



**World Jewish Congress**

**World Jewish Diplomatic Corps**

**Iran**

**UPR Submission to the Office of the High Commissioner**

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For the past 30 years, Iranians have been living under an oppressive theocracy which limits the access of its citizens to the international community, subjects them to harsh punishments for minor offenses, and deprives them of their basic social and political rights. This report focuses on a list of violations in six categories: Freedom of Expression, Religious Freedoms and Minority Rights, LGBT Rights, Children's Rights, Women's Rights, and Education. It is based on a variety of sources, including reports published by international human rights organizations, interviews with Iranian human rights activists, and UN- related documents.

Iran is a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of Racial Discrimination (CERD), the UN Convention on the Rights of the Child (CRC), and the Universal Declaration of Human Rights (UDHR). These contain fundamental norms - such as the prohibition of human rights violations including torture, flogging, amputations, public executions, stoning, execution of minors, and violence against women – that are binding on all members of the international community, including Iran. Moreover, when violations such as murder, torture, rape, unlawful imprisonment, disappearances, or persecutions on religious, ethnic, or political grounds are committed on a widespread or systematic basis, or as part of governmental policy, they may also constitute crimes against humanity, as defined under Article 6 of the 1945 Nuremberg Charter for the prosecution of the Nazi leaders after the Second World War, and more recently under Article 7 of the 1998 Rome Statute of the International Criminal Court. International law requires that those responsible for crimes against humanity must be investigated and prosecuted for their conduct irrespective of their status as government officials.

It is important to note that the Iranian constitution calls for equal rights among races and ethnic groups (Article 19). It calls for gender equality (Article 20), and protection of the rights of women (Article 21); freedom of expression (Article 23); freedom of press and communication (Article 24) and freedom of association (Article 27). Religious minorities "are free to perform their religious rites and ceremonies."

However, the constitution includes inherent contradictions, making these principles subject to Islamic jurisprudence with stipulations such as "All laws and regulations must conform to the principles of Islam." The rights of women, freedom of expression, of communication and association, and of the press - are followed by modifiers such as "within the limits of the law", "within the precepts of Islam", "unless they attack the principles of Islam", and "unless the Law states otherwise". The Islamic Republic of Iran has not upheld its commitment to preserving human rights in accordance with the international treaties to which it is a signatory, nor in accordance with its own constitution.

### **Freedom of Expression**

According to Article 19 of the Universal Declaration of Human Rights (UDHR): "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Freedom of Expression and Freedom of the Media are not protected in Iran. The 1985 Iranian press law prohibits "discourse harmful to the principles of Islam" and "public interest", as referred to in Article 24 of the constitution, which according to the NGO Human Rights Watch provides "officials with ample opportunity to censor, restrict, and find offense."<sup>1</sup>

In 2005, there were approximately 700,000 Persian blogs registered with various blog service providers.<sup>2</sup> The regime has tried to control and restrict this activity. Firstly, the judiciary system imposed restrictions on pro-reform media outlets, especially cyber-journalism. Secondly, the government itself put forward a policy to create a number of websites and blogs dedicated to regime promotion and spreading their "own information".<sup>3</sup> This new policy constitutes a campaign for the ideological homogenization of the media and a systematic expansion of the State's media control of the internet.

After the June 2009 elections and the riots that ensued in their wake, several Iranians were arrested for expressing their opinions. When Iranian citizens took to the streets to protest peacefully against electoral fraud, the government responded by cutting off many means of communication inside Iran (including internet and mobile phone service), sequestering foreign journalists, and giving free reign to the Revolutionary Guard, Bassij paramilitary force and plainclothes militias to beat up protesters and even shoot at them. The names of at least 34 victims, mostly killed by gunshots in the week following the

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<sup>1</sup> In: <http://www.hrw.org/legacy/reports/1999/iran/Iran99o-03.htm>

<sup>2</sup> Mina, Nima, "Blogs, Cyber-Literature and Virtual Culture in Iran", George C. Marshall, European Center for Security Studies, Occasional Papers Series, N.15, December 2007, p. 6

<sup>3</sup> Mina, Nima, *Ibidem*, p. 10

elections, have been reported. The real number is believed to be higher. Thousands of peaceful citizens and activists have been arrested, and the crackdown continues unabated.<sup>4</sup> (see attachment for more cases).

