

Iran hearing - Marshall testimony

Written Testimony of Paul Marshall, Senior
Fellow, Hudson Institute's Center for Religious Freedom

Public Hearing:

Advancing Religious Freedom and Related Human
Rights in Iran: Strategies for an Effective U.S. Policy

Thursday, February 21, 10 a.m. - 12:30 p.m.

IRAN'S DENIAL OF RELIGIOUS FREEDOM

I would like to begin by expressing my thanks to the US
Commission on International Religious Freedom for its work and, in particular,
its hearings today on religious freedom, or the lack thereof, in Iran.

The Iranian government is one of the world's worst religious
persecutors (in our recent published World
Survey of Religious Freedom it scored a 7, the lowest possible score) and, for
this reason alone deserves out major attention. All of Iran's religious minorities -
Bahaiis, Assyrian Christians, Catholics, Anglicans, Armenians, Evangelicals,
Mandeans, Jews, and Zoroastrians - have suffered. Their numbers have steadily
dwindled as they have fled religious oppression in their homeland; the presence
of the ancient Assyrians and Mandeans is approaching statistical
insignificance. But it is also important to emphasize that, as elsewhere
throughout the world, religious freedom issues do not exist in a corner. They
do not affect only minorities but reveal to us some of the most important
dynamics of our world. The regime's currently intensifying persecution of its
religious minorities coupled with proposed changes to its draconian penal code,
reveals something of the government's nature, and also sheds light on the hotly
debated question: Does the regime remain a revolutionary one, or has it become
instead a "normal country," one that, despite its fervent rhetoric,
aspires only to international acceptance and regional power?

REGIME'S RELIGIOUS STRUCTURE

The Iranian Islamic regime claims to be based on Shiite Islam, particularly the doctrine of the Twelver (Shiite) Jaafari School; this amounts to the state religion. According to the Fundamental Law, the Government is an Islamic Government in which the Clergy have a prominent function. The leaders of all three branches of government must come from the clergy. All laws and ordinances must be written so that they do not contradict shari'a. Hence, laws passed by the Parliament can only be implemented if they conform to shari'a. Moreover, the religious commandment "commanding to do good deeds and prohibit evil" is incorporated into law.

The notion of genuine religious (or political) pluralism is deemed unacceptable and, where it is required by international agreements, senior Iranian leaders denounce it as a Western aberration, even though Iran is a member of the United Nations and signatory to some of its conventions. Religiously defined state institutions include: (1) The Wali Faqih (religious leader), initially the late Ayatollah Ali Khomeini, who was declared to be the present representative of Imam Mehdi, the "hidden Twelfth Imam" of traditional Shiite belief. He sets the moral guidelines for state policy and decisions, and controls the security forces and judiciary. (2) The Majlis-E-Khobregan (Council of Experts), comprising eighty-three clerics who choose the successor to the Wali Faqih if he dies in office. (3) The Shura-E-Nigahban (Council of Guardians), made up of six clerical jurists chosen by the Wali Faqih and six other Muslim jurists, whose task is to ensure that legislation is compatible with Islamic precepts. This council must approve all presidential and parliamentary candidates. (4) The Shura-Ye Tashkhis-E Maslahat-E Nezam (Committee to Determine the Expediency of the Islamic Order), comprising senior state leaders, who arbitrate on legal and theological disputes occurring within the legislative process.

PERSECUTION OF MUSLIMS

The persecution that is the hallmark of Iran's theocratic regime affects not only non-Muslim minorities. Muslims who do not subscribe to Iran's state doctrine of Twelver Shiism have also been subject to bigotry and persecution. Sunnis and Sufis have regularly been discriminated against and banned from teaching their religion, as well as, on occasion, detained and tortured for their religious beliefs. Those Shiites who dare to dissent from state orthodoxy, too, have been arrested and tried for the capital offense of

blasphemy, for the "crime of thinking," as one Iranian Shiite reformist teacher said at his 2004 trial. Hundreds of newspapers have been shut down and many writers and journalists punished, with some even killed, for their views. Shiite women have been harshly restricted and treated as inferiors under state-enforced religious law, and some have been stoned for adultery.

