

Iranian minority rights: A case study of the UN human rights machinery

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Introduction

The election of President Hassan Rouhani in June 2013 raised hopes for improvements in human rights for Iranian citizens, not least amongst the country's minorities after he spoke of upholding rights for ethnic and religious minorities.

It may be premature to analyse the progress of the Rouhani government on ameliorating the condition of citizens from minority communities, but at the time of drafting this paper the early indications are not encouraging. Christian Pastor Saeed Abedini continues to languish in an Iranian jail,¹ as do seven former leaders of the Bahá'í community.² In October 2013 16 Baloch prisoners were summarily executed in what has been reported as instant revenge further to a terrorist attack upon an Iranian army post by a suspected Baloch group.³ Kurds, Ahawzi Arabs, Christians, Bahá'ís and Sufi Dervishes all report forms of persecution ranging from denial of social and economic rights to targeted attacks.

This paper will review what options are available for advocacy within the United Nations organisation and its specialised agencies, and will explore the experience of a selected number of Iranian minority communities through the prism of certain mechanisms of the UN human rights machinery.

A previous useful discussion of some related topics has been contained within the FPC pamphlet, *A Revolution Without Rights*.⁴ This report detailed the experience of Bahá'ís, Kurds and women. The author notes the view within modern feminist discourse to eschew attempts to conceptualise women's rights as a minority group and observes that on any purely numerical calculus this is plainly incorrect. This essay therefore proposes to explore the experience of Iranian religious minorities including Christians (and specifically the so-called House Church⁵ movement) and the Bahá'ís, and ethnic minorities including the Baloch and the Ahwazi Arabs.

Selected mechanisms within the United Nations human rights structures

Since the adoption of the Universal Declaration of Human Rights in 1948 there has been a proliferation of concepts, laws and mechanisms to advance the paradigm of universal rights. This is a vast system. This paper proposes to select four mechanisms or spaces within the UN machinery and explore what use has been made of these as tools for diplomatic influencing across a number of Iranian minority communities.

This study will focus on the following mechanisms:

- Resolutions adopted by the Third Committee and Plenary of the United Nations General Assembly
- Resolutions adopted by the United Nations Human Rights Council
- Special Procedures of the United Nations, including Special Rapporteurs and Working Groups
- The Universal Periodic Review (UPR) of the Human Rights Council

Resolutions of the UNGA

The United Nations General Assembly is the main deliberative, policy-making and representative body of the UN system. It has representation from 193 national governments and holds a regular 'annual session' in the autumn of every year. Human rights issues may be raised through the Third Committee and also in the Plenary of the General Assembly.

Annual resolutions on Iran have been sponsored by the Canadian government and co-sponsored by the European Union and adopted by a majority vote of UN member states in recent years.⁶ These resolutions

¹ Open Doors, Iranian Prisoners Update, http://www.opendoorsuk.org/resources/letter/iranian_prisoners.php

² Bahá'í World News, Global Outcry Over Continued Imprisonment of Bahá'í Leaders in Iran, May 2014, <http://news.bahai.org/story/1004>

³ Freedom House, Execution of Baloch and Kurdish Prisoners in Iran, October 2013, <http://www.freedomhouse.org/article/freedom-house-condemns-execution-baloch-and-kurdish-prisoners-iran#.VC7AkWddVik>

⁴ Tahiri Danesh, Geoff Cameron and Barrie Boles, *A Revolution Without Rights? Women, Kurds and Baha'is Searching for Equality in Iran*, Foreign Policy Centre, November 2008, <http://fpc.org.uk/publications/RevolutionRights>

⁵ A 'house church' refers to group of Christians who may gather and worship in private homes either because membership is small, but also where they wish to practice their religion underground to avoid persecution.

⁶ UN General Assembly, UNGA 2013 resolution on human rights in Iran, November 2013, via

offer the opportunity for the international community to register concern about a wide range of human rights concerns and to remind the Iranian government of their commitments under international human rights treaties or instruments.

Within the text of the last resolution adopted by the Plenary of the General Assembly in December 2013, issues of minority rights are raised in general terms as well as in a number of operative paragraphs that address the specific conditions facing some of Iran's religious and ethnic minorities.⁷ For example, paragraph 5(h) of the resolution expresses deep concern at 'continued discrimination and other human rights violations, at times amounting to persecution, against persons belonging to....minorities, including Arabs, Azeris, Balochis and Kurds' and goes on to note reports of violent suppression and detention of ethnic Arabs and Azeris.

