

Notes on compliance by the Islamic Republic of Iran  
with the International Covenant on Civil and Political Rights

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The comments in this paper are based upon a comparison of the Constitution of the Islamic Republic of Iran with the International Covenant on Civil and Political Rights, and also upon events currently taking place in Iran, with particular reference to the treatment of the Bahá'í religious minority, concerning which much information is available.

As a preamble to the comments concerning specific articles of the Covenant, it should be emphasised:

- (a) that the entire legal and administrative system in Iran is based upon Islamic law which, by definition, concerns itself solely with the rights and duties of Muslims and of the followers of religions which existed at the time of Muhammad's revelation;
- (b) that personal and legal status in Iran is determined by religious affiliation and that no provision is made in the Constitution for citizens who do not belong to one of the religions specified in the Constitution;
- (c) that, as far as the Bahá'ís are concerned, they are a religious minority living under a theocratic government whose fundamentalist theology categorizes them as heretics and opponents of the very religion upon which the state is founded.

It should be noted that, in very many instances, the provisions of the Iranian Constitution incorporate qualifying phrases such as "with due observance of Islamic precepts" (article 20), "provided they are in conformity with the laws of Islam" (article 44), "shall be specified by law in accordance with Islamic tenets" (article 168) - and many others. The phrases "in accordance with law", "as provided by law", "as shall be determined by law", and so on, naturally appear with great frequency.

Often, however, what actually constitutes "the law" is uncertain. Although the religion of Islam provides a comprehensive framework of principles for the conduct of human affairs, and enjoins certain penalties for specific offences, inevitably it does not contain detailed laws and regulations for the day-to-day administration of a modern state. Consequently, in a state (such as Iran) which bases its legal system upon Islamic law, there must necessarily be a large degree of interpretation of Islamic principles in order to compile a body of law sufficiently comprehensive to meet every contingency.

The Iranian Constitution (article 71) gives legislative power to the Majlis (parliament) but requires (article 94) that all its enactments shall be submitted for approval to a Council of Custodians (composed of Muslim jurists and theologians), which must reject any legislation which does not "reconcile itself with the tenets of Islam." Article 167 of the Constitution gives to the judiciary responsibility for interpreting the law. Judges are enjoined to "try to find the ruling applicable to any litigation in the written laws and, failing this, they shall bring in the right verdict on the strength of reliable Islamic sources or authentic judgements."

The question of what constitutes a "reliable Islamic source" is itself uncertain. Although the laws and principles contained in the Holy Qur'an are unequivocal, there has grown up, since the passing of Muhammad, a vast body of man-made Islamic "traditions" which, in many cases, depart from strictly Qur'anic law. One example will suffice. In the Qur'an, Muhammad unequivocally states "there is no compulsion in religion" and, in several passages, declares that those who do not embrace Islam as their religion will be judged by God in the world to come, and that their punishment should be left to God. According to the traditionalists, however, the punishment for an apostate (i.e. one who leaves Islam and embraces another religion) is death in this world. (The Iranian Bahá'ís - the majority of whom have never been Muslims, but whose families have been Bahá'ís for generations - are collectively described as apostates.) In an interview published in the newspaper Kayhán early in 1982, Ayatu'llah Músaví Ardíbilí categorized Bahá'ís

as "infidels" and emphasized that, according to the Qur'an, the punishment for infidels is death.

On less grave matters, too, the huge body of Islamic "traditions" (some of which directly contradict one another) can be manipulated by the legislature and the judiciary.

It is clear from the above that the Iranian Constitution is defective in that (because of the many riders which relate its provisions to an interpretation of Islamic principles) the citizens of Iran cannot, in a great many cases, be certain as to what exactly constitutes the law of their country. Furthermore, the wide discretion given to the courts in applying "Islamic tenets" and "Islamic sources" is clearly open to abuse, particularly as regards minorities or groups which do not find favour with the authorities.

Regarding article 2(1) of the Covenant:

While purporting (as a general principle in articles 19 and 20, and on matters of detail in other articles) to grant equal rights and protection to all Iranian citizens, the Constitution specifically excludes from its provisions a significant section of the population. Article 13 states that: "The Zoroastrian, Jewish and Christian Iranians shall be the sole recognized religious minorities who shall be free within the jurisdiction of the law in performing their religious services and shall act according to their canon law as far as their personal status and religious teachings are concerned." As explained in the preambular notes, this provision - which, on the face of it, relates only to the practice of religion - has the effect of depriving the Bahá'í community of some 300,000 (Iran's largest religious minority) of any status under the law and any form of recognition or protection under the Constitution.

Article 14 of the Constitution appears to liberalise this provision to some extent by stating that "... Muslims shall deal with non-Muslims decently and with Islamic equity and justice and respect their human rights", but adds the rider: "This article shall be valid in the case of those who do not engage in any plotting whatsoever against Islam and

the Islamic Republic of Iran." Since (as described above) the Bahá'ís are regarded as heretical opponents of Islam, this article merely puts the seal upon their exclusion from the provisions and protection of the Constitution.

Although the Bahá'ís have been the most severely persecuted community in Iran, members of the other religious minorities have also suffered discrimination and oppression, and it is both implicit in the language of the Constitution, and evident in the conduct of arrairs in Iran, that the Muslim majority in the country enjoys a greater measure of freedom, security and prestige than the members even of the officially-recognized religious minorities.