LEGAL STATUS OF RELIGIOUS MINORITIES

The Ministry of Culture and Islamic Guidance polices and monitors all religious minorities. The Islamic credentials of all candidates for election to the Majlis or parliament are closely scrutinized. According to the constitution, Iran treats non-Shiite Islam with "complete respect" and gives formal recognition to Zoroastrianism, Judaism, and Christianity. Article 19 of the constitution accords equal rights to Iranians irrespective of ethnicity, color, or language, but notably excludes religion. Non-Muslims must state their religion on census forms. Adherents of Zoroastrianism, Judaism, and Orthodox Christianity (but not Protestants or Roman Catholics) have separate, minority representation in the Majlis and are nominally free to practice their rituals and educate their children accordingly, however they may not enter government service or hold commissions in the armed services. University applicants are screened for Islamic orthodoxy and must pass a test in Islamic theology, a condition that obviously restricts applications from the religious minorities.

Constitutional guarantees of freedom to non-Muslim faiths and non-conformist Muslims are crippled by additional words and phrases in the relevant articles that make the guarantees subject to the priority of Islam. Thus, Article 26 allows for the formation of religious societies provided they do not violate "the criteria of Islam or the basis of the Islamic republic." Article 20 guarantees sexual equality "in conformity with Islamic criteria." Article 24 denies freedom of the press to writing "detrimental to the fundamental principles of Islam." Such phrases provide an effective legal basis for oppression and administrative action against non-Muslims and non-conforming Muslims, nullifying other constitutional guarantees of equal rights. The Baha'i faith, not mentioned in the constitution, has no legal status and derives no benefit from even the limited guarantees given to others. Because of the pressures on non-Shia and the need to declare religion on census forms, the numbers of religious minorities are almost certainly understated.

REDUCED RIGHTS OF MINORITIES

When a Muslim

intentionally murders a non-Muslim, when a man intentionally murders a woman, when one murders an apostate, when a father or paternal grandfather murders their child or grandchild, or when one murders a person who is mentally handicapped, the perpetrator faces no retaliatory retribution and may be asked only to pay blood-money, which may be waived by the courts altogether.

In cases where the

victim is a woman or non-Muslim, the blood money is calculated to be much less than that it would be for a Muslim man. There are two categories of non-Muslims. One is the "People of the Book," such as Christians, Jews, and Zoroastrians, whose blood money is less than that of a Muslim. The other consists of non-Muslims who follow other religions. Murdering people in this latter category has no legal ramifications. For example, if a Muslim murders a Baha'i, the murderer is not even required to pay blood money. Religious minorities other than the "People of the Book," as well as Muslims who desert Islam, and who are recognized as "apostates," fall in the category of "murder with impunity" and, if killed, no one will punish their killers.

For sexual

relations between a non-Muslim man and a Muslim woman, the non-Muslim faces death. Homosexuality is punished by violent and degrading penalties, including death.

PARTICULAR RELIGIOUS MINORITIES

SUNNIS

Up to six million

people profess to be adherents of Sunni Islam, the form of Islam practiced by the majority of Muslims outside Iran.

This is a problem for a regime that presents Shiite Islam as the system of state governance and the basis for all human relationships, and is an issue that was exacerbated by the Iraq

war. The Sunni community was officially wooed during the conflict, but Shiite zealots who have practiced widespread discrimination against Sunni communities have not been rebuked, nor has anti-Sunni violence been punished. However, the Iranian government is careful not to resort to the repressive tactics used against other minorities, which would harm Iran's relations with other Islamic countries. Tension between Sunnis and Shia has led to major demonstrations in majority Sunni towns. Sufi Muslims suffer discrimination and persecution. In February 2006, Iranian authorities destroyed a Sufi

house of worship in the northwestern city of Qom and arrested approximately 1,000 Sufis after clashes with security forces. Most were released within hours or days, although dozens reportedly suffered serious injuries.

ZOROASTRIANS

Under the monarchy, members of the small Zoroastrian community were regarded as "true, ancient Iranians," and the community received official approval as a symbol of pre-Islamic history and culture. Some members held high public position; many traveled to reside in Tehran from areas where they were previously in the majority, such as Yazd, Central Iran, and Kerman in the Southeast. Since the Islamic revolution, this situation has been reversed. Individuals have returned to the countryside or gone abroad, and those remaining experience reduced legal rights and discrimination in education and employment.

JEWS

The Iranian government, being strongly anti-Israel, is widely suspected of giving support to Palestinian terrorist activity. Jews are suspected of disloyalty and are forbidden to visit Israel on penalty of imprisonment. Jewish families cannot travel abroad together. The sole Jewish member of the national parliament is required to denounce Israel regularly. The government discriminates against the microscopic Jewish community in awarding commercial contracts and in education and employment. Jewish schooling is forbidden, as is the study of Hebrew. Since 1979, the regime has executed at least thirteen Jews, either for religious reasons or due to allegations of spying for Israel. Since becoming President of Iran in August 2005, Mahmud Ahmadinejad has continued to escalate his anti-Israel rhetoric, intensifying the hostile environment already experienced by Iran's Jewish minority.