Paragraph 5(j) addresses the '...continued harassment, at times amounting to persecution, and human rights violations against persons to the recognised religious minorities, including Christians, Jews, Sufi Muslims, Sunni Muslims and Zoroastrians...and evangelical Christians, including the detention of Christian pastors.' A separate paragraph, 5(k), addresses the plight of the 'unrecognised religious minorities, particularly members of the Bahá'í faith.' This paragraph goes on to specify the attacks upon the Bahá'ís, including, '...targeted attacks and murders...arbitrary arrests and detention, the restriction of access to higher education on the basis of religion, the continued imprisonment of the leadership of the Iranian Bahá'í community, the closure of Bahá'í-owned businesses and the de facto criminalisation of membership of the Bahá'í faith.'

Section 6 of the resolution calls upon the government of Iran to address the substantive concerns highlighted in the reports of a number of UN officials, including the Secretary General. One subsequent paragraph in this section, 6(e), calls for the elimination, in law and in practice, of discrimination '...against persons belonging to religious, ethnic, linguistic or other minorities, recognised or otherwise.' Two other paragraphs, 6(f) and 6(g), focus on the discrimination against and exclusion of members of the Baloch community and the Bahá'í faith.

Towards the end of the text of the resolution there is a link to another significant element of the UN human rights machinery in paragraph 13. The opening line of this paragraph strongly encourages 'the thematic special procedures mandate holders to pay particular attention to...the human rights situation in the Islamic Republic of Iran.' The text goes on to identify a number of such special procedures, including those concerned with freedom of religion or belief and minority issues. It should also be noted that there is a geographic special procedure for Iran. The next section of this paper will explore what such special procedures are within the UN system, and how they have served to advocate for Iranian minority rights in recent years.

Special mechanisms

Another element within the UN system for the advancement and protection of human rights is that of the mechanisms known as Special Procedures. These take the form of independent experts, working alone as Special Rapporteurs or Independent Experts, or in Working Groups of five representatives from the regional groups of the United Nations. These procedures are mandated to work with either a geographic or a thematic emphasis, for example on freedom of religion and belief, or for the rights of internally-displaced persons (IDPs). There are currently 37 thematic mandates, and 14 country mandates, one of which is on Iran.

The incumbent Special Rapporteur on Human Rights in Iran is the Maldivian politician and academic, Dr Ahmed Shaheed. The mandate of Dr Shaheed was created by a majority resolution at the UN Human Rights Council and he was appointed in June 2011.⁸ Special Rapporteurs present annual reports to the Human Rights Council in Geneva as well as interim reports to the UN General Assembly in New York. After their reports have been delivered, Special Rapporteurs and other procedures, hold 'interactive dialogues', offering opportunities for government representatives to question them further on aspects of their work.

A review of the text of the March 2013 report by Dr Shaheed (UN document: A/HRC/25/61)⁹ highlights how the work of the Special Rapporteur can serve to highlight the issues facing and defend ethnic and

<http://shaheedoniran.org/english/human-rights-at-the-united-nations/un-general-assembly/general-assembly-resolutions/general-assemblys-2013-resolution-on-human-rights-in-iran-2/>. See also UN General Assembly, Situation of human rights in the Islamic Republic of Iran, December 2012, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/67/182

⁷ Ibid, See paragraphs 5(h), 5(j), 5(k), 6(e), 6(f), 6(g) in the 2013 UNGA resolution.

⁸ See the text of the 2011 Resolution of the Human Rights Council here: UN Human Rights Council, Situation of Human Rights in Iran March 2011 Resolution, December 2011, <http://shaheedoniran.org/english/human-rights-at-the-united-nations/human-rights-monitoring-mechanisms/un-human-rights-council/testtest/> (establishing the mandate of the Special Rapporteur on Human Rights in Iran)

⁹ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, February 2013, http://shaheedoniran.org/wp-content/uploads/2013/12/A-HRC-22-56_en.pdf

religious minorities in Iran. Section IV of the report dedicates no fewer than 16 paragraphs to the situation of minorities. This includes figures for the respective numbers of Bahá'ís, Sunni Muslims, Christians and Dervish Muslims who have been detained. Other paragraphs are dedicated to the respective issues facing Bahá'ís, Sunni Muslims and Christians. Paragraph 40, for example, underscores that most Iranian Christians facing prosecution 'appear to be converts from Muslim backgrounds, or that proselytise or minister to Iranian Muslims'.