### **Religious Freedoms and Minority Rights**

The Iranian constitution declares Islam as the state religion but contains two provisions that relate to minorities. Article 13 states that Zoroastrian, Jewish and Christian Iranians are the only recognized religious minorities who are free to perform their religious rites and ceremonies, within the limits of the law, and to act according to their own canon in matters of personal affairs and religious education. Article 14 also provides protection for non-Muslims, provided they refrain from conspiracy or activity against Islam and the Islamic Republic of Iran. In reality though, this freedom of religion is rarely maintained<sup>5</sup>. There are significant minority rights abuses on ethnic and religious grounds in Iran, as nearly all ethnic Baluchis and Turkomans, most Kurds, and some Arabs who practice Sunni Islam are disfavored by the regime. Following are a few cases of religious minorities who have suffered under the Iranian regime (for more cases, see attachment).

**Arabs and Sunni Muslims** are regarded by the Iranian Shias as Muslims whose religion is incomplete, and the Sunnis claim that they are forbidden to build their own mosques. In 2007, the Iranian government executed seventeen Ahwazi Arabs by the method of slow strangulation, and the trials were reported by UN repertoires as flawed. These executions provoked public protests in which the Iranian government opened fire in a civilian gathering.

**Baha'i:** The Baha'i community, with an estimated 300,000 members, is Iran's largest non-Muslim religious minority. After the 1979 Islamic Revolution the Baha'is were no longer recognized as a religious minority, and were subject to official persecutions.<sup>6</sup> More than 700 of their religious leaders were arrested, and several of them executed for apostasy; their schools were closed; their communal property was confiscated; they were prohibited from holding any government employment, nor issued identity cards.. Reports continue to be received about members of the Baha'i community being subjected to arbitrary detention, false imprisonment, confiscation and destruction of property, denial of employment and government benefits and denial of access to higher education.<sup>7</sup> A significant increase has been reported in violence targeting Baha'is and their homes, shops, farms and cemeteries throughout the country. There have also been several cases involving torture or ill-treatment in custody. The Iranian Baha'is cannot practice their faith publicly. In August 2009, seven Bahai leaders were detained and have been accused of espionage, in a process in which fair and legal procedures were not observed.

**Jews:** The constitution of 1979 recognized Jews as an official religious minority, with the right to elect a representative to the Majlis—the Iranian parliament. However, since the revolution, at least 13 Jews have been executed in Iran, most of them for their connection to Israel, the Jewish state. Of the 25,000 Iranian Jews who immigrated to Israel, many maintain direct communication between the immigrants and their Jewish relatives left in Iran. The Iranian government has cited this communication as evidence of spying and on some occasions arrested and executed Jews. Iranian Jews are subjected to mandatory limitations on employment in the government, the armed forces and the judiciary. They do not enjoy the same housing benefits as do their Muslim neighbors. Jews are also often targets of demonizing caricatures in the Iranian press. The media, schools, administration and the general public are constantly exposed to the projection of this thinly disguised anti-Semitic propaganda. Religious leaders, in their Friday sermons and in their widely distributed publications, provide a permanent stream of anti-Israel indoctrination. The thin line separating anti-Zionist and anti-Israeli propaganda from outright anti-Semitism is growing thinner<sup>8</sup>.

**Zoroastrians** are regarded as a tolerated but badly integrated minority. On many occasions, the Iranian regime has interfered with the Zoroastrian's religious festivals, particularly disturbing the conduct of the Chaharshanbe Souri fire festival, often shooting tear gas into the celebrating crowd.

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<sup>4</sup> In: <http://www.iranrights.org/english/newsletter-11.php>

<sup>5</sup> Report of the Secretary-General on the Situation of Human Rights in the Islamic Republic of Iran; <http://www.iranhumanrights.info/2008/10/sg-report-iran/>

<sup>6</sup> CRS Report for Congress, Iran: Ethnic and religious minorities; <http://www.fas.org/sgp/crs/mideast/RL34021.pdf>

<sup>7</sup> Iran- non Muslim Minorities; [www.country-data.com/cgi-bin/query/r-6441.html](http://www.country-data.com/cgi-bin/query/r-6441.html)

<sup>8</sup> Levin, Aryeh. "The Jews of Iran: The Fragile Subsistence of an Ancient Community" World Jewish Congress Research Institute. Jerusalem: 2008.

