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**ISLAMIC REPUBLIC OF IRAN**

**Submission by:**

ADF International  
Rue Pré-de-la-Bichette 1  
1202 Geneva, Switzerland

Web: [www.ADFinternational.org](http://www.ADFinternational.org)  
Email: [UN@ADFinternational.org](mailto:UN@ADFinternational.org)

## Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report addresses the adverse impact of laws criminalizing blasphemy and the prohibition of proselytism and apostasy on the enjoyment of the human rights to freedom of religion and freedom of expression in the Islamic Republic of Iran.

### (a) Freedom of Religion or Belief and Freedom of Expression

#### *Background*

3. The Islamic Republic of Iran has a population of 89,819,251 inhabitants.<sup>1</sup> Approximately 98% of the population is Muslim, with the majority adhering to Shia Islam.<sup>2</sup> According to estimates, Christians, Baha'is, Jews, and Zoroastrians constitute about 2% of the total population.<sup>3</sup>
4. Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities under Article 13 of the Constitution of the Islamic Republic of Iran.<sup>4</sup> They are permitted to perform their religious rites and ceremonies and to act according to their own canon in matters of personal affairs and religious education, within the limits of the law.<sup>5</sup>
5. However, in practice, these rights are not fully recognized and respected for Iranian nationals who have converted away from Islam, as the Constitution does not recognize the right of Muslims to choose, change, or renounce their religious beliefs.<sup>6</sup>
6. Converts from Islam experience significant risks, including pressure from their families and communities, loss of inheritance, forced marriage or divorce, as well as loss of custody of their children.<sup>7</sup>
7. The Baha'i community faces particular challenges in the enjoyment of their rights due to their non-recognition by Iranian laws. They continue to be subject to discrimination both in law and in practice, with far-reaching consequences, including lack of legal recognition for marriages, parentage, and other acts involving Baha'is.<sup>8</sup>

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<sup>1</sup> Worldometer, *Iran* (last accessed on 29 May 2024) available at <https://www.worldometers.info/world-population/iran-population/>.

<sup>2</sup> The Association of Religion Data Archives, *National/Regional Profiles*, (last accessed on 29 May 2024) available <https://www.thearda.com/world-religion/national-profiles?u=110c>.

<sup>3</sup> Ibid.

<sup>4</sup> Constitution of the Islamic Republic of Iran 1979 (rev. 1989), Article 13, available at [https://www.constituteproject.org/constitution/Iran\\_1989](https://www.constituteproject.org/constitution/Iran_1989).

<sup>5</sup> Ibid.

<sup>6</sup> Open Doors International *The Reality for Christians* (May 2021) available at <https://www.opendoors.org/en-US/research-reports/reports/Iran-The-reality-for-Christians-Revised-May-2021-Final.pdf>, pg.2.

<sup>7</sup> Open Doors International, *Iran*, available at <https://www.opendoors.org/en-US/persecution/countries/iran/>.

<sup>8</sup> The Iran Primer, *U.N. Report on Discrimination Against Baha'is* (17 March 2022) available at <https://iranprimer.usip.org/index.php/blog/2022/mar/17/un-report-discrimination-against-baha%E2%80%99>.

## *Constitutional Framework*

8. Article 12 of the Constitution of the Islamic Republic of Iran states that Twelver Ja'afari Shia Islam is the official religion of the country and that all domestic laws and regulations must be in accordance with 'Islamic criteria'.<sup>9</sup> According to Article 4 of the Constitution, this principle applies absolutely and generally to all articles of the Constitution and all other laws and regulations, with the *fuqaha'* (Sharia experts) of the Guardian Council serving as judges in this regard.<sup>10</sup>
9. According to Article 14 of the Constitution, 'the government of the Islamic Republic of Iran and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their human rights. This principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran'.<sup>11</sup>
10. Article 26 of the Constitution recognizes the right to freedom of association. It states that 'The formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic. No one may be prevented from participating in the aforementioned groups or be compelled to participate in them'.<sup>12</sup>
11. Despite affording constitutional protection to fundamental freedoms, a number of laws are in force that limit their full and equal enjoyment within the country.