Regarding article 2(2) of the Covenant:

Since the Bahá'í community has never been granted recognition as a religious minority under the Iranian Constitution, and has suffered severe discrimination as a result, the present government of Iran is in breach of this article of the Covenant in failing to rectify the situation.

Regarding article 2(3) of the Covenant:

The Iranian Constitution contains no specific provisions or procedures for ensuring that persons whose rights and freedoms are violated have effective remedies. In certain instances (e.g. prohibition against torture, article 38) punishment is prescribed for any party violating this article, and article 178 provides for the setting up of judicial tribunals to investigate public complaints and protests against government officials - but, on the question specifically of remedies, the Constitution is silent. The provision of remedies might possibly be implied or inferred from various general provisions of the Constitution relating to the enjoyment of human rights, or access to the law, or the reciprocal duties of government and people (article 8), but the situation is ill-defined and unsatisfactory.

In the light of the current situation in Iran, the question of the

extent to which the Constitution provides (or fails to provide) effective remedies for the victims of human rights violations is purely academic, since there is no indication whatsoever that Iranian citizens - who are suffering massive abuses of their human rights - are being granted remedies for violations of those rights. The experience of Bahá'ís who have sought relief and redress from the authorities testifies to the fact that all claims and appeals are dismissed out of hand, at whatever level they are made.

Regarding article 3 of the Covenant:

While the Iranian Constitution (article 21) guarantees the rights of women "in every respect", it qualifies this by adding the rider "with due observance of the Islamic precepts." Since these Islamic precepts incorporate various provisions which restrict the rights and freedoms of women, the Constitution is not in line with the spirit of the Covenant, which calls for the "equal right of men and women ...".

Regarding article 4 of the Covenant:

Although a state of public emergency (war with Iraq, internal sedition) undoubtedly exists in Iran, the government is in flagrant breach of the powers of derogation contained in this article, namely:

- 4(1) The measures taken by the government are far in excess of those strictly required by the exigencies of the situation and, in the case of the Bahá'ís, involve discrimination solely on the grounds of religion.
- 4(2) In the case of thousands of its citizens of all religious persuasions, the government is in breach of many of those articles from which no derogation is permitted under the Covenant.
- 4(3) As far as is known, the government of Iran has not complied with the procedures specified in this section of the article.

Regarding article 6(1) of the Covenant:

Although article 22 of the Iranian Constitution states that: "The prestige, lives, property ... of the people shall be immune against encroachment unless otherwise provided by law", the right to life has not been safeguarded by the government. Since the creation of the Islamic Republic of Iran, thousands of Iranian citizens have been summarily executed by order of the revolutionary courts, arbitrarily assassinated by revolutionary guards, or murdered with impunity by individuals or mobs. (In the case of Bahá'ís killed by mobs, the authorities declined to take any steps to identify or apprehend the murderers. Numerous other Bahá'ís have, of course, been summarily executed, and some have been assassinated.)

Regarding article 6(2) of the Covenant:

The imposition of the death penalty is, of course, permitted under Islamic law and covers a variety of offences, including some (e.g. prostitution, adultery) which do not constitute capital offences in the non-Islamic world. The Constitution is silent on the subject of the death penalty and does not specify those crimes for which it will be invoked.

In practice, the sentence of death is being imposed virtually at will and requires only that the judge (in his capacity as interpreter of Islamic law and tradition) rules that the act with which the accused is charged is "un-Islamic" or "opposed to Islam". Bahá'ís, for example, have been sentenced to death for "warring against God", "opposing Islam" and being "corrupt on earth" simply because they have practised their religion.

Regarding article 6(3) of the Covenant:

It is appropriate to mention here that the Iranian government's campaign of persecution against the Bahá'í minority is viewed by many observers as a campaign of genocide, since it seeks to eradicate the entire Bahá'í community by terrorising Bahá'ís into abandoning their faith and presenting those who refuse to do so with the ultimatum "recant or die".

Regarding article 6(4) of the Covenant:

In its provisions dealing with the administration of justice, the Iranian Constitution makes no reference to the right to appeal against sentence of death - although it deals with other matters of less crucial import. In practice, in Iran today, execution normally follows immediately upon verdict, with the accused being given no opportunity to appeal his sentence. As reported by Amnesty International, thousands of Iranians have died under such circumstances.

Regarding article 6(5) of the Covenant:

As also reported by Amnesty International, youths and girls below the age of 18 years have frequently been executed in Iran. The Constitution is silent upon the age of legal responsibility, but the imposition of the death penalty on minors is justified by reference to Islam, which sets the age of maturity at much lower than 18. In this case (as in others), the Iranian interpretation of Islamic law is in conflict with the provisions of the Covenant.

Regarding article 7 of the Covenant:

Article 38 of the Iranian Constitution states: "Any torture whatsoever to make people confess or to obtain information shall be forbidden." Nevertheless, it is very widely reported that the application of torture is commonplace in Iranian prisons - as is cruel, inhuman and degrading treatment. In the case of Bahá'ís, torture is employed, not to elicit confession or information, but to try to compel them to recant their faith. The evidence of severe torture has been plainly visible on the bodies of Bahá'ís who were later executed.

Regarding article 9 of the Covenant:

Article 32 of the Iranian Constitution contains provisions which conform with the spirit of article 9(1), (2) and (3) of the Covenant. In practice, however (as reported by Amnesty International), arbitrary arrests, and detentions without charges or court hearings, are currently taking place on a vast scale in Iran.