**Kurds:** The persecution of Kurdish activists is extremely widespread, and many of these activists are sentenced to death after unjust and perfunctory trials that last only minutes. Furthermore, the intensity of the persecution of the Kurds has been concertedly masked by the leadership in Tehran. Numerous Kurdish newspapers and magazines have been closed; editors and writers have been imprisoned; non-governmental organizations have been refused permits to operate; and human rights defenders have been sentenced to death. Amnesty International has reported that the police killed three Kurds and injured dozens in a demonstration during February of 2007, and two Kurdish reporters were executed for writing in a banned magazine.<sup>9</sup> Proponents of greater recognition of the Kurdish language and cultural and other rights were arrested and imprisoned after unfair trials.<sup>10</sup>

### LGBT Rights

Gay men, lesbians, bisexuals and transgender individuals are particularly vulnerable to human rights violations in Iran since the regime considers homosexuality among the most serious crimes.

Iran's penal code considers sexual intercourse between members of the same sex to be a crime punishable by death for men and by lashings for women (Islamic Penal Code of Iran, Article 108-134). Any man found guilty of having penetrative sex with another male is to be killed, whether the sex is consensual or not. It does not matter whether the other party is a minor or an adult (Islamic Penal Code of Iran, Article 108).

These laws violate international treaties, including the International Covenant on Civil and Political Rights (ICCPR), which Iran ratified in 1976. Articles 2 and 26 of the ICCPR affirm the equality of all people before the law and the right to freedom from discrimination, while Article 17 of the Covenant reiterates freedom from arbitrary interference with privacy.

Iranian criminal law continues to refer to "sodomy" as a serious crime, punishable by death. The United Nations Human Rights Committee, which monitors states' compliance with the ICCPR, determined in 1994 that sodomy laws violate international human rights.

Iran is obligated under *Toonen v. Australia* (1994), the Human Rights Committee's authoritative interpretation of the International Covenant on Civil and Political Rights, to which Iran is party. *Toonen v. Australia* extends recognition of the right to privacy and the right to freedom from discrimination on the grounds of sexual orientation throughout human rights law.

Over the past several years, juveniles have been executed based on allegations including sodomy charges. (see attachment).

### Women's Rights

In Iran, there exists an institutional base for violence against women. Discriminatory laws in both the Civil and Penal Codes in Iran play a major role in empowering men and aggravating women's vulnerability to violence. In particular, discriminatory provisions in the Civil Code relating to the areas of marriage, child custody, freedom of movement and inheritance may lead to, perpetuate or legitimize violence against women perpetrated by private actors. The provisions of the Penal Code relating to crimes specified in the sharia, namely, *hudud*, *qisas and diyah*, are of particular relevance in terms of gender justice.

The Civil Code also restricts women's freedom of movement. For example, according to Article 1005, as the exclusive head of the family the man has the right to control his wife's freedom of movement and behaviour in many situations. She must show the written and notarized approval of her husband in order to obtain a passport and to be allowed to travel abroad. A woman's freedom of movement is also seriously curtailed by the numerous rules upholding sex segregation in public space. An unaccompanied woman must obtain permission from her husband or the local authorities in order to stay at a hotel. To be able to leave the house, women and girls must dress according to the mandatory dress code (*hejab*). Violators have suffered massive assault by "modesty police" forces, and have received lashes, fines or imprisonment.

Although the Deputy Minister of the Interior explained that there was no mandatory dress code, others who the UN Special Rapporteur on Violence Against Women has spoken to claimed the contrary and argued that failing to obey this rule may result in punishment of 10 days to 2 months' imprisonment and a fine. Such legal provisions empower men to use force upon women, including diverse forms of violence, in order to ensure compliance. Flogging, a form of cruel, inhuman and degrading punishment used against women in Iran, amounts to torture, and is outlawed under Article 7 of the ICCPR.