## *Criminalization of Blasphemy and Related Offenses*

12. In 2021, former Iranian President Hassan Rouhani signed into law two problematic amendments that affect Articles 499 bis and 500 of the Penal Code. Article 499 bis of the Penal Code as amended provides that,

'Anyone who insults Iranian ethnicities or divine religions or Islamic schools of thought recognized under the Constitution, in the real or virtual sphere, with the intent to cause violence or tensions in the society, shall be sentenced to up to five years' imprisonment, or 10 years if they received financial or organizational help from outside the country.'<sup>13</sup>

13. Article 500 provides that,

'Anyone who engages in propaganda that educates in a deviant way contrary to the holy religion of Islam, through mind-control or psychological indoctrination, or making false claims, shall be sentenced to up to five years' imprisonment, or 10 years if they received financial or organizational help from outside the country.'<sup>14</sup>

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<sup>9</sup> Constitution of the Islamic Republic of Iran 1979 (rev. 1989), Article 12, available at [https://www.constituteproject.org/constitution/Iran\\_1989](https://www.constituteproject.org/constitution/Iran_1989).

<sup>10</sup> *Ibid.*, Article 4.

<sup>11</sup> *Ibid.*, Article 14.

<sup>12</sup> *Ibid.*, Article 26.

<sup>13</sup> Islamic Penal Code of the Islamic Republic of Iran, Article 499 bis.

<sup>14</sup> *Ibid.*, Article 500.

14. Article 262 of the Penal Code prohibits insulting the prophet Muhammad and mandates the death penalty for those who do.<sup>15</sup> Likewise, Article 513 of the Penal Code states that 'Anyone who insults the sacred values of Islam or any of the Great Prophets or Twelve Shi'ite Imams or the Holy Fatima, if considered as 'Saab ul-nabi' (insulting the Prophet Muhammad), shall be executed; otherwise, they shall be sentenced to one to five years' imprisonment'.<sup>16</sup>
15. Article 6 (vii) of the Press Law of 8 September 2002 states that 'The Press is free, except for items which undermine Islam's bases and commandments, and public and private rights, as set forth in this chapter [...] Insulting the true religion of Islam and its sanctities, as well as insults to the Office of the Supreme Leader and the recognized Sources of Emulation'.<sup>17</sup> Article 26 of the same law states that

'Whenever the Press is used to insult the true religion of Islam and its sanctities, if it amounts to heresy, the judgment of heresy will be issued against him and executed, and if not, he will be treated in accordance with the view of the sharia judge based on the law of ta`zirat.'<sup>18</sup>
16. The continued existence of laws criminalizing blasphemy in Iran is a subject of deep concern. The often vague and ambiguous language of these provisions and the inherently subjective nature of determining what constitutes offensive expression are inconsistent with international human rights law and can open the door to arbitrary and discriminatory punishment for the peaceful expression of religious or other beliefs or opinions. In particular, the restrictions imposed on the right to freedom of expression under these provisions do not comply with the exceptional nature of permissible restrictions on this right under international law and fail to meet the three-part test of legality, necessity, and proportionality.
17. The application of these laws has led to the arrest and, in some cases, to the execution of several persons for blasphemy charges in Iran.
18. In May 2023, two men were executed at Arak prison in central Iran for blasphemy charges. They were arrested in May 2020 and accused of being involved in a Telegram channel called Critique of Superstition and Religion. Both men spent months in solitary confinement and could not contact their families. The Mizan news agency of Iran's judiciary confirmed the executions, describing the two men as having insulted the prophet Muhammad and promoted atheism.<sup>19</sup>
19. In March 2024, Shahriar Bayat, was sentenced to death for blasphemy charges for allegedly 'insulting the prophet of Islam, Shia Imams, and other Islamic sanctities through the publication of pictures and posts on social media'.<sup>20</sup> He had previously

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<sup>15</sup> Ibid., Article 262.

<sup>16</sup> Ibid., Article 513.

<sup>17</sup> Press Law of 8 September 2002, Article 6 (vii), available at <https://irandataportal.syr.edu/press-law>.

<sup>18</sup> Ibid., Article 26.

<sup>19</sup> The Guardian, *Iran hangs two men for blasphemy as executions rise amid unrest* (8 May 2023) available at <https://www.theguardian.com/world/2023/may/08/iran-hangs-two-men-for-blasphemy-as-executions-rise-amid-unrest>.