The writ of *habeas corpus* does not appear to run in Iran, nor does the Constitution make any provision for persons awaiting trial to be released from custody (as specified in article 9(3) of the Covenant) or to initiate proceedings before a court (as specified in article 9(3) of the Covenant). And, as has been mentioned above, no provision is made for the victims of human rights violations (such as unlawful arrest or detention - see article 9(5) of the Covenant) to seek and obtain remedies.

To illustrate the process of arbitrary arrest and detention, it is useful to quote the experience of the Bahá'ís, concerning whose cases many details are known. Typically, Bahá'ís are abruptly seized by revolutionary guards, whose "authority" for the arrests (on the occasions when such authority is produced at all) is simply a piece of paper which the prisoners are not allowed to inspect but which normally appears to contain a list of names. Once in prison, the Bahá'ís languish there without charges and with no access to lawyers or to the courts. It is conservatively estimated that at least 150 Bahá'ís are currently in detention - some having been incarcerated since late 1979 and early 1980, and at least one of them (a woman) critically ill and paralysed following a massive heart attack.

Regarding article 10 of the Covenant:

The Iranian Constitution is silent upon the matters contained in this article, but it is clear from the foregoing references to torture (under article 7) and the neglect of the sick (under article 9) that prisoners in Iran are not treated with "humanity and with respect for the inherent dignity of the human person", as required by the Covenant.

From the experience of imprisoned Bahá'ís, it is known that accused (or arbitrarily detained) persons are not segregated from convicted persons, and that there is no separation of juveniles from other prisoners.

It is clear from all the informed reports concerning and emanating from Iran that the Iranian government is currently using the penitentiary



system primarily as a means of suppression and vengeance. As far as the "reformation and social rehabilitation" of prisoners is concerned (see article 10(3) of the Covenant), this appears to have no place in the penitentiary system of Iran - except in the perverted sense in which duress is used to "reform" and "rehabilitate" Iranian citizens by forcing them to conform in every particular with the opinions, beliefs and prejudices of those in authority.

To BE CONTINUED . . . . .

Regarding article 12 of the Covenant

The Iranian Constitution does not deal specifically with the question of freedom of movement within Iran. Article 33, however, states: "No person shall be exiled from his residential place nor shall he be forbidden to reside where he desires, or forced to reside in a certain place, unless otherwise provided by law."

In the case of the Baha'i minority, the law has been interpreted by revolutionary courts in a number of areas to provide for the expulsion from their towns and villages of Baha'is who refuse to recant their faith. In hundreds of other cases in all parts of Iran, the authorities have achieved the same end by confiscating the homes of Baha'is - thus forcing them to move to other localities. (The arbitrary confiscation of Baha'i homes is itself a violation of article 22 of the Constitution, which states that: "The prestige, lives, property rights, dwelling places ... of the people shall be immune against encroachment unless otherwise provided by law.")

The Constitution is silent on the question of freedom of entry to or egress from Iran. As far as is known, these rights have not been officially limited by the government. In practice, however, the existence of official lists of *personae non grata* (naming persons who are accused of no crime but who, for example, served under the former government, or are prominent Baha'is), coupled with the likelihood of arbitrary arrest if such persons present themselves and their papers at airports or other points of embarkation or debarkation, has severely curtailed the freedom of large numbers of Iranian citizens to enter or leave their country.

Regarding article 14 of the Covenant - general comments

While the Iranian Constitution states (article 34) that every person has the right "to litigate at competent courts" (a provision which seems to imply the initiation rather than the defence of legal actions), it is silent on the important question of the conduct of criminal trials and, in particular, on the provision of safeguards for accused persons.

As reported by Amnesty International and other sources, most of the provisions of article 14 of the Covenant are being violated daily in Iran. For the reasons previously mentioned, examples of specific violations of this article will largely be drawn from cases concerning Baha'is.

Regarding article 14(1)

The requirement of the Covenant that "All persons shall be equal before the courts and tribunals" is not precisely reflected in the Iranian Constitution. Although article 20 of the Constitution states that "All persons ... shall be equal under the protection of the law ...", this does not necessarily carry the same connotations.

As explained earlier in these notes, the exclusion of the Baha'i minority from the Constitution has deprived the Baha'is of any rights or status under the law. In consequence, as far as courts and tribunals are concerned, they are not "equal" with their fellow citizens of other persuasions. They are thus at a disadvantage right from the outset of any proceedings in which they are involved.

As things stand in Iran today, not only the Baha'is but hundreds of their fellow citizens of other faiths are being deprived of their right to a fair trial, primarily (but not exclusively) in criminal proceedings concerning alleged offences against the state for which the punishment is death.

The Iranian Constitution (article 165) provides that "Trials shall be held in open sessions with the public admitted to attend, except when the court decides that open sessions would be contrary to public decency or order or when in private litigation the parties thereto request that trial sessions should not be held open."

In many cases, however, trials in Iran are conducted in secret - not simply *in camera*, with the press and public excluded for the various reasons specified in article 14(1) of the Covenant (or in article 165 of the Constitution), but actually held without any form of notice being

given, with no indication that proceedings are under way, and with no announcement of verdict or sentence.

