3

² The Constitution of the Islamic Republic of Iran, English translation,

http://www.iranchamber.com/government/laws/constitution_ch01.php

³ The Constitution of the Islamic Republic of Iran, English translation,

http://www.iranchamber.com/government/laws/constitution_ch03.php

⁴ Baha'i International Community https://www.bic.org/sites/default/files/pdf/iran/the_bahais_of_iran_-_a_persecuted_community.pdf

⁵ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

years in prison by the court of appeal of Isfahan on charges of “membership of the illegal *Bahá’í* community and propaganda against the regime by spreading the *Bahá’í* faith in the society”.⁶ The constant threat of arrests and detention or imprisonment is a main feature of the country’s persecution of *Bahá’ís*.⁷ Such a threat can well amount to coercion to renounce or convert from the *Bahá’í* faith and therefore impairs their freedom to have or to adopt a religion or belief.

The structural exclusion of other religious minorities from Article 13 of the Constitution leaves these religious minorities without legal protection to manifest and practice their religion or belief. 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”.⁸ Articles 23 to 27 of the Constitution provide for freedom of expression, assembly and association as well as the freedom to practice ones’ religion. However, this duty applies only 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, especially the *Bahá’ís*.⁹

Although the government affirmed that “all *Bahá’ís* can freely perform their personal rituals”¹⁰, the *Bahá’í* faith is considered as a “misguided sect” in Iran and *Baha’i* worship and religious practices are deemed heresy.¹¹ *Bahá’ís* are prohibited from practicing their faith publicly, and they are not allowed to operate houses of worship.¹² *Bahá’í* cemeteries have been desecrated, and in some cases turned into parks and cultural buildings, and as a result, *Bahá’ís* have not been allowed to bury their dead in accordance with their religious laws.¹³ Furthermore, a bill on “misguided sects”¹⁴ has been adopted by the Committee for Judicial and Legal Affairs of Parliament in July 2019 that would criminalize membership in groups that the government considers “misguided”.¹⁵¹⁶ The bill increases the risk of criminalization for *Bahá’ís*, which

⁶ Baha’i International Community www.bic.org/sites/default/files/pdf/iran/overview_of_persecution-0119_2.pdf

⁷ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

⁸ The Constitution of the Islamic Republic of Iran http://www.iranchamber.com/government/laws/constitution_ch01.php

⁹ Baha’i International Community, <https://www.bic.org/focus-areas/situation-iranian-bahais/current-situation>

¹⁰ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

¹¹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

¹² NGO joint submission to the Human Rights Committee, 2019, All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva (KMMK-G), Association for the Human Rights Of The Azerbaijani People In Iran (AHRAZ), Iran Human Rights Documentation Center (IHRDC), OutRight International, Siamak Pourzand Foundation, Small Media, and Impact Iran, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGO%2fIRN%2f42317&Lang=en

¹³ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

¹⁴ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 28 January 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/021/53/PDF/G2002153.pdf?OpenElement>

¹⁵ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 28 January 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/021/53/PDF/G2002153.pdf?OpenElement>

¹⁶ <https://rc.majlis.ir/fa/news/show/1206670>

would increase discrimination against them. Another 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 through the use of “mind control methods and psychological indoctrination”. Such bill may well disproportionately impact individuals belonging to unrecognized religious minorities, such as *Baha’is* who are often arrested and detained on the basis of their religious beliefs, notably on the charge of proselytizing the *Baha’i* faith.¹⁷

Members of the *Bahá’í* faith regularly face raids, arrests, detention and imprisonment for practicing and manifesting their faith on charges of “breaching national security”, “propaganda against the holy regime of the Islamic Republic of Iran” or “propaganda activities against the regime in the interests of the *Bahá’í* sect”¹⁸, “collusion and assembly against national security” and “formation and management of an illegal *Bahá’í* group with intent to disturb national security”.¹⁹ However, as the Human Rights Committee stipulated, limitations to manifest one’s religion or belief should only be made on the grounds provided in Article 18.3 of the ICCPR, which does not include national security.²⁰

Restrictions such as the one mentioned above, in conjunction with the constant threat of arrest, detention and imprisonment for practicing religious activities may well amount to a violation of the right to manifest their religion or belief of the *Bahá’í*.²¹

Article 20 of the Constitution states 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”. Additionally, 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.”²² However, religion or belief is not a protected characteristic against discrimination in Iranian law.²³ The lack of legal safeguards result in instituted discriminatory policies and practices, particularly targeting *Bahá’í*.