<sup>20</sup> Iran Wire, *Elderly Political Prisoner Sentenced to Death for "Insulting Prophet"* (2 April 2024) available at <https://iranwire.com/en/prisoners/126877-elderly-political-prisoner-sentenced-to-death-for-insulting-prophet/>.

been sentenced to 18 years in prison in another case and has spent approximately 18 months in detention.<sup>21</sup>

20. On 13 April 2024, Iranian artist and activist Atena Farghadani was arrested by security forces and reportedly transferred to Qarchak Prison in Varamin.<sup>22</sup> Farghadani faces charges of 'blasphemy', 'disturbing public order', and 'propaganda against the Islamic Republic'.<sup>23</sup> She was arrested after attempting to display one of her drawings on the Pasteur Avenue wall in Tehran where the presidential palace is located. On 10 June 2024, the 26<sup>th</sup> Branch of the Revolutionary Court in Tehran sentenced her to five years in prison for blasphemy and an additional year for propaganda against the Islamic Republic of Iran.<sup>24</sup> According to her lawyer, the court handed her the maximum penalty by treating the charges as separate crimes, although both stemmed from the same incident.<sup>25</sup>

### *Prohibition of Proselytism and Apostasy*

21. As noted above, the Constitution and other laws do not recognize the right of Muslims to choose, change, or renounce their religious beliefs.
22. Converts from Islam experience the greatest risk of facing human rights violations and abuses.<sup>26</sup> For example, during the summer of 2023, a number of converts from Islam were arrested over a seven-week period in June and July alone in 11 Iranian cities. The majority of those arrested were Christian. Most of those released were forced to sign commitments to refrain from engaging in further Christian activities or were ordered to attend Islamic re-education sessions.<sup>27</sup>
23. By the end of 2023, at least 17 of the Christians arrested during the summer had received prison sentences of between three months and five years or non-custodial punishments such as fines, flogging, and, in one case, community service consisting of digging graves, on charges of 'propaganda against the state', under the amended Article 500 of the Penal Code, or on charges of 'establishing and leading a house-church', under Article 498 of the Penal Code, which criminalizes the establishment of groups that aim to disrupt national security.<sup>28</sup>

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<sup>21</sup> HENGAW Organization, *A Political Prisoner Sentenced to Death on Charges of Blasphemy by the Iranian Court* (2 April 2024) available at <https://hengaw.net/en/news/2024/04/article-3>.

<sup>22</sup> Iran Wire, *Iranian Artist Arrested on Blasphemy Charges, Refuses Bail in Protest* (15 April 2024) available at <https://iranwire.com/en/women/127542-iranian-artist-arrested-on-blasphemy-charges-refuses-bail-in-protest/>.

<sup>23</sup> Ibid.

<sup>24</sup> Human Rights Activists News Agency, *Civil Rights Activists Atena Farghadani Sentenced to Six Years in Prison* (11 June 2024) available at <https://www.en-hrana.org/tag/atena-farghadani/#:~:text=She%20received%20a%20five%2Dyear,to%20respond%20to%20her%20charge S.>

<sup>25</sup> Artforum, *Iranian Artist Atena Farghadani Sentenced To Six Years In Prison* (21 June 2024) available at <https://www.artforum.com/news/iranian-artist-atena-farghadani-sentenced-to-six-years-prison-556119/>.

<sup>26</sup> Open Doors International, *Iran*, available at <https://www.opendoors.org/en-US/persecution/countries/iran/>.

<sup>27</sup> Article Eighteen, Open Doors, MEC and CSW, *2024 Annual Report on rights violations against Christians in Iran*, available at <https://articleeighteen.com/wp-content/uploads/2024/02/Annual-Report-2024.pdf>, pg.21.

<sup>28</sup> Ibid.

24. Furthermore, according to the 2024 Annual Report on Rights Violations Against Christians in Iran, in 2023, over one-third of arrests conducted that year targeted individuals in possession of copies of the Bible.<sup>29</sup>
25. While proselytism is explicitly prohibited under Iranian laws, there is no legal provision under Iranian law concerning the prohibition of apostasy. Despite this, Iranian courts have found many individuals guilty of apostasy.<sup>30</sup>
26. It has been argued that converts from Islam can be charged with apostasy given that Article 167 of the Constitution states that in the absence of codified law on a certain issue, judges can deliver their judgment based on authoritative Islamic sources and authentic fatwa.<sup>31</sup> This includes Sharia law, according to which apostasy is a serious offense punishable by death, imprisonment, or confiscation of property, judges can persecute individuals on said grounds.<sup>32</sup> However, under international human rights law, a person's right to adopt and to change religion or belief – the 'forum internum' – enjoys absolute protection.

