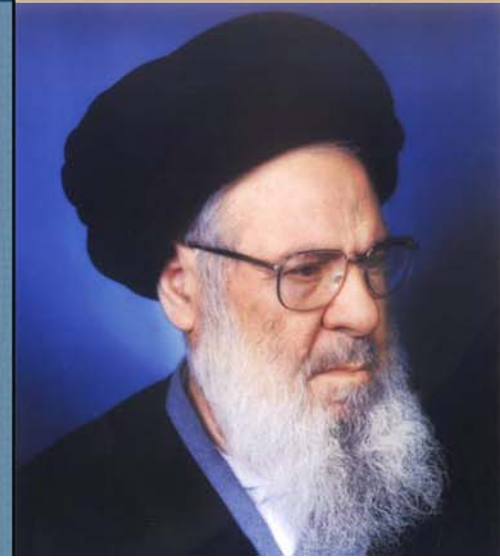




Crimes Against Humanity

The Islamic Republic's Attacks on the Bahá'ís



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The front cover photograph depicts the destruction of the House of the Báb which is considered a place of pilgrimage to Bahá'ís all over the world, and was taken from The Bahá'í Question Website, available at http://question.bahai.org/images/high/FN5045_NN8938_2_9_DemoBabHouse_1979.jpg. The photograph of Grand Ayatollah Abdul-Karim Musavi Ardebili was taken from his website, available at <http://www.ardebili.com/>.

The photograph of Bahman Samandari was taken from The Bahá'í Question Website, available at <http://question.bahai.org/images/high/Samand.jpg>.

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Center

November 2008

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1. Executive Summary

Since 1979, high-level officials of the Islamic Republic of Iran have been linked to the murder, torture, imprisonment and persecution of members of Iran's Bahá'í community. Between 1979 and 1987, nearly 207 Bahá'ís were executed because of their faith. Most of these executions followed arbitrary and summary trials conducted by a revolutionary court, where the "accused" were often convicted without the assistance of legal counsel and in contravention of international standards of "due process." The regime has vigorously and systematically pursued its state-sponsored campaign of persecution against the Bahá'ís in contravention of a host of domestic and international laws promoting peace and security and the protection of fundamental human rights.

- Since 1979, the Islamic Republic has engaged in a deliberate and coordinated campaign to suffocate and ultimately destroy the Bahá'í community by removing all traces of its religion from public life, purging the faith's members from political and governmental posts, and preventing Bahá'í participation in the country's economic, social and cultural sectors.
- The regime's campaign of persecution has led to attacks on Bahá'ís throughout the country, and has included the targeting, unlawful arrest, prolonged detention, torture and extrajudicial killing of many adherents and leaders of the community.
- These attacks constitute crimes against humanity because they are directed against a civilian population, are widespread and systematic in their nature and implementation, and involve acts (i.e. murder, torture, imprisonment and persecution) contrary to the principles of common humanity under the International Covenant on Civil and Political Rights, customary law and international criminal law.
- Numerous high ranking members of the Iranian government may be held liable for the crimes against humanity perpetrated against the Bahá'í population. In particular, liability may fall on members of the Revolutionary Council who, since 1979, have devised and implemented a plan of attack on the Bahá'ís. Its members include leading clerics such as Ayatollah Mahdavi-Kani, Akbar Hashemi Rafsanjani, Ayatollah Seyyed Ali Khamenei, and Ayatollah Abdul-Karim Mousavi Ardebili.
- Notwithstanding individual criminal liability for specific attacks perpetrated by agents of the Islamic Republic, the international community should condemn the Iranian regime and hold it accountable for its attacks on one of the country's most vulnerable religious minorities.

The Islamic Republic, and any individuals involved in the ordering, instigating, planning, aiding and abetting, or commission of these crimes against humanity must be held to account for their actions. To the extent that the regime's actions constituted serious violations of human rights law, it is incumbent upon all member states of the international community to prosecute the perpetrators of these crimes.

2. Preface

This legal report complements two earlier IHRDC publications documenting the Islamic Republic's state-sponsored campaign of persecution against its Bahá'ís citizens: *A Faith Denied: The Persecution of the Bahá'ís of Iran* (2006) and *Community Under Siege: The Ordeal of the Bahá'ís of Shiraz* (2007). The two prior reports meticulously present facts surrounding the targeting, unlawful arrest, prolonged detention, torture and summary execution of nearly 207 Bahá'ís since 1979. The first report provides an overview of the abuses of the Bahá'ís in Iran both historically and since the founding of the Islamic Republic. The second report is an in-depth case study of one particularly notorious instance of persecution.

The instant companion for the earlier reports provides a brief legal analysis of the abuses documented therein, and argues that the acts committed against Iran's Bahá'ís conflict with the principles of common humanity under international criminal law and amount to crimes against humanity. Individual Iranian officials may be subject to liability, now or in the future, for crimes against humanity in various courts.

Moreover, the Islamic Republic, in promoting, inciting and allowing the commission of these crimes, has failed its state responsibility to protect and preserve the human rights of all of its citizens, including those of the Bahá'ís. Despite political realities that make it difficult to prosecute and convict the Iranian regime in a truly international forum, the international community should remain steadfast in its pursuit to bring the Islamic Republic to account for its persecution of one of the country's most vulnerable religious communities.

3. The Legal Framework of Crimes Against Humanity

The charge of crimes against humanity has no treaty devoted exclusively to its regulation and criminalization, but has long been recognized as among the gravest crimes in international law pursuant to customary international law.¹ The Rome Statute of the International Criminal Court (Rome Statute or Statute), the treaty which established the International Criminal Court, provides the most current and widely-accepted definition of “crimes against humanity” under customary international law.² The Islamic Republic of Iran is not a state party to the Rome Statute and thus is not bound by it.³ Like all nations, however, Iran and its citizens are bound by the customary international law prohibition on attacks amounting to crimes against humanity.⁴ Accordingly, this report provides an analysis of the Iranian regime’s crimes against humanity using the provisions set forth in the Statute.

The Rome Statute defines a crime against humanity as an enumerated criminal act “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”⁵ The enumerated acts include murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of the fundamental rules of international law, torture, rape and other forms of sexual violence, persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds, and other inhumane acts of a similar character intentionally causing great suffering or serious injury.⁶

As the above definition reveals, what distinguishes a crime against humanity from an ordinary offense is the *context* in which the offense occurs – that is, the prohibited acts occur as part of a widespread or systematic attacks on a civilian population. The Statute defines “attack” as “a course of conduct involving the multiple commissions of [the enumerated] acts ... in furtherance

¹ See, e.g., Beth Van Schaack, *Crimen Sine Lege: Judicial Lawmaking at the Intersection of Law and Morals*, 97 GEO. L.J. 119, 163-63 (2008). Crimes against humanity, however, is an enumerated offense triggering subject matter jurisdiction under the Rome Statute of the International Criminal Court. Rome Statute of the International Criminal Court art. 7, *entered into force* July 1, 2002, 2187 U.N.T.S. 90 [hereinafter Rome Statute].