Under Article 102 of Iran's Penal Code, a girl who is found to have committed acts incompatible with chastity is sentenced to execution by stoning. The girl's hands are tied behind her back as she becomes completely covered from head to toe in

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<sup>9</sup> KH: Persecution of Kurdish Political Activists in Iran - A number of specific cases in which activists face death after unjust trials; <http://kurdishrights.org/2009/06/12/kh-persecution-of-kurdish-political-activists-in-iran/>

<sup>10</sup> Amnesty International Report 2009; <http://thereport.amnesty.org/en/regions/middle-east-north-africa/iran>

winding sheets and is placed seated in a pit. The pit is then filled up to her chest with dirt and the dirt is tamped down. At that point, people are invited to murder her by hurling rocks at her. But to ensure the maximum amount of pain and torture, the Iranian government has mandated the size of the stones that are to be used. By law, the stones must not be too small as to prevent a speedy death, nor must they be too large that they could cause the girl's death "too soon".

In August 2006, a Campaign for Equality was launched to end legal discrimination against women. The campaign informs women of their rights, and aims to collect one million signatures from the Iranian public to a petition against discriminatory laws. Since the launch of the Campaign, activists have undergone harassment. They face threatening phone calls by persons identifying themselves as Ministry of Intelligence officers warning them not to hold planned meetings; they are prevented from organizing peaceful meetings or demonstrations and to date, the website of Campaign for Equality has been blocked on at least 11 occasions and filtering has extended to local sites of the campaign in several Iranian provinces. Some campaigners have been sentenced or are facing charges for their peaceful campaigning for women's rights.

Arresting and preventing women's rights advocates to circulate freely is a violation of Article 12 of the International Covenant on Civil and Political Rights (ICCPR). The UN Declaration on Human Rights Defenders (1998) also affirms the protection of human rights defenders from violence or threats as a result of their work.

### **Children's Rights**

In 1994, Iran ratified its commitment to the UN Convention on the Rights of the Child (CRC), but included the following reservation: "*The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the international legislation in effect.*" Essentially, this reservation allows Iran to circumvent its compliance with several articles in the CRC, all the while remaining a party to the CRC in the eyes of the UN and the international community. In May 2006, Iran circulated a letter to the UN secretariat stating that it was reconsidering its reservation, but thus far has not removed this reservation. The CRC forbids the execution of juveniles under the age of 18 or those who were under 18 at the time of the alleged crime. According to Amnesty International and Human Rights Watch, Iran holds the world record for child executions.

Several monitoring reports have been released by various sources about Iran's violations of the CRC, and human rights violations in general concerning children. The following is a brief summary of the most notable.

*Age of Majority:* In Article 1 of the CRC, a child is defined as "a human being under the age of eighteen". However, in Article 1201 of the Civil Law, Iran defines the age of majority as being 15 years old for boys and 9 years old for girls.

*Legal Age for Marriage:* According to Article 1041 of the Civil Law, girls can marry at the age of 13 years, and boys at the age of 15 years. However, fathers or paternal grandfathers have absolute power of guardianship over children under 13 and 15 years old, and can give consent for their children to marry at younger ages. In rural areas, it is not uncommon for girls to marry before their teenage years.

*Child Executions:* From the age of majority (15 for boys and 9 for girls), children can be punished and sentenced like adults if they commit a crime. Islamic Penal Law includes several physical punishments for certain crimes, such as whipping, stoning, cutting parts of the body, as well as execution. Since 1990, there have been between 24 and 34 child executions. Specifically, Iran executed 3 juvenile offenders in 2004 (who were either minors at the time of execution or were under 18 at the time of the crime), 8 in 2005, 4 in 2006, 12 in 2007, 8 in 2008, and 9 thus far in 2009. According to the NGO Stop Child Executions, the number of children on death row, currently awaiting the death penalty, is at least 160. Most children on death row are convicted of committing murder. However many of the convictions are thought to be based on dubious confessions, or questionable trials where evidence presented by defendants was ignored. This violates article 37 of the CRC which states that "neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age."