*Freedom of Religion or Belief and Freedom of Expression Under International Law*

27. The Islamic Republic of Iran is a State Party to the International Covenant on Civil and Political Rights (ICCPR).<sup>33</sup> Article 18 of the ICCPR recognizes the right to freedom of thought, conscience, and religion. As confirmed by the Human Rights Committee in its General Comment No. 22, this right includes the 'freedom to have or to adopt a religion or belief of [one's] choice, 'and the right to 'replace one's current religion or belief with another or adopt atheistic views, as well as the right to retain one's religion or belief.'
28. Article 18(2) of the ICCPR states, 'No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.' The Human Rights Committee interprets this to include 'the use of threat of physical force or penal sanctions'.<sup>34</sup>
29. As stated by Professor Heiner Bielefeldt, former Special Rapporteur on freedom of religion or belief:

'Freedom of religion or belief has a strong communicative dimension which includes, inter alia, the freedom to communicate within one's own

<sup>29</sup> Ibid, pg.28.

<sup>30</sup> Iran Human Rights Center, Apostasy in the Islamic Republic of Iran (25 September 2014) available at [https://iranhrdc.org/apostasy-in-the-islamic-republic-of-iran/#2\\_apostasy\\_and\\_other\\_religious\\_crimes\\_under\\_current\\_iranian\\_law](https://iranhrdc.org/apostasy-in-the-islamic-republic-of-iran/#2_apostasy_and_other_religious_crimes_under_current_iranian_law).

<sup>31</sup> A 'fatwa' is a legal ruling delivered by a senior religious jurist on a point of Sharia law in response to a question posed by a private individual, judge or government.

<sup>32</sup> Iran Human Rights Center, Apostasy in the Islamic Republic of Iran (25 September 2014) available at [https://iranhrdc.org/apostasy-in-the-islamic-republic-of-iran/#2\\_apostasy\\_and\\_other\\_religious\\_crimes\\_under\\_current\\_iranian\\_law](https://iranhrdc.org/apostasy-in-the-islamic-republic-of-iran/#2_apostasy_and_other_religious_crimes_under_current_iranian_law).

<sup>33</sup> UN Treaty Body Database, Ratification Status for the International Covenant on Civil and Political Rights (last accessed on 30 May 2024) available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en).

<sup>34</sup> University of Minnesota, Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993). Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 35 (1994), available at <http://hrlibrary.umn.edu/gencomm/hrcom22.htm>.

religious or belief group, share one's conviction with others, broaden one's horizons by communicating with people of different convictions, cherish and develop contacts across State boundaries, receive and disseminate information about religious or belief issues and try to persuade others in a non-coercive manner.'<sup>35</sup>

30. Iran's blasphemy laws and the prohibition of proselytism and apostasy impinge on both freedom of religion or belief and the freedom of opinion and expression.
31. First, criminalizing religious offense does not constitute an acceptable derogation from the right to freedom of religion or belief, as ICCPR Article 18(3) only allows limitations 'necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others'. Likewise, Article 19(3) only allows restrictions on the right to freedom of opinion and expression where they are necessary 'for the respect of the rights and reputations of others' or 'for the protection of national security, public order or public health or morals'.
32. Second, the vague wording and subjective interpretation of laws criminalizing so-called 'offenses relating to religion' and 'public insult on religion' opens the door to the arbitrary and unjustified imposition of restrictions and penalties while also creating a chilling effect on the expression of ideas or beliefs.
33. Any limitations imposed on the freedom of religion and belief and freedom of expression should primarily aim to safeguard individuals rather than religions per se. While states may recognize the existence and history of religious faiths within a community, they cannot target or discriminate against individuals based on their beliefs. The interrelated and mutually reinforcing freedoms of religion or belief and of opinion and expression are fundamental to the operation and maintenance of an open and free society, even when expressed and disseminated ideas prove unpopular or offensive.

#### **(b) Recommendations**

34. In light of the aforementioned, ADF International suggests the following recommendations be made to the Islamic Republic of Iran:
  - a. Ensure full respect for freedom of religion or belief, including the equal right to change and peacefully propagate one's beliefs;
  - b. Develop and implement effective measures aimed at protecting persons belonging to religious minorities from violence and discrimination;
  - c. Repeal all laws criminalizing blasphemy and other offenses against religion and immediately abolish them as capital offenses;
  - d. Amend the Press Law of 8 September 2002, to conform with international human rights obligations regarding freedom of opinion and expression;

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<sup>35</sup> H. Bielefeldt 'Interim report of the Special Rapporteur on freedom of religion or belief' (13 August 2012) A/67/303, 15.

- e. Amend relevant laws and judicial procedures to ensure no religious groups are discriminated against, so that all persons receive equal treatment under the law;
- f. Unconditionally release those imprisoned for their religious or other conscientiously held beliefs.





**VIENNA**  
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