Paragraphs 44-51 offer information from a range of ethnic minority concerns that have come to the attention of the Special Rapporteur. These include the case of five Ahwazi Arabs sentenced to death for the crime of 'corruption on earth' and the summary execution of sixteen Baluchi prisoners, four Ahwazi Arabs and two Kurdish political prisoners.

Thematic issues

Beyond the most directly relevant mandated Special Rapporteur on Iran, other UN Special Mechanisms offer opportunities to raise minority rights concerns within Iran through a number of thematic mandates. There are Special Rapporteurs or Working Groups that focus on areas such as torture, Human Rights Defenders and Internally Displaced Persons and many other areas of specialist human rights focus.

Two Special Rapporteurs who have covered Iran in their reportage in recent years are the Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, and the Special Rapporteur on Minority Issues, Rita Izsák

In May of 2014 Ms Izsák made use of another of the tools available to her mandate when she issued an urgent appeal to the Iranian government to halt the execution of two Ahwazi Arab cultural rights activists.¹⁰ Unfortunately, the two individuals in question were subsequently executed in June but the case serves to demonstrate another facility available to UN Special Rapporteurs. Her January 2014 report explains that Ms Izsák's work has included interactions with the government of Iran, including issuing a call for the release of 7 Bahá'í leaders. There is some degree of common ground between her reports and those of Professor Bielefeldt. The reports of the Special Rapporteur on Freedom of Religion or Belief focus on issues pertaining to religious rather than ethnic minorities. His work has covered Iran.

Professor Bielefeldt gave a press conference at the United Nations in October 2011 and in response to reports of the Iranian government's media campaign to demonise members of the Bahá'í community, he described Iran's persecution of Baha'is as among the most 'extreme manifestations of religious intolerance and persecution'¹¹ in the world today. In September 2012 Professor Bielefeldt combined his efforts with Dr Shaheed, blending one thematic mandate with one geographic mandate, to note the release of Iranian Christian pastor Youcef Nadarkhani. Whilst welcoming the clemency granted to Pastor Nadarkhani, the two UN experts voiced deep concern over the arrest and detention of hundreds of Iranian Christians in recent years.¹²

In theory, Special Rapporteurs are able to make 'country visits' to UN member states in order to research their reports on the situations in such countries. The reality is that some states decline to grant visas to allow visits of this nature. Iran, notably, has not granted a visa to Dr Shaheed, who holds the geographic mandate for Iran.

Iran has however, been willing to grant visas to other UN Special Mechanisms. In July 2005, Miloon Kothari, the Special Rapporteur on the Right to Adequate Housing visited Iran and his report to the UN Economic and Social Council was published in March 2006.¹³ The report was written in the aftermath of the Bam earthquake of 2003 and large-scale efforts in 2004 and 2005 by the Iranian state to re-build housing for thousands of Iranian citizens made homeless by this natural disaster.

The Special Rapporteur's report drew attention to positive trends and best practices, and the considerable number of government bodies in Iran that were working to improve housing conditions for Iranian citizens. Mr Kothari's report however goes on to observe existing obstacles in Iran to the realisation of the human

¹⁰ Dr Ahmed Shaheed, Urgent appeal to the Iranian Government: Halt the scheduled execution of Ahwazi Arab men, May 2014, <http://shaheedoniran.org/english/dr-shaheeds-work/press-releases/urgent-appeal-halt-scheduled-execution-of-ahwazi-arab-men/>

¹¹ Bahá'í World News, UN religious freedom expert: Iran is systematically persecuting Baha'is, October 2011, <http://news.bahai.org/story/862>

¹² UN Office of the High Commissioner for Human Rights, UN experts on Iran and freedom of religion concerned over situation of religious minorities in the country, September 2012, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12551&LangID=E>

¹³ UN, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, March 2006, <http://shaheedoniran.org/english/human-rights-at-the-united-nations/human-rights-monitoring-mechanisms/un-human-rights-council/the-special-procedures/report-of-the-special-rapporteur-on-adequate-housing-as-a-component-of-the-right-to-an-adequate-standard-of-living-miloon-kothari-2005/>

right to adequate housing. He goes on to note, *'to express concern for the continued discrimination faced by ethnic and religious minorities and nomadic groups, as reflected in the disproportionately poor housing and living conditions of these groups; the considerable number of alleged cases of land confiscation and forced evictions...'* He goes on to identify policies aimed at vulnerable groups such as Kurds, Bahá'ís, Laks and Arabs.