Numerous Baha'is have been summarily executed following "trials" whose proceedings (if any) have never been reported. In recent months, 17 Baha'is are known to have been the victims of secret executions in Teheran. (It was only by chance that their families learned of their fate.) Following the secret executions on 27th December 1981 of eight of the nine members of the national governing body of the Baha'i Faith in Iran, the President of the Supreme Court of Iran, Ayatollah Musavi Ardibili, publicly denied that the executions had taken place - a denial which he was later forced to retract in the light of evidence (including burial certificates describing the deceased as "executed") produced by the Baha'is.

In all these cases it cannot, of course, be known whether any trial actually took place, or whether the proceedings were simply limited to the issuance of a "guilty" verdict.

Regarding article 14(2) of the Covenant

Article 37 of the Iranian Constitution conforms with this provision of the Covenant by stating: "Acquittal shall be the main and valid point and no person shall be considered guilty by law unless his guilt is proved by a competent court."

However, in the light of all the evidence emanating from Iran, it is apparent that the presumption of innocence has no place in the present-day administration of justice and that it may, indeed, be said to have been replaced by a presumption of guilt so far as particular groups or minorities are concerned.

Regarding article 14(3)(a) of the Covenant

Article 32 of the Iranian Constitution (dealing with arrests) provides that any person who is arrested "shall be notified in writing of the reasons for accusation" - a provision rather less precise than the

requirement of the Covenant that an accused person shall be "informed promptly and in detail in a language which he understands of the nature and cause of the charge against him."

It has been the experience of Baha'is arrested in Iran that:

- (i) they are summarily arrested without charges, simply on the grounds of their religious affiliation, and arbitrarily detained until such time as charges have been formulated against them;
- (ii) the accused is not notified of the charges against him until he actually appears before the court for trial;
- (iii) charges are couched in vague terms (e.g. "charged with opposing Islam and the Islamic Republic of Iran"); or
- (iv) charges of a more specific nature, such as accusations of "spying for foreign powers" are lodged with no indication of any specific act of espionage upon which the allegation is based.

Regarding article 14(3) (b) of the Covenant

The Iranian Constitution (article 35) states: "In all courts, the parties to a case shall be entitled to appoint an attorney ...", but nowhere specifies (as does this article of the Covenant) that the defendant is to be given "... adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing."

It is not known to what extent non-Baha'i defendants are accorded facilities for the preparation of their defence. It is known, however, that in no case has a Baha'i defendant been allowed to appoint an attorney, or been given any other facilities for preparing a defence.

Regarding article 14(3)(c) of the Covenant

Article 32 of the Iranian Constitution (dealing with arrests) provides that "... within twenty-four hours the preliminary case shall be referred to a competent court which shall inquire into the case at its earliest convenience." No provision of the Constitution refers to the timing of any trial which might follow the preliminary hearing.

As already noted above under article 9, persons held in custody in Iran are frequently detained for long periods without (or before) trial - and without even the preliminary hearing provided for in article 32 of the Constitution. Some Baha'i examples: Mr. Habibu'llah 'Azizi, arrested June 1980, executed August 1981; Mr. Husayn Asadu'llah-Zadih, arrested July 1980, executed July 1981; Mr. Parviz Yazdani, arrested March 1979, still in prison; Mr. Nusratu'llah Bahrami (and others), arrested February 1980, still in prison.

It is evident from the foregoing that the provision of the Covenant that accused persons should be tried "without undue delay" is not being observed in Iran.

Regarding article 14(3)(d) of the Covenant

The Iranian Constitution is silent on the question of whether (as required by the Covenant) an accused person has the right to be "tried in his presence and to defend himself in person or through legal assistance of his own choosing ...". Because of the summary and often secretive manner in which justice is currently being dispensed in Iran, and the lack of published reports, information upon the actual conduct of trials is scanty. In cases where Baha'is have been tried, the indications are that they have normally appeared in person, although there is no evidence to suggest that they have been allowed to speak in their own defence. (As mentioned above, no Baha'i has been allowed to appoint an attorney to speak for him.)

Article 35 of the Constitution (which gives parties to a case the right to appoint an attorney) goes on to state: "... and if they cannot

afford a retainer, they shall be provided with means to appoint and retain an attorney." The Constitution thus conforms with this article of the Covenant - although, in the light of all the other evidence of abuses, there must be grave doubts as to whether free legal assistance is ever assigned to defendants.

Regarding article 14(3) (e) of the Covenant

The Iranian Constitution makes no provision for the attendance at trials of prosecution and defence witnesses, or for the examination of the witnesses and their evidence (as required by this article of the Covenant).

In the absence of published trial reports, it is difficult to establish precisely what takes place in Iranian courts. It can be stated with certainty, however, that no shred of evidence has ever been adduced to support the charges against the many Baha'is who have been tried and executed for alleged offences against the state. (Had any such evidence ever existed, it would undoubtedly have been widely publicised by the authorities in order to justify their campaign against the Baha'i minority.)

In the light of this and other surrounding evidence, there is a strong inference that, in very large numbers of trials in Iran today, the charges made by the state prosecutor are sufficient to constitute, without examination, the "evidence" necessary to secure a conviction. In such a situation, witnesses are, of course, redundant.

Regarding articles 14(3) (f) and 14(3) (g) of the Covenant

These requirements of the Covenant are not reflected in the Iranian Constitution. It is not known whether defendants in Iranian courts have the free assistance of an interpreter (if needed) or whether or not they are placed under compulsion to testify against themselves or to plead guilty.