² Rome Statute art. 7, *supra* note 1; see also ANTONIO CASSESE, INTERNATIONAL CRIMINAL LAW 91 (2003); ANTONIO CASSESE, PAOLA GAETA AND JOHN R.W.D. JONES, THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT: A COMMENTARY 373 (2002).

³ In any case, the International Criminal Court’s temporal jurisdiction runs from July 1, 2002; it cannot prosecute crimes that occurred before that date. Rome Statute art. 11, *supra* note 1.

⁴ Customary international law, one of the oldest and primary sources of international law, derives from widespread and long-held state practice; it may but need not be reflected in positive law like treaties. See, e.g., CASSESE, *supra* note 2, at 28-30. Some principles of customary international law, including the prohibitions on crimes against humanity, slavery and genocide, are so fundamental that no state may exempt itself from compliance with them. See Karen Parker et al., *Jus Cogens: Compelling the Law of Human Rights*, 12 HASTINGS INT’L & COMP. L. REV. 411 (1989). The Rome Statute codifies the customary international law prohibition on crimes against humanity as it has developed since the Second World War. Rome Statute arts. 5-8, *supra* note 1. The Nuremberg Charter provided the first definition of “crimes against humanity,” and the first prosecutions of individuals who committed crimes against humanity occurred during the operation of that tribunal. See *Charter of the International Military Tribunal*, in Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis art. 6(3), August 8, 1945, 58 Stat. 1544, E.A.S. No. 472, 82 U.N.T.S. 280. More recently, the U.N. Security Council created the International Criminal Tribunal for the Former Yugoslavia (ICTY) in 1993, and the International Criminal Tribunal for Rwanda (ICTR) in 1994 to prosecute, among other things, crimes against humanity committed during the conflicts in those regions. See Statute of the International Criminal Tribunal for the Former Yugoslavia, annexed to Resolution 827, SC Res 827, UN SCOR, 48th sess., 3217th mtg., UN Doc S/RES/927 (1993); Statute of the International Criminal Tribunal for Rwanda, annexed to Resolution 955, SC Res 955, UN SCOR, 49th sess., 3453rd mtg., UN Doc S/RES/955 (1994). Because those tribunals greatly elaborated on the legal understanding of crimes against humanity, this report draws heavily on their jurisprudence.

⁵ Rome Statute art. 7(1), *supra* note 1.

⁶ *Id.* art. 7(2), *supra* note 1. The Statute also lists other acts, not relevant to our analysis, that leading scholars contend are not prohibited by customary international law. See, e.g., CASSESE, *supra* note 2 at 94.

of a state or organizational policy.”⁷ The attack need not be very large in scale.⁸ A single act may constitute a crime against humanity.⁹ Finally, the attack must primarily target¹⁰ a predominantly civilian population.¹¹

4. Crimes Against Humanity Directed at the Bahá’ís of Iran

This report will assess crimes against humanity committed in Iran against the Bahá’í population from the Islamic Revolution of 1979 to date. More specifically, it will analyze the three principal elements of a crime against humanity: the targeting of a civilian population, a widespread or systematic attack, and the particular enumerated acts at issue: murder, torture, imprisonment and persecution. This analysis, in turn, strongly suggests that the Islamic Republic’s systematic targeting, unlawful arrests, prolonged detentions, torture and summary executions of members of the Bahá’í community amount to a crime against humanity.¹²

4.1. Directed against a Civilian Population

Crimes against humanity are directed against a population of civilians.¹³ The Bahá’ís of Iran are civilians. Civilians are “people who are not taking any active part in ... hostilities.”¹⁴ There is simply no evidence that Iranian Bahá’ís have actively participated in hostilities against the Islamic Republic or any other state.¹⁵ Despite this, the Iranian regime has consistently maintained that the Bahá’í sect is a political organization (as opposed to a legitimate religious group) that threatens the security of the state.¹⁶ Yet the government has never produced convincing evidence supporting its characterization of the Bahá’í community. Though it is the case that Iran’s Bahá’ís

⁷ Rome Statute art. 7(2)(a), *supra* note 1; *see also* Prosecutor v. Kunarac et al., Case No. IT-96-23-T & IT-96-23/1-T, Judgment, ¶ 415 (Feb. 22, 2001).

⁸ *See* GUÉNAËL METTRAUX, INTERNATIONAL CRIMES AND THE AD HOC TRIBUNALS 161 (2005) (providing several examples of ICTY and ICTR cases holding that attacks on small communities may amount to crimes against humanity).

⁹ Prosecutor v. Mrksic et al., Case No. IT-95-13-R61, Review of the Indictment Pursuant to Rule 61 of the Rules of Procedure and Evidence, ¶ 30 (Apr. 3, 1996).

¹⁰ Prosecutor v. Kunarac et al., Case No. IT-96-23-A & IT-96-23/1-A, Judgment, ¶ 91 (June 12, 2002); *see also* METTRAUX, *supra* note 8, at 164.

¹¹ *See* Prosecutor v. Limaj et al., Case No. IT-03-66-T, Judgment, ¶ 186 (Nov. 30, 2005).

¹² For a general discussion of the crimes against humanity charge in international law, *see* IRAN HUMAN RIGHTS DOCUMENTATION CENTER, CONDEMNED BY LAW: ASSASSINATION OF POLITICAL DISSIDENTS ABROAD 28-33 (2008) [hereinafter CONDEMNED BY LAW].

¹³ Prosecutor v. Semanza, Case No. ICTR-97-20-T, Judgment and Sentence, ¶ 330 (May 15, 2003).

¹⁴ Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, ¶ 582 (Sept. 2, 1998). The existence of war or “armed conflict” is generally not a required element of crimes against humanity. Prosecutor v. Dusko Tadic, Case No. IT-94-1-A, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, ¶ 141 (Oct. 2, 1995).

¹⁵ The U.N. Special Rapporteur on Summary or Arbitrary Executions’ mandate requires it to pay “special attention” to extrajudicial killings carried out against individuals engaged in “peaceful activities in defense of human rights.”¹⁵ Civil and Political Rights, Including the Questions of Disappearances and Summary Executions (Report of the Special Rapporteur of Dec. 22, 2004) paras. 7(f), U.N. Doc. E/CN.4/2005/7 (Dec. 22, 2004). *See also infra* note 50 and accompanying text (discussing the role of the Special Rapporteur on Summary or Arbitrary Executions).