The US Department of State reported, "In December 2005, the president alleged that the Holocaust was a 'myth.' On December 16, 2005, the Friday prayer leaders endorsed the president's Holocaust statements and reported the statements were "the heartfelt words of all Muslims in the world." There has been a rise in officially sanctioned anti-Semitic propaganda, focused not just on Zionism but on Judaism per se. By 2007, Iran's Jewish community was less than half the size it had been at the time of the Islamic revolution in 1979. This emigration is, at least in part, the direct result of

the government's relentless anti-Semitic policies and practices.

CHRISTIANS

Christians in Iran, totaling some 300,000, endure discrimination, harassment, surveillance, arrests, and imprisonment. Although it is impossible to verify specific numbers, many Christians have reportedly fled the country. Since Ahmadinejad's rise to power, church raids have increased resulting in detainment of worshippers and church leadership, threats, harassment and at times arrests. Major police action has been directed against evangelical Christianity, which is thought to be responsible for the conversion of Muslims. Since 1993, churches and their pastors have been required to declare publicly, and falsely, that they have full constitutional rights, as well as that they will not attempt to convert Muslims. Several Protestant Christian leaders, including those who converted from Islam, have been sentenced to death or assassinated. Worshippers can be subject to identity checks by authorities posted outside congregational centers, church services are restricted to Sundays, and churches must inform the Ministry of Information and Islamic Guidance before admitting new members. Some people suspected of involvement in evangelical activity are alleged to have disappeared for prolonged periods of time and been tortured. The ban on all activity outside church walls and the systematic monitoring of evangelical activity has led to death threats against Iranian Christian converts residing abroad.

In 2005 evangelical pastor Hamid Pourmand was apprehended during a church raid and accused of apostasy. He is now serving a three-year prison sentence passed against him by a military court that February, and stands to lose all his military benefits, including health care and pension. Compass Direct reported that Iranian secret police began to raid and arrest leaders of one of the Islamic republic's indigenous house church movements on December 10, 2006 in Tehran, Karaj, Rasht, and Bandar-i Anzali. As of early January 2007, most leaders had been released.

BAHA'IS

The Iranian regime regards what is probably the largest non-Muslim minority (300,000), the Baha'is, as a heresy and persecutes them severely. Baha'i teaching is perceived

as anti-Islamic and pro-Western. As the faith is not mentioned in the constitution, its adherents are regarded as "unprotected infidels" and have no legal right to seek defense against attacks: thus they may be killed with impunity. Baha'is have suffered massive programs of confiscation of their property and had their religious sites destroyed. According to the National Spiritual Assembly of the Baha'is of the United States, since 1979 more than 200 Baha'is have been killed, 15 disappeared and presumed dead, and more than 10,000 dismissed from government and university jobs. Between Baha'is were barred from all institutions of higher education from 1980 until the Fall of 2006, when about 178 Baha'i students were admitted. By April 2007, at least 94 had been expelled.

In recent years the regime seems to have a coordinated strategy of further repression. On October 29, 2005 on Khamenei's instructions, Major General Hossein Firuzabadi, chairman of the Command Headquarters of the Armed Forces, ordered the Ministry of Information, the Revolutionary Guard, and the Police Force to "acquire a comprehensive and complete report" to identify all Baha'is. On August 19, 2006, Mohammad-Reza Mavvalizadeh, director of the Ministry of the Interior's Political Office, ordered provincial governors' security officers to monitor Baha'i "social activities." On April 9, 2007, the province of Tehran's headquarters for intelligence and security sent a letter from Revolutionary Guard Colonel Husayni to provincial police forces telling them to review any Baha'i-held business licenses and exclude Baha'is from "high earning" and "sensitive" areas. With paranoid scope, "sensitive" areas include not only "newspaper and periodical shops," "publishing and bookselling," and "Internet cafes," but also "jewelry and watch making, coffee shops, gravures, the tourist industry, car rentals, hotel management, and tailoring and training institutes" this has been coupled with increasing arrests of Baha'is.