*Child Abuse and Child Labour:* Legally, children under the age of 15 cannot work in Iran. However the law does not prohibit them from working in domestic services, agriculture, and some small businesses. This is a major loophole which results in thousands of children being prevented from obtaining an education. Official numbers of street children in Iran range from 30,000 to 60,000, but estimates may be closer to 100, 000 – 200,000. Most of these children work as street vendors in Tehran and other large cities. Child abuse is generally considered to be a private family matter, and authorities do not normally intervene.

*Questionable Educational Program:* An analysis of various Iranian textbooks shows that there is an emphasis on the glorification of the deaths of thousands of children who were drafted into the Iranian army during its war with Iraq. The Iranian educational program also seeks to teach children that belief systems other than Islam are inferior, including Baha'ism and atheism. This violates article 14 of the CRC which stipulates that "state parties shall respect the right of the child to freedom of thought, conscience and religion".

(For case studies, see attachment).

### **Education**

The Right to Education is recognized by Article 26 of the Universal Declaration of Human Rights and Article 13 of the International Covenant on Economic, Social and Cultural Rights. The Iranian Constitution contains a comprehensive chapter on rights of the people encompassing civil and political rights as well as economic, social and cultural rights, the right to education being part of Article 30.

Iran is a party to both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). As a party to the ICCPR, Iran has undertaken to respect the rights of freedom of expression and association. Under the ICESCR, Iran has undertaken to make higher education equally accessible to all without discrimination. However, by excluding students from universities on grounds of their political opinions, Iran is directly violating its clear legal obligations under both covenants.

Since 1979, the Islamic Republic of Iran has blocked the 300,000-member Baha'i community from higher education, refusing young Baha'is entry into institutions of higher learning. The government has also sought to close down Baha'i efforts to establish their own institutions of higher learning. In 2006, Baha'i students were permitted to sit for the required qualification examinations and about 200 Baha'i students were admitted to a number of universities and colleges in Iran. Throughout the school year, however, at least 128 of those students were expelled after their universities became aware that they were Baha'is.

Since the fall of 2006, disciplinary committees on university campuses have routinely summoned dissident students and sentenced them to suspension terms. In many cases, university officials did not honor their own regulations and issued sentences in absentia without providing students a chance to defend themselves or become aware of the reason for their suspension. The International Campaign for Human Rights in Iran has compiled a list of 160 students who have received suspension sentences since 2007 (see attachment).

Denial of the right to education is not limited to student activists and dissidents who have been persecuted for their opinions and political views. According to several decisions passed by the Supreme Council for the Cultural Revolution, students have been deprived of their right to education also based on their religion and beliefs, gender, and place of birth.

In the past three years, job security of university faculty has been greatly eroded by a wave of forced retirements. In addition, the freedom to teach academic texts and choose one's area of research, which are fundamentals of academic freedom, have been threatened, particularly in social science, humanities, and law departments. The wave of firings and forced retirements of faculty began in 2006, after a speech by President Ahmadinejad, who called for the purging of universities of secular and liberal professors.

### **Recommendations**

#### **The UN Human Rights Council should:**

- Demand that the Iranian government either immediately comply with its international obligations as defined in the international treaties to which it is a signatory – the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of Racial Discrimination (CERD), the Universal Declaration of Human Rights, and the International Covenant on Economic, Social and Cultural Rights (ICESCR), or face legal charges for not complying.
- Take immediate measures to permanently abolish the death penalty for all child offenders.
- Immediately release all persons detained during the post-election protests, and all those currently detained for the peaceful exercise of their rights.
- Ensure the protection of any detainee from torture or other ill-treatment.
- Insist that the Iranian regime fully respect the Iranian people's right to peacefully assemble and protest (including participation in activities which dissent from state policies and practices).
- Insist that the Iranian regime fully respect its citizens' freedom of speech, and abstain from actions obstructing the work of the press within Iran.
- Insist that the Iranian regime refrain from all actions of violence and intimidation against the people of Iran.
- Demand that Iran pass legislation ensuring civil liberties.
- Pressure businesses and governments to stop dealing with Iran for as long as it continues to violate human rights.
- Appoint a Special Rapporteur to investigate the status and conditions of non-Muslim minorities in Iran, and to publish a report on their equality under the law, religious rights and freedoms, and the teaching of hatred and contempt against minorities in Iran.