Regarding article 14(4) of the Covenant

The Iranian Constitution lays down no procedures for handling the cases of juveniles and thus does not reflect this article of the Covenant, which requires that "... the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation."

As already noted under article 6(5), Iranian courts have, in several cases, imposed the death penalty on juveniles.

Regarding article 14(5) of the Covenant

The Iranian Constitution does not give a convicted person the right to have his conviction and sentence reviewed by a higher tribunal (as required by this article of the Covenant).

In a statement to the United Nations Commission on Human Rights on 26th February 1982, Amnesty International reported: "The Islamic revolutionary tribunals in Iran ... which have jurisdiction over all offences for which the death penalty may be imposed, lack the most elementary safeguards for a fair trial. There is no effective presumption of innocence and no effective right of appeal against sentence or even apparently for clemency; political prisoners have frequently been executed almost immediately after imposition of the sentence. According to some reports, political prisoners have sometimes been executed without any form of trial at all."

No Baha'i has ever been allowed to appeal his conviction, and all but two have been executed immediately after the imposition of the sentence of death. (The execution of the two exceptions was deferred for two months while they were put under intense pressure to recant their faith.)

Regarding article 14(6) of the Covenant

The Iranian Constitution (article 171) envisages the possibility of a conviction being overturned and a wrongly-convicted person being compensated and rehabilitated. Unlike the Covenant, which envisages that



this will occur when "... a new or newly discovered fact shows conclusively that there has been a miscarriage of justice ...", the Constitution links the miscarriage of justice to the performance of the trial judge, stating:

"If a judge fails to consider rightly the merit of the case or makes an error in his judgement or in reconciliation of the verdict with a particular case and thus causes someone to sustain material and non-material losses, he shall be responsible for such failure according to Islamic practice; otherwise the government shall pay for the losses incurred and in any case the accused shall be rehabilitated."

In a situation such as that currently prevailing in Iran (viz. summary justice, no adequate defence facilities, no effective right of appeal), the question which must inevitably arise in connection with this article of the Constitution is: "Who is to judge the judge?"

Regarding article 14(7) of the Covenant

There is no reference in the Iranian Constitution to the question of double jeopardy, and no cases are known in which this kind of situation has arisen in Iran.

Regarding article 15(1) of the Covenant

The Iranian Constitution makes no mention of the requirement of the Covenant that: "No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence ... at the time when it was committed." It is clear, however, that - in a typical post-revolutionary development - many Iranian citizens have been tried and sentenced for the "crime" of having held a position in or under the Pahlavi government.

Regarding article 16 of the Covenant

As discussed above, the refusal of the Iranian government to grant constitutional recognition to the Baha'i community has deprived its

members of any status under the law - in clear violation of this article of the Covenant, which stipulates that: "Everyone shall have the right to recognition everywhere as a person before the law."

In large numbers of reported cases, Baha'is have been denied their rights and remedies simply on the grounds that they are not members of one of the officially recognized religious minorities in Iran. If the government implements its already-announced plans to introduce a nationwide system of identity cards (which will be necessary for the purchase of essential commodities such as food and fuel, and to gain access to public and social services, and which will be issued only to Muslims and to the followers of the officially recognized minority religions), then the Baha'is will officially cease to exist and will become "non-persons" not only before the law but also in every aspect of their practical daily lives.

Regarding articles 17(1) and 17(2) of the Covenant

The Covenant provides: "No one shall be subjected to arbitrary or unlawful interference with his privacy [see 1 below], family [2], home [1] or correspondence [3], nor to unlawful attacks on his honour and reputation [4]."

These requirements of the Covenant are reflected in two provisions of the Iranian Constitution, namely article 25 (which states that the "... prestige, lives, property rights, dwelling places and occupations of people shall be immune against encroachment unless otherwise provided by law ...") and article 25 (which forbids the interception, inspection, censorship or withholding of written communications, and the tapping of telephones, "unless otherwise provided by law").

Re [1] above (protection of privacy and home). The homes of countless Baha'is have been invaded - often at night - by armed bands of revolutionary guardsmen, who have subjected family members to harassment and interrogation and have carried off personal correspondence, books, title deeds and other papers. As mentioned previously, the homes of hundreds of Baha'is have been arbitrarily confiscated by order of the revolutionary courts.

Re [2] above (protection of family). In two well-attested cases in 1981, young Baha'i girls (aged 13 and 14 respectively) were abducted from school by their Islamic religious instructors. Their parents were later informed in writing that they had converted to Islam and wanted nothing more to do with their families. The parents have not been allowed to see or communicate with their daughters and their appeals to the secular and religious authorities have proved fruitless.

In a recent case concerning a Baha'i widow, a high-ranking official ruled that, because of her religion, she was not entitled to custody of her children.

Re [3] above (protection of privacy of correspondence). It is known that mail addressed to Baha'is has been intercepted by the authorities, and also that the telephone lines of many Baha'is are tapped (the comments of the illicit listeners are frequently audible).

Re [4] above (protection of reputation). The reputation of the Baha'i community as a whole is under constant and vitriolic attack by the government, the clergy and the media. Baha'is at large are accused of being corrupt, immoral, traitors, fomentors of sedition and enemies of Islam. The same false allegations are arbitrarily lodged against individual Baha'is.

Somewhat curiously in a revolutionary Constitution, article 39 states: "Aspersions of honour and reputation of a person arrested, imprisoned or exiled according to law shall in no way be allowed and shall be liable to punishment." In practice, of course, aspersion of the reputations of such persons (and also of executed persons) is commonplace.