An entire section of Mr Kothari's report is dedicated to 'Ethnic and Religious Minorities and Nomads'. He notes Kurds, Arabs and Sufis were living in extremely unsatisfactory conditions in poor neighbourhoods in Kermanshah and Khuzestan. He goes on to report information was received suggesting that policies of land confiscation disproportionately affected minority groups. With reference to religious minorities, the Special Rapporteur draws attention to Article 881 of the Iranian Civil Code and its position on inheritance law, which states that 'if one of the heirs declares that he converted to Islam he is entitled to the entire inheritance in detriment to the remaining heirs who belong to another faith.'

In three subsequent paragraphs of his report, Mr Kothari states that he has received detailed documentation relating to the confiscation of approximately 640 Bahá'í properties, expropriated since 1980. The properties taken from Bahá'ís included houses, agricultural land and also sacred places, including cemeteries and shrines. He concludes by stating, 'The Special Rapporteur is concerned at the clear evidence of discriminatory conduct with respect to Bahá'í property, including housing.'

It may be instructive to note that minorities in Iran can seek to highlight the plight of their communities by making recourse to the mandates of those Special Mechanisms that do not immediately appear to relate to their situation, such as the geographic mandate on Iran, and those thematic mandates on minority issues and freedom of religion or belief.

Universal Periodic Review

The final component of the United Nations human rights machinery that this paper will examine for its relevance to Iranian minority groups is that of the Universal Periodic Review (UPR). This system was created in 2006 and serves as a mechanism of the Human Rights Council. It provides for a review of the human rights record of every member state of the United Nations on a periodic basis. It works in a complementary fashion to the other elements of the UN human rights machinery, and the cycling through of a number of states for review at every regular session of the Human Rights Council means that any government, such as Iran, can expect to undertake a UPR every four to four and a half years.

Each country's human rights record is reviewed through the parameters of the UN Charter, the Universal Declaration of Human Rights and human rights instruments to which that state is a party, such as the core human rights treaties on civil and political rights, and economic, social and cultural rights. The state under review prepares their own report on human rights in their country, a second report contains information from all UN sources that is compiled by the Office of the High Commissioner for Human Rights (OHCHR), and the third and final report summarises information received from a range of stakeholders, and crucially this can include Non-Governmental Organisations. This report is also compiled by the OHCHR. This mechanism therefore affords organisations campaigning for minority groups in Iran to present their own evidence and information in the form of reports.

The report of the HRC working group on Iran's UPR in March 2010 gives an insight into how other member states at the UN interacted with the questions of Iran's human rights record.¹⁴ 53 delegations made statements, ranging from those that noted Iran's efforts in the fields of educational, health, housing and cultural rights, to those who were critical of the practices of detention without due process, torture and denial of the freedom of expression, assembly and association. A number of delegations dedicated some of their comments on Iran's UPR to address the plight of minority groups but it is notable that no fewer than 21 governments mentioned the situation of the Bahá'í community in either oral or written submissions to the process. Another member state praised the protection of Armenian Christian monuments in Iran, but otherwise the UPR report does not make specific mention of other ethnic and religious minorities by name.

Concluding remarks

The UN human rights system is complex and multi-faceted but its most salient mechanisms offer significant opportunities for UN member states to raise a broad range of human rights issues. This may include the concerns of minority groups, such as those ethnic and religious communities that face persecution in Iran.

¹⁴ UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, March 2010, <http://shaheedoniran.org/wp-content/uploads/2013/12/G1012056.pdf>

The experience of the Bahá'í community, which has worked for many years to build capacity to represent their views to the United Nations General Assembly in New York and the United Nations Human Rights Council in Geneva, may be seen to show the results that can accrue from systematic efforts to engage with the UN machinery.

This short paper has explored in only elementary detail a number of those mechanisms of the human rights system that have more currency and recognition in the diplomatic and political world: Resolutions at the UN General Assembly; the Special Procedures and the relatively new Universal Periodic Review. Non-Governmental Organisations, including those representing minority rights issues, have the capacity to influence and interact with these processes where they have UN accreditation, and they may also indirectly influence events through representation to national governments who are member states of the United Nations and/or the United Nations Human Rights Council.