¹⁶ *See e.g.*, Press Release, Islamic Republic of Iran – Permanent Mission to the United Nations, Baháism Per Se No Ground For Persecution – Ayatollah Mussavi (Nov. 27, 1985) (on file with the Iran Human Rights Documentation Center). The document states: “Baháism is not specifically a religious cult but rather a political party committed to the United States and Israel and devoted to furthering their predatory goals in Iran. Baha’ism was introduced in Iran as a cult with mainly political implications in mid 19th century by groups believed to have been furthering colonialistic goals of the British Government in the country.” *Id.* On other occasions, however, the Iranian Government has referred to the Bahá’í community as a subversive or misguided sect, suggesting that it acknowledges the civilian nature of the community. *See, e.g.*, IRAN HUMAN RIGHTS DOCUMENTATION CENTER, A FAITH DENIED: THE PERSECUTION OF THE BAHÁ’ÍS OF IRAN note 297 and accompanying text (2006) [hereinafter A FAITH DENIED].

oppose many of the regime's policies – including those directly targeting them – their political or religious activities do not deprive them of civilian status for the purposes of a crimes against humanity analysis.¹⁷

Pursuant to the Rome Statute and customary international law, Iran's Bahá'ís also constitute a population that is not “a limited and randomly selected number of individuals.”¹⁸ More specifically, Iran's Bahá'ís “form a self-contained group of individuals, either geographically or as a result of other common features.”¹⁹ It is clear, therefore, that the regime's systematic targeting of this group of individuals who share a common faith satisfies the definition of “population” under customary international law. The regime's repeated targeting of the Bahá'í community's leadership provides further proof of its deliberate campaign of terror against this civilian population.²⁰

4.2. A Widespread or Systematic Attack

To qualify as a crime against humanity, an act in question must be part of a widespread *or* systematic attack, rather than a “random act of violence.”²¹ “Widespread” has been construed to refer to the scale of an attack, and may relate to a series of acts or a single act of great magnitude.²² “Systematic” means that the attack is “organized and follow[s] a regular pattern on the basis of a common policy.”²³ An attack need not, however, be part of a formal or explicit government policy to be systematic – its systemic nature can be informal and may be deduced from the way the acts occur.²⁴ The ICTY and ICTR tribunals have identified systematic attacks based on many factors, including the structured manner in which the acts took place, the establishment of institutions to implement a policy of attacks, the involvement of political or military authorities, and the use of financial, military or other resources.²⁵

The Islamic Republic's attacks on the Bahá'í community since 1979 qualify as both widespread and systematic. The cumulative and intended effect of these widespread attacks has been to terrorize an already vulnerable minority group into submission. As chronicled in the factual

¹⁷Prosecutor v. Mrksic et al., Case No. IT-95-13-R61, Review of the Indictment Pursuant to Rule 61 of the Rules of Procedure and Evidence, ¶ 29 (Apr. 3, 1996).

¹⁸Prosecutor v. Kunarac et al., Case No. IT-96-23-A & IT-96-23/1-A, Judgment, ¶ 90 (June 12, 2002); *see also* A FAITH DENIED, *supra* note 16, at 23-35.

¹⁹ Guénaél Mettraux, *Crimes Against Humanity in the Jurisprudence of the International Criminal Tribunals for the former Yugoslavia and Rwanda*, 43 HARV. INT'L L.J. 237, 255 (2002).

²⁰ *See* A FAITH DENIED, *supra* note 16, at 2 (2006).

²¹ Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, ¶ 579 (Sept. 2, 1998) (noting that the requirement is disjunctive); *see also* Prosecutor v. Dusko Tadic, 141 Case No. IT-94-1-T, Judgment, ¶¶ 646, 648 (May 7, 1997); Prosecutor v. Kunarac et al., Case No. IT-96-23-A & IT-96-23/1-A, Judgment, ¶ 94 (June 12, 2002); Prosecutor v. Blaskic, Case No. IT-95-14-T, Judgment ¶ 203 (Mar. 3, 2000).

²² Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, ¶ 579 (Sept. 2, 1998).

²³ Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, ¶ 580 (Sept. 2, 1998); *see also* Prosecutor v. Kunarac et al., Case No. IT-96-23-A & IT-96-23/1-A, Judgment, ¶ 94 (June 12, 2002) (citing Prosecutor v. Tadic, Case No. IT-96-1-T, Judgment, ¶ 648 (May 7, 1997)). The Trial Chamber in the *Kunarac* case noted that “[p]atterns of crimes – that is the non-accidental repetition of similar criminal conduct on a regular basis – [is] a common expression of such systematic occurrence.” Prosecutor v. Kunarac et al., Case No. IT-96-23-T & IT-96-23/1-T, Judgment, ¶ (Feb. 22, 2001).

²⁴ Prosecutor v. Tadic, Case No. IT-96-1-T, Judgment, ¶ 653 (May 7, 1997); Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, ¶ 580 (Sept. 2, 1998).

²⁵ Prosecutor v. Jelusic, Case No. IT-95-10-T, Judgment, ¶ (Dec. 14, 1999); Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, ¶ 580 (Sept. 2, 1998); Prosecutor v. Kunarac et al., Case No. IT-96-23-A & IT-96-23/1-A, Judgment, ¶ 94 (June 12, 2002); Prosecutor v. Blaskic, Case No. IT-95-14-T, ¶ 101 (Mar. 3, 2000); Prosecutor v. Limaj et al., Case No. IT-03-66-T, Judgment, ¶ 183 (Nov. 30, 2005); Prosecutor v. Ntakirutimana, Case No. ICTR-96-10 & ICTR-96-17-T, Judgment, ¶ 804 (Feb. 21, 2003); Prosecutor v. Niyitegeka, Case No. ICTR-96-14-T, Judgment, ¶ 439 (May 16, 2003).

reports, over the last 30 years Bahá'ís in numerous cities, including Tehran, Yazd, Qazvin, Hamadan, Tabriz and Shiraz, have been subject to regular raids on their homes by the Revolutionary Guards, seizure of their property, arrests, detentions and executions as a result of their refusal to denounce their faith.²⁶ The regime's coordinated attacks on this community have also been systematic. Since the founding of the Islamic Republic, the Iranian government has engaged in an official program to suffocate and ultimately destroy the Bahá'í community by, among other tactics, preventing Bahá'í participation in the country's education and employment sectors.²⁷ According to the government, such deprivations are appropriate "punishment" for membership in an allegedly heretical sect.²⁸ The following circular from the Ministry of Labor and Social Affairs illustrates this attitude:

In accordance with Paragraph 8 of Article 29 of the Reconstruction of Human Resources Policy for Ministries, Governmental Organizations and other Government affiliated Offices which was approved on 5/7/1362 [Oct. 27, 1981] by the Consultative Islamic Majlis, the punishment for membership in misguided sects recognized by all Muslims to be outside of Islam or membership in organizations whose doctrine and constitution are founded on the basis of rejecting the divine religions, is permanent dismissal from governmental employment.²⁹