Regarding article 18(1) of the Covenant

The Covenant provides that "Everyone shall have the right to freedom of thought, conscience and religion". The Iranian Constitution (article 23) states that "Inquisition into people's opinions shall be forbidden and no one shall be offended or brought to account merely for having a certain opinion."

It is extremely clear that the Iranian government is acting in continuous and flagrant violation not only of article 18(1) of the Covenant but also of article 23 of its own Constitution. The outstanding case of denial of freedom of conscience in Iran is, of course, the denial to the Baha'i minority of freedom of religious belief.

It is appropriate to mention at this point that the Baha'is are a peaceful, law-abiding community who, in accordance with the most fundamental principles of their faith, eschew any form of violence, uphold the divine origin of all the major world religions (including Islam), abstain from partisan politics (including the holding of any political post), shun involvement in any form of subversive activity, and demonstrate the utmost loyalty and obedience to the government of their country, whatever its form or policies. They thus pose no threat to any person or institution in Iran, and the persecution they are suffering is motivated solely by religious prejudice.

The Iranian authorities have consistently denied any religious motivation for the persecution and have brought a variety of false accusations against the Baha'is in order to convey the impression that they are guilty of political or moral crimes. (The Baha'i International Community's publication The Baha'is in Iran: A Report on the Persecution of a Religious Minority, pages 11 to 16, enumerates, explains and convincingly refutes these false allegations).

In a recent case (reported in the Iranian newspaper Kayhan on 3 May 1982), much of the pretence was dropped. As reported by Kayhan:

"Azizu'llah Gulshani, son of Rahmatu'llah, has been charged with:

- propagating and teaching the anti-Islamic ideology of Bahaism within the country, and outside the country through his son,
- spending money from the Muslim treasury\* towards strengthening the interests of Bahaism,

\* As a teacher, Mr. Gulshani was a civil servant employed by the Ministry of education: his salary was thus paid from what the government describes as the "Muslim treasury".

- misleading Muslims,
- contributing regularly to Bahaism from the Muslim treasury,\*
- aiding the aggressive Zionist government,\*\*
- travelling to Israel,\*\*
- propagating Baha'i ideology among his students, and
- writing anti-Islamic articles, such as the one entitled 'Why I have become a Baha'i'.

"Therefore, Mr. Gulshani is a murtad (a heretic who has abandoned Islam), is an infamous example of the corrupt on earth, and is sentenced to death."

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\* As a teacher, Mr. Gulshani was a civil servant employed by the Ministry of Education: his salary was thus paid from what the government describes as the "Muslim treasury".

\*\* The Baha'i World Centre is situated in Israel. It was established there in the last century, long before the State of Israel came into existence, and has nothing to do with Zionism. Mr. Gulshani had obviously gone as a pilgrim to visit the Baha'i Shrines in Israel and (in common with the majority of Iranian Baha'is) had also sent contributions to the Baha'i World Centre for the upkeep of those Shrines and the general administration of the Baha'i Faith.

The Covenant provides that "This right (to freedom of thought, conscience and religion) shall include freedom to have or to adopt a religion or belief of his choice ...". As far as the Iranian government is concerned, the phrase "or to adopt" is an incitement to heresy; consequently, no reference is made in the Constitution to the possibility of any person changing his religion.

The Iranian Constitution conforms with Qur'anic law in that it recognizes, protects and grants religious freedom to the followers of religions which existed at the time of Muhammad's revelation (see articles 13 and 26 of the Constitution). Fundamentalist Islamic theology dictates, however, that - since Muhammad declared Himself to be the last of the Prophets - no true religion can follow His religion and that any religion purporting to do so is, by definition, heretical and in direct opposition to Islam. (Note: Although the Baha'i Faith is often misleadingly or mistakenly described as a sect of Islam, it is in fact an independent world religion with its own Founder, Scriptures and teachings.)

This traditionalist interpretation of the Qur'an, coupled with the extremism of the Iranian religious establishment, is responsible for the severe persecutions currently being suffered by the Baha'is in Iran, and for the intransigence of the government in denying any form of constitutional recognition or protection to the Baha'i minority.

As already noted, Baha'is even of the fourth or fifth generation are categorized as apostates (i.e. persons who have abandoned Islam), and the same appellation is applied to the members of other, officially-recognized religious minorities (e.g. Zoroastrians) who have embraced the Baha'i Faith. (As previously noted, the punishment for apostacy is death.)

Although it appears unlikely that the Iranian authorities would take any action in the case of, say, a Jewish Iranian who embraced the Christian faith, it is clear not only that no Iranian may freely embrace the Baha'i Faith but also that the overwhelming majority of Iranian

citizens - the Muslim Iranians - are denied the freedom to change their religion for any other religion whatsoever. Both situations constitute clear violations of article 18(1) of the Covenant.

citizens - the Muslim Iranians - are denied the freedom to change their religion for any other religion whatsoever. Both situations constitute clear violations of article 18(1) of the Covenant.

Whereas the Covenant provides that everyone shall have the right and freedom "... either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching", the Iranian Constitution explicitly restricts that right and freedom.

Article 13 of the Constitution states: "The Zoroastrian, Jewish and Christian Iranians shall be the sole recognized religious minorities who shall be free within the jurisdiction of the law in performing their religious services and shall act according to their canon law as far as their personal status and religious teachings are concerned."