One of the most emblematic examples of the State’s discriminatory practices is the official policy of the Iranian government against their *Bahá’í* citizens, which is summarized in a

¹⁷ ARTICLE19, <https://www.article19.org/resources/iran-lawmakers-must-urgently-drop-the-bill-that-criminalises-fundamental-rights-and-freedoms/>

¹⁸ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

¹⁹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 28 January 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/021/53/PDF/G2002153.pdf?OpenElement>

²⁰ Human Rights Committee General Comment No. 32 CCPR/C/GC/32 <https://undocs.org/CCPR/C/GC/32>

²¹ See more: Baha’i International Community, <https://www.bic.org/focus-areas/situation-iranian-bahais/current-situation>

²² The Constitution of the Islamic Republic of Iran, English translation, http://www.iranchamber.com/government/laws/constitution_ch03.php

²³ Article 19 The Constitution of the Islamic Republic of Iran English translation http://www.iranchamber.com/government/laws/constitution_ch03.php

government memorandum²⁴ obtained in 1993 by the UN Special Representative on the Human Rights Situation in the Islamic Republic of Iran.²⁵ Produced in 1991 by Iran's Supreme Revolutionary Cultural Council and approved by the Supreme Leader, Ali Khamenei, this document, entitled 'The *Bahá'í* Question', sets forth specific guidelines for dealing with the *Bahá'ís*. It states that "[t]he government's dealings with [*Bahá'ís*] must be in such a way that their progress and development are blocked". The document outlines a series of measures to restrict the educational, economic, and cultural life of Iranian *Bahá'ís*. This memorandum remains in effect as of today.²⁶ On 29 August 1983, the Iranian Attorney General announced a legal ban on all *Bahá'í* administrative and community activities in Iran, making membership of *Bahá'í* administrative institutions a criminal offence,²⁷ this ban remains in effect today. This ban was announced in a statement by the Attorney General, published in the newspaper Kayhan on 29 August 1983; translated excerpt from statement reads as follows: "Now, if a *Bahá'í* himself performs his religious acts in accordance with his own beliefs, such a man will not be bothered by us, provided he does not invite others to Bahaism, does not teach, does not form assemblies, does not give news to others, and has nothing to do with the administration. Not only do we not execute such people, we do not even imprison them, and they can work within society. If, however, they decide to work within their administration, this is a criminal act and is forbidden, the reason being that such administration is considered to be hostile and conspiratorial and such people are conspirators."²⁸

Although the Government affirmed that the *Bahá'ís* had not been singled out for discrimination,²⁹ the memorandum and the ban remain 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'ís*". He stated that, "[y]ou should avoid any association and dealings with this perverse and misguided sect."³⁰ The hostile behaviour of the state towards members of the *Bahá'í* faith may well amount to intimidation and coercion to renounce or convert from the *Bahá'í* faith and therefore impairs their freedom to have or to adopt a religion or belief.

While Iranian law theoretically forbids the investigation of individual beliefs, discrimination in access to employment is institutionalized through the practice of *gozinesh*, a mandatory screening process that anyone seeking employment in the public sector must

²⁴ HRANA: <<https://www.en-hrana.org/category/religious-minorities> >

²⁵ HRANA: <<https://www.en-hrana.org/category/religious-minorities> >

²⁶ Bahá'í International Community: <https://www.bic.org/sites/default/files/pdf/iran/the_bahais_of_iran_-_a_persecuted_community.pdf >