Similar circulars were sent from the Ministry of Education to universities and even some secondary schools as part of a series of nationwide campaigns to purge Bahá'ís from all governmental and educational institutions in the country.³⁰

4.3. Enumerated Acts

Of the acts that constitute crimes against humanity against Iran's Bahá'ís, this report focuses on four of the most egregious: murder, torture, imprisonment and persecution. For each of these charges, it must be shown that the perpetrator knew that the conduct was part of, or intended the conduct to be part of a widespread or systematic attack against a civilian population.³¹

Murder

"Murder" as a crime against humanity has been defined simply as an act or omission with intent to kill or cause serious bodily harm (or with reasonable knowledge that death would result) that results in such death.³² As detailed in the factual reports, nearly 207 Bahá'ís were executed between 1979 and 1987 because of their faith.³³ Most of the 207 executions followed arbitrary and summary trials conducted by a revolutionary court, where the "accused" were often convicted without the assistance of legal counsel.³⁴ The case of Bahman Samandari is illustrative. Samandari was a Bahá'í accused of espionage and executed the day following his arrest.³⁵ The

²⁶ See A FAITH DENIED, *supra* note 16, at 27-33.

²⁷ *Id.* at 48-49.

²⁸ See, e.g., A FAITH DENIED, *supra* note 16, Appendices 3-9 (detailing other official government actions taken against members of the Bahá'í community).

²⁹ *Id.* at 43.

³⁰ See *id.* at 43-45; see also *id.*, Appendix 1.

³¹ Rome Statute art. 7(1)(a), *supra* note 1.

³² See, e.g., Prosecutor v. Blagojevic and Jokic, Case No. IT-02-60-T, Judgment, ¶ 556 (Jan. 17, 2005).

³³ See generally A FAITH DENIED, *supra* note 16.

³⁴ *Id.*

³⁵ United Nations High Commissioner for Refugees, *Chronologies of Bahai's in Iran*, 2004 <http://www.unhcr.org/refworld/country,,MARP,,IRN,,469f38a3c,0.html> (last visited Oct. 25, 2008).

U.N. Human Rights Committee investigated his case, and one Committee member found that he was

tried by an Islamic revolutionary court without the assistance of a lawyer, sentenced following summary proceedings and executed. Such a situation was completely contrary to the provisions of the International Covenant on Civil and Political Rights [which provides minimal due process standards] ... It was not sufficient that there should be a judgment; a number of guarantees must also be met.³⁶

Likewise, the 22 Bahá'ís executed in Shiraz in 1983 were arrested, detained for 9 months, convicted and executed for their membership in the “wayward sect of Bahá'ísm” without any due process.³⁷ Their interrogations, trials and executions took place in the prison itself, without the presence of counsel.³⁸ Witnesses stated that several of the trials took no more than ten to fifteen minutes.³⁹ Each victim was simply given the opportunity to recant his or her faith and sentenced to death upon refusal.⁴⁰ The head of the Judiciary, Ayatollah Musavi-Ardebili, approved their death sentences.⁴¹

Although sanctioned by the state and its judiciary, the summary executions of many (if not most) of the Bahá'ís killed by the regime during the past 30 years fail to meet minimum international standards set out in the International Covenant on Civil and Political Rights (ICCPR or Covenant), to which Iran is a signatory.⁴² The ICCPR (and the companion International Covenant on Economic, Social and Cultural Rights) impose affirmative obligations on member states, including the primary duty to implement national legislation in order to “give effect to the rights recognized” in the treaty and the duty to provide “effective remedies” when violations of those duties occur.⁴³ The ICCPR requires all member states to “respect and to ensure to all individuals within [their] territory and subject to [their] jurisdiction” all rights recognized by the Covenant irrespective of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁴⁴

Any execution of a member of the Bahá'í community that failed to meet the standards set out in Articles 6,⁴⁵ 9⁴⁶ and 14⁴⁷ of the ICCPR may qualify as an extrajudicial killing (or murder)

³⁶ U.N. Human Rights Comm., Summary Record of the 125 2nd Meeting at 3, U.N. Doc CCPR/C/SR.1251 (June 27, 1994).

³⁷ See generally IRAN HUMAN RIGHTS DOCUMENTATION CENTER, COMMUNITY UNDER SIEGE: THE ORDEAL OF THE BAHÁ'ÍS OF SHIRAZ (2007) [hereinafter COMMUNITY UNDER SIEGE].

³⁸ *Id.* at 11-39.

³⁹ *Id.* at 38.

⁴⁰ *Id.* at 32-34.

⁴¹ *Id.* at 38 (arguing that the executions had to be approved by Tehran).

⁴² See International Covenant on Civil and Political Rights art. 6(1), Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR]; see also CONDEMNED BY LAW, *supra* note 12, at 11-19 (providing an in-depth account of extrajudicial killings and protections guaranteed in the International Covenant on Civil and Political Rights).

⁴³ ICCPR art. 2, *supra* note 42; see also generally International Covenant on Economic, Social and Cultural Rights, U.N. Doc. U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976.

⁴⁴ ICCPR art. 2, *supra* note 42.

⁴⁵ Article 6 of the ICCPR provides: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” ICCPR art. 6, *supra* note 42. For a more in-depth legal analysis of Article 6 of the ICCPR, see CONDEMNED BY LAW, *supra* note 12, at 12-14.

⁴⁶ Article 9 of the ICCPR provides that member states must provide substantive and procedural “due process” before they limit, interfere with or otherwise extinguish an individual’s right to life (or liberty). ICCPR art. 9, *supra* note 42. Specifically, Article 9 provides an overarching “right to liberty and security of person,” which prohibits arbitrary and unlawful arrests, prolonged detentions or deprivation of liberty by a member state or its security forces. *Id.* For a more in-depth legal analysis of Article 9 of the ICCPR, see CONDEMNED BY LAW, *supra* note 12, at 14-18.

⁴⁷ Article 14 of the ICCPR prohibits the extinguishing of an individual’s right to life absent a “fair hearing.” ICCPR art. 14, *supra* note 42. It provides that all individuals are “entitled to a fair and public hearing by a competent, independent

constituting a crime against humanity. Moreover, the U.N. Human Rights Committee recognizes Article 6's inherent duty to prevent extrajudicial killings (i.e. murder) by noting that member states "should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces."⁴⁸ In fact, the Committee's General Comment on the legal obligations of states party to the ICCPR explicitly states that the continued failure to punish and prevent extrajudicial killings may constitute a crime against humanity.⁴⁹

Given the above, it is clear that contrary to its obligations under the ICCPR, Iran has consistently violated the Covenant's guarantee of the right to life inside its borders.⁵⁰ Not only has the regime failed to prevent the commission of extrajudicial killings by its own security forces, it has actively encouraged such practices.