Bahá'ís in Iran are forbidden to practise their faith in community. Bahá'í meetings, both public and private, have been declared illegal. Free expression of faith, places of worship and free circulation of Bahá'í literature and other materials are all proscribed to the Bahá'í community.

All Bahá'í community properties and financial assets in Iran were confiscated by the government in 1979. Bahá'í holy places and religious sites were desecrated and, in almost every case, razed to the ground. Bahá'í cemeteries were bulldozed and graves broken open and defiled. Local Bahá'í administrative centres were looted and either taken over or destroyed. The National Bahá'í Centre in Teheran was handed over by the government to religious extremists and turned into a so-called "Free Muslim University". Welfare institutions such as the Bahá'í hospital in Teheran and the Bahá'í home for the poor and elderly (which served all races and religions) were appropriated and all rights in them denied to Bahá'ís. The major Bahá'í banking company Nawnahalan, in which 15,000 Bahá'í shareholders and investors had their life savings, was confiscated and its assets frozen.



Regarding article 18(2) of the Covenant

The Covenant provides: "No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice."

The Iranian Constitution alludes to this freedom from coercion but, once again, restricts the entitlement to that freedom. Article 26 states: "Parties, associations, political groups and trade unions and Islamic or recognized religious minorities shall be free ... No person shall be forbidden nor forced to participate in any of them."

Copious documentary evidence from Iran testifies to the fact that extreme coercion is being applied by the government in an effort to compel Bahá'ís to recant their faith and embrace Islam. This coercion takes a wide variety of forms and impinges upon virtually every aspect of the lives of members of the Bahá'í community.

- Physical coercion. In every case where a Bahá'í has been condemned to death by the revolutionary courts, he has been given the opportunity of saving himself by recanting his faith. In the extremely small number of cases in which Bahá'ís have availed themselves of this opportunity, they have immediately been released and all the charges against them dropped - while other Bahá'ís, who refused to recant, have been executed for precisely the same "crimes" (a fact which compellingly demonstrates both the spurious nature of the charges being brought against Bahá'ís and the religious motivation underlying their persecution.) As previously mentioned, torture is also employed in an effort to compel Bahá'ís to recant their faith.
  
- Denial of education. In 1981, the Iranian Ministry of Education embarked on a major campaign to deprive Bahá'ís officially, systematically and permanently of access to any form of education. Primary and secondary schools and institutions of higher education introduced new regulations requiring that applicants for admission must belong to one of the officially recognized religions of the

country. Hundreds of Bahá'í students at all educational levels - including university students in their final year of professional training - have been expelled from their places of learning for refusing to recant their faith. Degrees and diplomas have been denied to Bahá'í students who have completed their studies and passed their final examinations. In many cases, Bahá'ís have been forced to repay to the government the money spent on their education and training. By order of the Ministry of Education, permission to send funds to Iranian students overseas is granted only to the followers of the officially recognized religions. (1)

(Article 30 of the Iranian Constitution states: "The government shall provide free education for all the people until completion of secondary course of studies. With respect to higher studies, they shall be provided gratis as far as self-sufficiency of the country might allow".)

- Deprivation of means of livelihood. Since 1979, countless Bahá'ís have been arbitrarily dismissed from their jobs and denied back pay and pensions solely on the grounds of their religion. This campaign is spearheaded by the Ministry of Labour which, in a directive published last year, publicly confirmed that dismissal for life from government service had been approved by the Islamic parliament as "the punishment for anyone who is a member of the misguided Bahá'í group." Local "purging committees" ensure that Bahá'ís are also driven from their jobs in the private sector. (2)

Almost every termination notice served on a Bahá'í, whether in the public or private sector, has contained a statement to the effect that the individual's job (or pension) will be restored to him if he will publicly recant his faith. (3)

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- (1) *For documentation, see the Baha'i International Community's publication Official Documentation testifying to Discrimination against the Baha'i Community since the creation of the Islamic Republic of Iran*
  - (2) *Ibid.*
  - (3) *Ibid.*

Self-employed Bahá'ís fare no better. In many regions, local revolutionary courts have issued orders forbidding business transactions with Bahá'ís, have forcibly closed Bahá'í stores and workshops, and have withdrawn the business and trading licences of Bahá'ís. (4)

(Article 28 of the Iranian Constitution states that every person has the right to choose an occupation that is not contrary to Islam, public interests or the rights of others, and further provides that: "The government shall provide all the people with means of employment under equal conditions to get employed ...".)

As far as pension rights are concerned, article 29 of the Constitution states that "all people" shall "benefit from social security in cases of retirement ...", with the funds being provided "from the public revenue and the income derived from public participation." These public funds are described in Iran as the "Muslim treasury" and high-ranking Islamic religious leaders have ruled that no Bahá'í may receive any form of payment from the Muslim treasury. (5) (Such payments would include, of course, not only salaries and pensions but also state medical, welfare and insurance payments, which are also referred to in article 29 of the Constitution.)

- Confiscation of personal property. As mentioned above, revolutionary authorities in many areas have arbitrarily confiscated the homes of Bahá'ís or have expelled them from their towns and villages because they have refused to recant their faith. The contents of Bahá'í homes are frequently auctioned by the authorities to the public. A growing trend since mid-1981 has been the confiscation by the authorities of the real and personal assets of executed Bahá'ís - leaving their dependants destitute and homeless.