²⁷ Bahá'í International Community: <https://www.bic.org/sites/default/files/pdf/iran/the_bahais_of_iran_-_a_persecuted_community.pdf >

²⁸ Bahá'í International Community: <https://www.bic.org/sites/default/files/pdf/iran/the_bahais_of_iran_-_a_persecuted_community.pdf >

²⁹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

³⁰ Baha'i International Community, https://www.bic.org/sites/default/files/pdf/iran/the_bahais_of_iran_-_a_persecuted_community.pdf

undergo.³¹ The *gozinesh* criteria not only bar adherents of non-recognized religions from seeking employment, but also disadvantage anyone who holds views contrary to the official values of the Islamic Republic. *Bahá'ís*, for instance, continue to be categorically barred from public sector employment, and they also face serious restrictions in the private sector.³² For example, the authorities sometimes refuse to issue commercial licenses to *Bahá'ís* and have shut down scores of *Baha'i*-owned businesses for closing on *Bahá'í* holy days.³³ From 2013 to 2019, there were more than 803 incidents of violations of economic rights of the *Bahá'ís*, including arbitrary shop closures, unfair dismissal from employment and the actual or threatened revocation of business licenses.³⁴

Regarding discrimination in access to education, the Iranian government continues to bar *Bahá'ís* from Iran's state-run university system.³⁵ *Bahá'ís* are either not allowed to enrol or are expelled after registration. In fact, Iran's Court of Administrative Justice has ruled that the 1991 memorandum by the Supreme Council of Cultural Revolution prohibits admission of *Baha'is* to Iran's universities.³⁶ In 2019, as of June 2019, 17 *Bahá'í* students were reportedly expelled from Iranian universities.³⁷ In 2018, 50 *Bahá'í* students were reportedly expelled.³⁸

While it is technically possible to file discrimination complaints with the Administration of Justice Court, the Article 90 Commission in the parliament, and the Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts, there is no evidence that judicial actions are taken in response to complaints.³⁹ Hate crimes, such as motivated

³¹ 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

³² Baha'i International Community, <https://www.bic.org/focus-areas/situation-iranian-bahais/current-situation>

³³ 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

³⁴ Baha'i International Community, www.bic.org/sites/default/files/pdf/iran/overview_of_persecution-0119_2.pdf

³⁵ Baha'i International Community, <https://www.bic.org/focus-areas/situation-iranian-bahais/current-situation>

³⁶ 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

³⁷ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019,

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

³⁸ Center for Human Rights in Iran, <https://iranhumanrights.org/2018/09/in-just-six-months-iranian-universities-expelled-50-bahai-students-for-their-religious-beliefs/>

³⁹ 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

killings and desecration of cemeteries, particularly against *Bahá'ís*, have not been investigated by the Iranian authorities.^{40 41}

While members of the *Bahá'í* faith have limited access to justice, they are also unequally protected by the judicial system. International standards of fair trial are regularly ignored by the Islamic Republic of Iran during judicial proceedings⁴², notably for cases including members of ethnic and religious minorities, including members of the *Bahá'í* faith. Reportedly, members of the *Bahá'í* faith have faced unlawful arrests, arbitrary detention and violations of their right to due process and fair trial throughout the process of judicial proceedings.⁴³ Additionally, as judges have great discretion to limit access to hearings,⁴⁴ trials involving *Bahá'ís* can be held behind closed doors with no access to independent observers.

Recommendation Status:

This recommendation has **NOT** been implemented.

⁴⁰ 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

⁴¹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

⁴² Joint submission to the Human Rights Committee from Abdorrahman Boroumand Center (ABC) Iran Human Rights Documentation Center (IHRDC) Impact Iran Human Rights Activists in Iran, 2020,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fIRN%2f42313&Lang=en

⁴³ Baha'i International Community, <https://www.bic.org/focus-areas/situation-iranian-bahais/current-situation>

⁴⁴ Article 352, Code of Criminal Procedure (2015) as referenced by Amnesty International < <https://www.amnesty.org/download/Documents/MDE1327082016ENGLISH.PDF>>