Torture

Under customary international law, the prohibition against torture is among those most fundamental principles from which states cannot exempt themselves, and which states must prosecute (or extradite accordingly) whenever possible.⁵¹ The responsibility to prevent torture and prosecute or extradite those responsible for its commission extends to the Islamic Republic of Iran.

Torture as a crime against humanity consists of three elements: (i) an intentional act or omission, (ii) that inflicts severe pain or suffering, whether physical or mental, (iii) and that was intended to achieve a prohibited purpose.⁵² Prohibited purposes, as set forth in the Convention Against Torture, include obtaining information or a confession (from the victim or a third person), punishment, intimidation or coercion and discrimination.⁵³

and impartial tribunal established by law." *Id.* For a more in-depth legal analysis of Article 14 of the ICCPR, see CONDEMNED BY LAW, *supra* note 12, at 14-18.

⁴⁸ U.N. Human Rights Comm., General Comment 6, *The Right to Life*, para. 3, U.N. Doc. HRI/GEN/1/Rev.1 at 6 (1994).

⁴⁹ U.N. Human Rights Comm., General Comment 31, *Nature of the General Legal Obligation Imposed on State Parties to the Covenant*, para. 8, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 26, 2004).

⁵⁰ See generally A FAITH DENIED, *supra* note 16; CONDEMNED BY LAW, *supra* note 12. Such was the finding of the 1996 U.N. General Assembly resolution 51/107 addressing state-sponsored violence and extrajudicial killings perpetrated by the Islamic Republic of Iran. G.A. Res 51/107, ¶¶ 1, 6, 9, 10, U.N. GAOR, 51st sess., U.N. Doc. A/RES/51/107 (Mar. 3, 1997). In addition to U.N. resolutions, the Special Rapporteur on Summary or Arbitrary Executions has documented a number of extrajudicial executions committed by the Islamic Republic abroad in his reports in 1993, 1996 and 1997. See Report by the Special Rapporteur, Mr. Bacre Waly Ndiaye, U.N. Doc. E/CN.4/1994/7 (7 Dec. 1993); Report by the Special Rapporteur, Mr. Bacre Waly Ndiaye, U.N. Doc. E/CN.4/1996/4 (25 Jan. 1996); Report of the Special Rapporteur, Mr. Bacre Waly Ndiaye, U.N. E/CN.4/1997/60/Add.1 (23 Dec. 1996). Along with numerous reports detailing the long list of state-sanctioned executions that fail to meet the most basic substantive and procedural due process standards, the Rapporteur's body of work presents a forceful condemnation of the regime's blatant disregard of the fundamental protections guaranteed by Article 6 of the ICCPR. See, e.g., OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER ON HUMAN RIGHTS, Report of the Special Rapporteur, U.N. Doc. A/HRC/4/20 (Jan. 29, 2007); PROJECT ON EXTRAJUDICIAL EXECUTIONS, CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, N.Y.U. SCHOOL OF LAW, *Islamic Republic of Iran: Visits and Communications*, available at www.extrajudicialexecutions.org/communications/iran.html (last visited Oct. 31, 2008). For a discussion of the contents of Article 6 of the ICCPR, see *supra* note 45 and accompanying text.

⁵¹ Cherif Bassiouni, *International Crimes: Jus Cogens and Obligatio Erga Omnes*, 59 LAW AND CONTEMP. PROBS. 63, 68 (1996). In addition to torture, customary international law recognizes three other distinct crimes that rise to the level of "international crimes." See, e.g., Rome Statute arts. 5-8, *supra* note 1. These crimes include war crimes, genocide and crimes against humanity. See Parker et al., *supra* note 4.

⁵² Prosecutor v. Kunarac et. al, Case No. IT-96-23-A & IT-96-23/1-A, Judgment, ¶¶ 142, 153 (June 12, 2002).

⁵³ See Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, ¶ 594 (Sept. 2, 1998); Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc.

Since the early 1980s, agents of the Iranian government have frequently acted to inflict torture on Bahá'ís, and evidence of state-sanctioned torture against Iran's Bahá'ís is widespread and systematic.⁵⁴ For example, examination of the bodies of seven Bahá'ís executed in Hamadan on June 14, 1981 showed clear signs of torture.⁵⁵ Their bones had been broken, there were signs of burn marks, and their legs and arms were pierced with bayonets.⁵⁶ In Shiraz, Bahá'ís who had been detained by the regime's security forces were forced to endure long interrogations, mock executions and regular lashings.⁵⁷ This torture was sanctioned by the state in an effort to obtain the names and addresses of other Bahá'ís, gain false confessions concerning the activities of Bahá'ís and persuade members of the community to recant their faith.⁵⁸ If the government was successful in forcing a detainee to recant through torture, it would often publicize the recantations in order to demoralize the wider Bahá'í community and encourage defections from the faith.⁵⁹ The coerced and fraudulent confessions were also used by the regime to justify its actions against the Bahá'í community as a whole.⁶⁰

Imprisonment

Pursuant to the Rome Statute, systematic and widespread imprisonment in violation of the fundamental rules of international law may amount to a crime against humanity.⁶¹ To constitute a predicate act of a crime against humanity, however, the imprisonment or detention must have been arbitrary and “without due process of law.”⁶² According to the ICTR, imprisonment

[a]s a crime against humanity refers to arbitrary or otherwise unlawful detention or deprivation of liberty. It is not every minor infringement of liberty that forms the material element of imprisonment as a crime against humanity; the deprivation of liberty must be of similar gravity and seriousness as the other crimes enumerated as crimes against humanity (...). In assessing whether the imprisonment constitutes a crime against humanity, the Chamber may take into account whether the initial arrest was lawful, by considering, for example, whether it was based on a valid warrant of arrest, whether the detainees were informed of the reasons for their detention, whether the detainees were ever formally charged, and whether they were informed of any procedural rights. The Chamber may also consider whether the continued detention was lawful. When a national law is relied upon to justify a deprivation of liberty, this national law must not violate international law.⁶³

Since the founding of the Islamic Republic, Iran's Bahá'ís have faced arbitrary, systematic and widespread imprisonment by the regime's security forces.⁶⁴ More often than not, these imprisonments failed to meet minimum “due process” protections set out in the ICCPR, to which Iran is a signatory.⁶⁵ These protections include the right to be informed of the reason for one's

A/39/51 (1984), available at <http://www1.umn.edu/humanrts/instate/h2catoc.htm> (last visited Oct. 25, 2008). The Convention Against Torture reflects and codifies customary international law. See CONDEMNED BY LAW, *supra* note 12, at 24, 28.

⁵⁴ See COMMUNITY UNDER SIEGE, *supra* note 37, at 25-28.

⁵⁵ A FAITH DENIED, *supra* note 16, at 31.

⁵⁶ *Id.*

⁵⁷ COMMUNITY UNDER SIEGE, *supra* note 37, at 19-28.

⁵⁸ See *id.* at 25-28; see also A FAITH DENIED, *supra* note 16, at 23-33.