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(4) For documentation, see the Baha'i International Community's publication Official Documentation testifying to Discrimination against the Baha'i Community since the creation of the Islamic Republic of Iran

(5) Ibid.

(Article 31 of the Iranian Constitution states: "Every Iranian person and family shall be entitled to own a dwelling-place ...", while article 22 provides, *inter alia*, that the property rights and dwelling places of Iranian citizens shall be immune against encroachment".)

- Non-recognition of Bahá'í marriages. There is not (and never has been) any provision for civil marriage in Iran. The Bahá'í marriage ceremony is not recognized as legal and the marriages of Bahá'ís cannot be registered unless the parties concerned are willing to recant their faith and marry according to the laws of one of the officially recognized religions. The Iranian Bahá'ís have always remained true to their faith and have married according to Bahá'í rites - a course of action which the present regime regards as prostitution. Under Islamic law, the punishment for prostitution is death, and the charge of "engaging in prostitution" is one which (along with other charges) has frequently been brought against Bahá'ís who have been executed.
  
- Other abuses. As previously described, the revolutionary authorities in Iran have consistently turned a blind eye to the anti-Bahá'í activities of Islamic religious extremists, whether individuals or mobs, whose depredations against Bahá'ís have included murder, torture, physical assault, looting and burning of property, abduction and rape. No person has ever been investigated, charged, tried or sentenced for any offence committed against a Bahá'í.

The clear intention of the Iranian government - an intention which has been inadvertently confirmed by high-ranking officials in the course of private conversations - is to bring such extreme pressure to bear upon the Bahá'ís that they are left with no alternative but to recant their faith. The actions of the Iranian government in this respect are clearly in flagrant violation of article 18(2) of the Covenant.

Regarding article 18(3) of the Covenant

This article of the Covenant provides that "Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."

The Iranian Constitution (article 40) states generally that "No person shall be allowed to exercise his rights to the prejudice of others nor to encroach upon public interests", while article 28 elaborates upon these "public interests" in so far as they relate to the practice of religion. The article provides that "Islamic or recognized religious minorities shall be free, provided they do not violate the principles of independence, liberty, national unity and Islamic standards and the foundation of the Islamic Republic."

The provisos attached to this article are obviously open to wide, and possibly restrictive, interpretation.

As explained above under article 18(1), nothing in the Bahá'í Faith, or in the disposition or activities of its followers, would require that limitations be imposed upon its practice for any of the reasons mentioned in the Covenant. The Iranian government cannot, therefore, justify its suppression of the Bahá'í Faith by invoking this article of the Covenant; nor can it logically invoke its own Constitution in this regard, since the relevant provisions of the Constitution relate to officially recognized religions, and the Bahá'í Faith is not constitutionally recognized as a religion in Iran.

Regarding article 18(4) of the Covenant

The Iranian Constitution contains no specific provision for the religious and moral education of children in conformity with the convictions of their parents or guardians (as required by this article of the Covenant).

Although Bahá'ís were the first to establish primary and secondary

schools in all parts of Iran, open to children of all religions, the government closed Bahá'í schools in 1934. The Bahá'ís have not subsequently been allowed to operate their own schools and have been forced to educate their children at the state-run Muslim schools and universities - which are now closing their doors to them (see notes under article 18(2) above).

Regarding article 19(1) of the Covenant

The provision of the Covenant that "Everyone shall have the right to hold opinions without interference" is incorporated in article 23 of the Iranian Constitution, which states that "Inquisition into people's opinions shall be forbidden and no one shall be offended or brought to account merely for having a certain opinion."

As reported by Amnesty International, journalists and intellectuals, as well as members of religious minorities, are arbitrarily imprisoned in Iran simply because of their opinions and beliefs - in clear violation of this article of the Covenant.

Regarding article 19(2) of the Covenant

As already noted, freedom of expression is severely curtailed in Iran. As far as printed materials are concerned, article 24 of the Iranian Constitution states: "The press and publications shall be free in their writings unless such writings are detrimental to the foundations of Islam or the rights of the people. The law shall decide on the application of this article. As in other cases, the ambiguities and uncertainties surrounding the implementation of this provision of the Constitution are such as to permit the authorities to negate, at will, the freedom which the article purports to confer.

The Iranian government is in specific violation of this article of the Covenant in banning the free circulation of Bahá'í literature and other Bahá'í materials.

Regarding article 19(3) of the Covenant

It is clear from the foregoing that limitations upon the right of freedom of expression (see article 24 of the Iranian Constitution, quoted above) are likely to go - and, indeed, do go - far beyond the necessary restrictions specified in this article of the Covenant.

Regarding article 20(1) of the Covenant

The Iranian Constitution fails to conform with this article of the Covenant in that it contains no legal prohibition against propaganda for war.

Regarding article 20(2) of the Covenant

Again, the Iranian Constitution fails to conform with the Covenant and contains no legal prohibition against the advocacy of any national, racial or religious hatred which, in the words of the Covenant, "constitutes incitement to discrimination, hostility or violence."

As described above, the government of Iran is conducting a ceaseless campaign of denunciation and vilification of Bahá'ís, is thereby advocating religious hatred against Bahá'ís, and is not only inciting but also engaging in discrimination, hostility and violence against Bahá'ís.

The Iranian government is thus not only in violation of this article of the Covenant but is also guilty of the very acts which the article requires it to prohibit by law.