NEW PENAL CODE

A draft of a new proposed Islamic penal code has been presented for discussion in the Iranian parliament (Majlis) that for the first time would make the death penalty for apostasy a legal stipulation in the criminal code. The text uses the word Hadd, meaning that it explicitly sets death as a fixed punishment that cannot be changed, reduced or annulled. In the past, the death penalty has been handed down (and also carried out) in apostasy cases, but it has never before explicitly been set down in law. Such as law would be an especial danger to liberal thinkers, Muslim converts to Christianity, and members of Iran's Baha'i religious minority.

A translation made by the Baha'i community of the sections of the proposed law says:

Section

Five: Apostasy, Heresy, and Witchcraft

Article

225-1: Any Muslim who clearly announces that he/she has left Islam and declares blasphemy is an Apostate.

Article 225-2:

Serious and earnest intention is the condition for certainty in apostasy. Therefore, if the accused claims that his/her statement had been made with reluctance or ignorance, or in error, or while drunk, or through a slip of the tongue or without understanding the meaning of the words, or repeating words of others; or his/her real intentions had been something else, he/she is not considered an apostate and his/her claim could be heard and justified.

Article

225-3: There are two kinds of apostates: innate (Fetri) and parental[1] (Melli).

Article

225-4: Innate Apostate is someone whose parent (at least one) was a Muslim at the time of conception, and who declares him/herself a Muslim after the age of maturity, and leaves Islam afterwards.

Article

225-5: Parental Apostate is one whose parents (both) had been non-Muslims at the time of conception, and who has become a Muslim after the age of maturity, and later leaves Islam and returns to blasphemy.

Article

225-6: If someone has at least one Muslim parent at the time of conception but after the age of maturity, without pretending to be a Muslim, chooses blasphemy is considered a Parental Apostate.

Article

225-7: Punishment^[2] for an Innate Apostate is death.

Article

225-8: Punishment for a Parental Apostate is death, but after the final sentencing for three days he/she would be guided to the right path and encouraged to recant his/her belief and if he/she refused, the death penalty would be carried out.

Article

225-9: In the case of a Parental Apostate, whenever there appears to be a possibility of recanting, sufficient time would be provided.

Article

225-10: Punishment for women, whether Innate or Parental, is life imprisonment and during the sentence, under the guidance of the court, hardship will be exercised on her, and she will be guided to the right path and encouraged to recant, and if she recants she will be freed immediately.

Note: The condition of hardship will be determined according to the religious laws.

Article

225-11: Whoever claims to be a Prophet is sentenced to death, and any Muslim who invents a heresy in the religion and creates a sect based on that which is contrary to the obligations and necessities of Islam, is considered an apostate.

Article

225-12: Any Muslim who deals with witchcraft and promotes it as a profession or sect in the community is sentenced to death.

Article

225-13: Assistance to the crimes in this chapter, in case there is no other punishment assigned to it by law, is punishable by up to 74 lashes in proportion with the crime and the criminal.

Also note
that

Art. 112

contemplates the extraterritorial application of the norms of this code, by extending its jurisdiction over actions that take place outside the country. Article 112-3-1 refers to actions "against the government, the independence and the internal and external security of the country".

Considering that the notion of "security" is not defined in the law, any action can be qualified as such. Bahá'ís all over the world will be liable for actions taken outside Iran that are considered as contrary to the security of the country. 134-5-3 also refers to internal and external security.

224-1

prescribes capital punishment for anyone who "insults the Prophet".

These regulations and restrictions are not haphazard but are systematically structured and, as such, are remarkably reminiscent of the Nazi Nuremberg Laws imposed against Jews in the 1930s. They are steps toward the destruction of a religious community, and they require the international condemnation and pressure that the Nuremberg Laws did not receive.

Iran's actions

are reminiscent of the Nazis in another way: Even while under great internal and external pressure, the regime is still committed to diverting resources to pursue an ideological and religious campaign that conforms to no realist evaluation of any national interest. The mullahs' Iran is not a normal country.

[1] The word (Melli) in this case means 'of parents'.

[2] The word used here (Hadd) means limits but according to the definition given at the beginning of the document, Hadd in Islamic penal law applies to fixed penalties - their nature, limit, and condition, set in the religious laws, could not be changed, reduced or annulled. Crimes punishable by Hadd are adultery, pimping, false sexual accusations, defamation of the Prophet, apostasy and heresy and witchcraft, drinking, burglary, and spread of corruption and aggression on earth. It should be noted that in all these cases one of the conditions for accountability of the accused is his/her knowledge of the gravity of the crime in the Islamic law.