⁵⁹ See COMMUNITY UNDER SIEGE, *supra* note 37, at 34-36.

⁶⁰ See *id.* at 25-26.

⁶¹ Rome Statute art. 7(1)(e), *supra* note 1.

⁶² Prosecutor v. Kordic & Cerkez, Case No. IT 95-14/2-T, Judgment, ¶ 116 (Feb. 26, 2001).

⁶³ Prosecutor v. Ntagerura et al., Case No. ICTR-99-46-T, Judgment and Sentence, ¶ 702 (Feb. 25, 2004).

⁶⁴ See A FAITH DENIED, *supra* note 16, at 23-34.

⁶⁵ See CONDEMNED BY LAW, *supra* note 12, at 11-19 (providing an in-depth account of extrajudicial killings and protections guaranteed in the ICCPR).

arrest and detention (during the course of one's arrest) and the charges involved,⁶⁶ the right to a hearing assessing the legality of the person's detention,⁶⁷ and the right to a timely trial before a competent court.⁶⁸ They also include trial and post-trial "fair hearing" guarantees.⁶⁹ As such, the regime's past and ongoing campaign of imprisonment against the Bahá'ís satisfies the crime against humanity requirements of international criminal law.

The illegal and arbitrary character of the mass imprisonment of Bahá'ís since the late 1970s is also clear from the nature of the charges brought against them. For example, Bahá'ís have frequently been accused of espionage and Zionism because the world headquarters of the Bahá'í Faith is located in Haifa, Israel, the last resting place of the religion's founder.⁷⁰ Yet when Bahá'í prisoners held for espionage or Zionism agree to renounce their faith and convert to Islam, they are usually released – proving the arbitrary nature of the official charges filed against them (and the illegitimate reasons for their imprisonment).⁷¹ A particularly cogent example of the arbitrary detention of Bahá'ís is the arrest of Simin Sabiri and Roya Ishraqi in Shiraz, on the charge of "not being married."⁷² There is no such crime under the Iranian penal code.

Other examples evidencing the arbitrary imprisonment to which Iran's Bahá'ís are routinely subjected include the arrests of 54 Bahá'í youth from Shiraz in 2006.⁷³ Despite having received advanced written permission from the Islamic Council in Shiraz to participate in a literacy program for underprivileged children, these youths were imprisoned and charged with spreading anti-government propaganda.⁷⁴ Fifty of them had their 3-year prison sentence suspended on the condition that they participate in religion classes conducted by the Islamic Propaganda Organization.⁷⁵ Finally, as of this writing, seven Bahá'í community leaders arrested in May 2008 have still not been publicly charged with any crime, despite having been held in detention for over 4 months.⁷⁶

Persecution

The Rome Statute defines the crime of persecution as "the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity."⁷⁷ Persecution may be based on the group or collectivity's politics, religion, race or ethnicity.⁷⁸ The ICTY explains that

infringements of the elementary and inalienable rights of man, which are 'the right to life, liberty and the security of person', the right not to be 'held in slavery or servitude', the

⁶⁶ ICCPR art. 9(2), *supra* note 42.

⁶⁷ *Id.* art. 9(4); *see also id.* art. 9(5) (allowing for just compensation for unlawful detention).

⁶⁸ *Id.* art. 9(3); *see also id.* art. 14(3)(c).

⁶⁹ *Id.* art. 14.

⁷⁰ *See* A FAITH DENIED, *supra* note 16, at 22, 27, 29, 40, 47, 51.

⁷¹ COMMUNITY UNDER SIEGE, *supra* note 37, at 33-34.

⁷² *Id.* at 11, 34.

⁷³ *Iran: Amnesty International seeking clarification of official letter about Baha'i minority*, PUB. STATEMENT (Amnesty Int'l, New York, NY), July 24, 2006, available at <http://www.amnestyusa.org/document.php?lang=e&id=ENGMDE130822006> (last visited Oct. 25, 2008).

⁷⁴ *Id.*

⁷⁵ 2008 ANNUAL REPORT OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM – OTHER COUNTRIES ON THE COMMISSION'S CPC LIST: IRAN (2008), available at <http://www.uscifr.gov/images/AR2008/iran.pdf> (last visited Oct. 25, 2008).

⁷⁶ *Iran: Arbitrary arrests/Prisoners of conscience*, DOCUMENT (Amnesty Int'l, New York, NY) May 15, 2008, available at <http://www.amnesty.org/en/library/asset/MDE13/068/2008/en/25f1bbd2-2339-11dd-89c0-51e35dab761d/mde130682008eng.html> (last visited Oct. 25, 2008).

⁷⁷ Rome Statute art. 7(2)(g), *supra* note 1.

⁷⁸ CASSESE ET AL., *supra* note 2, at 378.

right not to 'be subjected to torture or to cruel, inhuman or degrading treatment or punishment' and the right not to be 'subjected to arbitrary arrest, detention or exile' as affirmed in Articles 3, 4, 5 and 9 of the Universal Declaration of Human Rights, by their very essence may constitute persecution when committed on discriminatory grounds."⁷⁹

Aside from murder and torture,⁸⁰ the following acts have been found to constitute persecution when committed on discriminatory grounds: "comprehensive destruction of homes and property,"⁸¹ "plunder of property,"⁸² and "destruction of property or means of subsistence," "destruction and damage of religious or educational institutions,"⁸³ "harassment, humiliation and psychological abuse,"⁸⁴ "den[ial of] bank accounts, educational or employment opportunities, and choice of spouse ... on the basis of ... religion,"⁸⁵ "incitement to murder and extermination," and "hate speech."⁸⁶

A review of the regime's systematic and widespread abuses reveals that all of the foregoing actions have, at one time or another, been taken against Iran's Bahá'ís. As demonstrated above and in the prior reports, the Bahá'ís in Iran have suffered various forms of political, economic, social and cultural persecution.⁸⁷ Many have had their private property and businesses confiscated, been denied educational and employment opportunities, seen their sacred and holy places destroyed (including the House of the Báb, the faith's most revered site) and witnessed the desecration of their cemeteries.⁸⁸ It is clear, therefore, that the Iranian regime's targeting of the Bahá'í community violates the ICCPR's requirement of all member states to "respect and to ensure to all individuals within [their] territory and subject to [their] jurisdiction" all rights recognized by the Covenant irrespective of "race, colour, sex, language, *religion*, political or other opinion, national or social origin, property, birth or other status" (emphasis added).⁸⁹

5. Accountability for Crimes Against Humanity

Accountability based on individual criminal liability allows for the arrest, conviction and punishment of individuals responsible for violations of fundamental human rights.⁹⁰ Such accountability may be based on direct involvement in a crime, including the commission, planning, instigation, ordering or aiding and abetting of criminal conduct.⁹¹ Individual liability may also be established pursuant to the principle of command responsibility, which assigns

⁷⁹ Prosecutor v. Blaskic, Case No. IT-95-14-A, Judgment, ¶ 136 (July 29, 2004) (quoting Prosecutor v. Blaskic, Case No. IT-95-14-T, Judgment, ¶ 220 (Mar. 3, 2000)).

⁸⁰ *Id.*, ¶ 143 (citing Prosecutor v. Kupreskic, Case No. IT-95-16-T, Judgment, ¶ 615 (Jan. 14, 2000)).

⁸¹ Prosecutor v. Kvočka et al., Case No. IT-98-30/1-T, Judgment, ¶ 186 (Nov. 2, 2001) (citing Prosecutor v. Kupreskic, Case No. IT-95-16-T, Judgment, ¶ 631 (Jan. 14, 2000)).

⁸² *Id.* (citing Prosecutor v. Blaskic, Case No. IT-95-14-T, Judgment, ¶ 234 (Mar. 3, 2000)).

⁸³ *Id.* (citing Prosecutor v. Kordic et al., Case No. IT-95-14/2-T, Judgment, ¶ 206 (Feb. 26, 2001)).

⁸⁴ Prosecutor v. Kvočka et al., Case No. IT-98-30/1-A, Judgment, ¶ 325 (Feb. 28, 2005) (stating that there is "no doubt that, in the context in which they were committed and taking into account their cumulative effect, the acts of harassment, humiliation and psychological abuse ... are acts which by their gravity constitute material elements of the crime of persecution."); *see also id.*, ¶ 323.

⁸⁵ Prosecutor v. Kvočka et al., Case No. IT-98-30/1-T, Judgment, ¶ 186 (Feb. 26, 2004).

⁸⁶ Prosecutor v. Nahimana et al., Case No. ICTR-99-52-T, Judgment and Sentence, ¶¶ 981, 1077, 1072, 1074, 1076 (Dec. 3, 2003) (citing Conspiracy and Aggression, Opinion and Judgment (Oct. 1, 1946), Office of the U.S. Chief of Counsel for Prosecution of Axis Criminality 56 (1947)).

⁸⁷ *See* A FAITH DENIED, *supra* note 16, at 23-52 (documenting, among other things, the Islamic Republic's destruction of religious and cultural monuments, the confiscation Bahá'í property, the denial of education to Bahá'í students and the dismissal of Bahá'ís from government and public posts).

⁸⁸ *See generally* A FAITH DENIED, *supra* note 16.

⁸⁹ ICCPR art. 2, *supra* note 42.

⁹⁰ Rome Statute art. 25, *supra* note 1.

⁹¹ *Id.* art. 25(3).

liability for the failure of a superior to take necessary and reasonable measures to prevent or punish subordinates who perpetrated crimes of which the superior had knowledge.⁹² Application of this international principle of accountability, whether grounded in direct involvement or command responsibility, demonstrates that many high ranking officials and agents associated with the Islamic Republic's security and intelligence apparatuses may be guilty for their part in the commission of crimes against humanity against Iran's Bahá'í community.

5.1. Individual Accountability

Since the Nuremberg Tribunals, it is axiomatic that individuals – whether or not acting in their official capacity – may be tried for and convicted of crimes against humanity.⁹³ These crimes are subject to universal jurisdiction – that is, any member of the international community may prosecute these crimes if certain conditions are met.⁹⁴ Further, as in the case of the ICTY and ICTR, the international community may establish an *ad hoc* tribunal for the prosecution of such crimes.⁹⁵

Under international law, individuals may be guilty of crimes against humanity for their participation in prohibited acts. The ICTY, for example, has explained that “criminal liability does not attach solely to individuals who physically commit a crime but may also extend to those who participate in and contribute to the commission of a crime in various ways, when such participation is sufficiently connected to the crime, following principles of accomplice liability.”⁹⁶ Similarly, as illustrated by the Rome Statute, individuals may be accountable for committing or attempting to commit a crime, alone, jointly, or through another person, and for ordering, soliciting, inducing, aiding or abetting another to commit the crime.⁹⁷ Critically, for an enterprise undertaken jointly, individual accountability is attributed to “all participants in a common criminal plan.”⁹⁸ Civilian or political officials are criminally responsible for crimes committed by subordinates where the superior either knew or consciously disregarded information about the crimes.⁹⁹

Numerous individuals may be held liable for the crimes against humanity perpetrated in Iran against the Bahá'í population. In particular, liability may fall on members of the Revolutionary Council who, since 1979, have devised and implemented a plan of attack on Bahá'ís.¹⁰⁰ Its members include leading clerics such as Ayatollah Mahdavi-Kani, Akbar Hashemi Rafsanjani, Ayatollah Seyyed Ali Khamenei, Ayatollah Abdul-Karim Mousavi Ardebili.¹⁰¹ For a conviction

⁹² *Id.* art. 28.

⁹³ See, e.g., Payam Akhavan, *Beyond Impunity: Can International Criminal Law Prevent Future Atrocities?*, 95 AM. J. INT'L L. 7 (2001) (providing a detailed account of the development of a truly international criminal justice system charged with prosecuting international crimes such as war crimes, torture, crimes against humanity and genocide). Criminal prosecution of individuals by permanent and *ad hoc* international tribunals has been on the rise since the Nuremberg trials. See George E. Edwards, *International Human Rights Law Challenges to the New Criminal Court: The Search and Seizure Right to Privacy*, 39 YALE J. INT'L L. 323, 340-41, 385-88 (2001).

⁹⁴ See, e.g., Amnesty Int'l, *Universal Jurisdiction in Europe: The State of the Art*, at 1-4 (2006), available at <http://www.hrw.org/reports/2006/ij0606/10.htm> (last visited Oct. 25, 2008); see also CONDEMNED BY LAW, *supra* note 12, at 23-25. It should be noted, however, that under recent precedent incumbent officials may be immune to prosecution by the national courts of countries in which they travel, if those courts assert universal jurisdiction. See, e.g., Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of Congo v. Belgium), ICJ, Judgment, 14 Feb. 2002, para. 75.

⁹⁵ See generally Akhavan, *supra* note 93.

⁹⁶ Prosecutor v. Blagoje Simic et al., Case No. IT-95-9-T, Judgment, ¶ 135 (Oct. 17, 2003).

⁹⁷ Rome Statute art. 25, *supra* note 1.

⁹⁸ CASSESE, *supra* note 2 at 191; see also Rome Statute art. 25(3)(d), *supra* note 1.

⁹⁹ Rome Statute art. 28, *supra* note 1.

¹⁰⁰ See generally A FAITH DENIED, *supra* note 16.

¹⁰¹ DAVID MENASHRI, IRAN: A DECADE OF WAR AND REVOLUTION 115 (1990).

to be sustained, specific details would have to be established in particular prosecutions for each individual, including the existence of “a common plan, design or purpose, which amounts to or involves the commission of a crime,”¹⁰² and intent to advance the plan (which can be inferred from participation).¹⁰³ Further inquiry into the inner workings of the Revolutionary Council is needed to establish whether individual members were criminally accountable.

Currently, no international forum exists that may readily prosecute the Islamic Republic and its agents for their widespread and systematic attacks on the Bahá’í community of Iran. In time, however, the international community and its members may hold the perpetrators accountable and, accordingly, create or expand fora to accommodate such prosecutions.

5.2. Iran’s State Responsibility

The Iranian state, as opposed to individuals, cannot be held accountable for crimes against humanity in judicial fora. This does not, however, mean that the Iranian government is not responsible for the crimes described in this report.¹⁰⁴ Pursuant to the ICCPR, all states have an affirmative legal obligation to take action to prevent such violations, investigate allegations of grave human rights violations, and hold accountable the responsible parties even if they are state officials.¹⁰⁵ Far from remedying the attacks on its Bahá’í citizens, however, the Iranian regime has actively promoted and sponsored them. The international community should condemn Iran and hold it accountable for its active and blatant disregard of international human rights laws.

¹⁰² Prosecutor v. Tadic, Case No. IT-94-1-A, Judgment, ¶ 227 (July 15, 1999).

¹⁰³ *Id.* (citing Prosecutor v. Kvočka et. al, Case No. IT-98-30/1-T, Judgment, ¶ 271 (Nov. 2, 2001)).

¹⁰⁴ André Nollkaemper, *Concurrence between Individual Responsibility and State Responsibility in International Law*, 52 INT’L & COMP. L.Q. 615, 618 (2003) (stating that crimes against humanity are perpetrated by individuals and states). For a more detailed discussion of Iran’s state responsibility for violations of international human rights and criminal laws, see CONDEMNED BY LAW, *supra* note 12, at 11-20, 25-27.

¹⁰⁵ See *supra* notes 42-49 and accompanying text (for a discussion of the Islamic Republic’s responsibilities under the ICCPR, particularly Articles 2, 6, 9 and 14); see also CONDEMNED BY LAW, *supra* note 12, at 11-20.

6. Conclusion

It is the judgment of the IHRDC that the Islamic Republic's deliberate and coordinated attacks against Iran's Bahá'í community amount to a crime against humanity. The campaign evinced a widespread and systematic character and was directed at the highest levels of the Iranian state. More specifically, a number of leading regime figures including Ayatollah Mahdavi-Kani, Hassan Ibrahim Habibi, Akbar Hashemi Rafsanjani, Ayatollah Seyyed Ali Khamenei, and Ayatollah Abdul-Karim Musavi Ardebili may all bear direct criminal responsibility for these actions.

At present, there seem to be relatively few logistical (and political) avenues by which high ranking regime elements involved with Iran's campaign of persecution against the Bahá'ís can be brought to justice. Yet legal channels do exist. Criminal prosecutions based on universal jurisdiction and customary norms, whether they occur in the domestic courts of a U.N. member state or as part of a future *ad hoc* tribunal charged with prosecuting and convicting high ranking Iranian officials responsible for crimes against humanity, remain a possibility. In the absence of effective opportunities to secure criminal convictions, however, prosecutors and families of victims should continue to employ innovative civil legal strategies in order to hold the Iranian regime financially accountable for its actions.¹⁰⁶

To bring the perpetrators of Iran's state-directed violence to justice requires great resolve and perseverance. It is the hope of the IHRDC that at the very least, this report and its companions inform, educate and inspire victims, human rights advocates, government authorities and members of the public to remain steadfast in their pursuit to bring the Islamic Republic to account for its persecution of one of the country's most vulnerable religious communities.

¹⁰⁶ See CONDEMNED BY LAW, *supra* note 12, § 5 for a more comprehensive discussion of the various civil and criminal legal strategies available to victims of Iran's state-sponsored campaign of violence.

Methodology

The legal analysis presented in this report is based on the facts collected and collated in two previous IHRDC reports: *A Faith Denied: The Persecution of the Bahá'ís of Iran* and *Community Under Siege: The Ordeal of the Bahá'ís of Shiraz*.

IHRDC gathered information for this report from the examination of the following sources:

- *Government documents.* These include recorded public statements by state officials, court documents, official reports by organs such as the United Nations Commission for Human Rights and the British Parliamentary Human Rights group, statements released by Iranian government agencies and published legal instruments.
- *Documents issued by non-governmental organizations.* These include reports and press releases written by organizations such as Amnesty International and Reporters without Borders.
- *Documents prepared by NGOs.* IHRDC has used information gathered by human rights monitors such as Human Rights Watch and Amnesty International.
- *Books and articles written by private individuals.* These include political memoirs, and the published accounts of survivors and eyewitnesses of the incidents described.
- *The Bahá'í International Community.* The Bahá'í World Center and its subsidiary organs have extended the IHRDC access to their archives.
- *Academic articles.* A number of historians, political scientists and lawyers have written articles on human rights and international criminal law.
- *Media reporting.* This includes articles published in newspapers inside and outside Iran.
- *Photographs.* These include photos of attacks on Bahá'í property that have been taken by members of Bahá'í community as well as those published by the Iranian media since 1979.

The IHRDC particularly wishes to thank the Library of Congress for its invaluable assistance in researching this project.

All names of places, people, organizations, etc., originally written in Farsi have been transliterated using the system of the International Journal of Middle Eastern Studies (IJMES), available at http://assets.cambridge.org/MES/mes_ifc.pdf. Under the IJMES system, names of places with an accepted English spelling and names of prominent cultural or political figures may be spelled according to the English norm.

Where the report cites or relies on information provided by government actors or other involved parties, it specifies the source of such information and evaluates the information in light of the relative reliability of each source. The IHRDC has meticulously cross-checked all the sources of information used to compile this report to ensure their credibility and accuracy.

Look for these forthcoming IHRDC Reports documenting:

- The activities of Iran's secretive **parallel intelligence agencies**, which have engaged (and continue to be engaged in) the illegal arrest, detention, torture and killing of political dissidents inside the country;
- Tehran's persistent crackdown on the free flow of information in cyberspace, including its arrest and detention of **webloggers** and other sources of independent information on the internet;
- The Islamic Republic's systematic cleansing of its correctional facilities during the **1988 prison massacres**, which resulted in the summary execution of thousands of the regime's political prisoners.



Bahman Samandari (born 1940) was a prominent member of the Bahá'í community and the owner of a successful travel agency in Tehran. On 18 March 1992, he was executed merely a day after he was summoned to Evin Prison. During his detention Mr. Samandari was not allowed visitation rights, and neither he nor his family ever received an official charge sheet explaining the reasons for his arrest. After Mr. Samandari's summary execution, government officials declined access to his body and his family was denied proper burial rites.