

Presentation by Ahmed Shaheed, United Nations Special Rapporteur on Freedom of Religion or Belief

Thank you for inviting to me speak at the USCIRF hearing on State-sanctioned religious freedom violations and coercion by Saudi Arabia and Iran. I shall focus my remarks on Iran.

The Constitution of Iran makes an explicit commitment to establishing Shia Islam of the Jaafari School as its official religion. Iran joins eighty-one other countries with an official or favoured religion or belief. But these States occupy a spectrum: with States that have nearly indiscernible boundaries between Government and religious affairs ("religious States") at one end, and those that identify with or favour a religion but maintain distinct boundaries between religion and the State at the other. Iran is at the boundaryless end of this spectrum because it grants its official religion a monopoly in all religious and State affairs.

It takes a proactive interest in preserving and propagation of its interpretations of Shia Islam. This endeavor often conflicts with a range of other obligations to protect human rights, including freedom of religion or belief for all persons. The Government applies high levels of restrictions on the rights of individuals that do not subscribe to the majority religion to secure and preserve this monopoly. It imposes a high degree of regulation of the institutions and associations of minority religions and enforces religious precepts of the State religion in law and State practices, with devastating consequences for religion or belief minorities and dissenters, and on women, girls and LGBTI+ persons. While 23 countries of the 57-member Organization of the Islamic Cooperation establish Islam as the official religion or draw on Islamic teachings for their legislation, Iran is one of the few countries within the OIC that have reinstated or retained the so-called fixed penalties, involving corporal punishment drawn from religious texts. Personal status laws, also drawn from religious texts have over the past forty years reversed some of the most progressive legislation in the region in the period prior to that.

The country's Constitution requires that religious doctrine be "the source" of all legislation, mainstreaming the State's interpretation of Shia Islam within legislative, executive, and judicial activities. Further to this, members of non-favored or unrecognized religions are prohibited from engaging in public acts of religious expression among members of the favoured religion, and places of worship used by religious minorities are frequently surveilled to ensure that members of the favored religion do not attend religious services held on those premises. Moreover, the conversion of religious minorities to the State religion is encouraged, but conversion away from Shia Islam is viewed by the authorities as antithetical to the State's interests and is therefore strongly discouraged or even sanctioned. This also means that proselytism by minority religions or beliefs to members of the dominant religion is prohibited.

Of particular concern at this time is the persecution of the Bahai, through a raft of measures designed to make life intolerable for any Bahai that remain in the country, suppressing both religious freedom rights as well as economic and social rights. And the assault on the Bahai is not limited to those in Iran but is also rising in countries in the region where Tehran is able to exert some influence. Similarly, the Sunni community has been facing particularly harsh treatment through framing them as a national security threat. Iran also remains the foremost state perpetrator of antisemitic hatred.

In one recent development, however, the country's Supreme Court struck down a decision to sentence nine individuals to five years in prison for "acting against national security by forming a house church and propagating evangelical Christianity and Zionism"; noting that the use of house churches — which are often used by minorities because they can't get property or authorization for a building to hold religious services — could not be deemed an act against national security because "promoting Christianity in home meetings, is not considered to be a manifestation in society, and does not conspire to disrupt the security of the country."¹

The question is what should the United States and other members of the international community do?

The most important thing is to support the people of Iran, especially those who are being denied their human rights whether they live in Iran or elsewhere. This support should not be contingent on political expediency but a fulfilment of our human rights and humanitarian obligations. This means not just enabling them to defend their rights, but also reviewing other policies that have a bearing on that ability, including the sanctions regime currently in place.

Secondly, in revisiting US policy towards Iran, policymakers should consider the promotion of respect for human rights in the country and in the region to be a strategic means to promoting regional and international security imperatives. This recommendation is rooted in the theory that peace and security at the country level is inseparable from peace and security at the regional and international level—and that both depend on the defense of human rights. Basic civil and political liberties are, at the end of the day, indicators of the rule of law, and, as such, they form the basis of both sound domestic governance and international comity.

This recommendation is also inspired by the fact that efforts over the past forty years to engage Iran while sidelining the human rights of Iranians for the purposes of securing and fostering stable bilateral relations with the Government have failed to generate accountability on several fronts. But a foreign policy that actively advances human rights around the world would better contribute to both national and global security by decreasing the number of states, like Iran, that are likely to engage in international aggression and its destabilizing consequences.

A human-rights informed policy towards Iran would signal that the US is true to its own values, and said policy need not neglect national security concerns, but would recognize that the promotion of national and international security and promoting respect for human rights in Iran are mutually reinforcing goals. Such a policy should seek to work through multilateral institutions like the United Nations to promote a coherent, 'rights up front' approach that views human rights, rule of law and accountability to foster national, regional, and international security.

¹ <https://www.hra-news.org/2021/hranews/a-32613/>

By leveraging existing processes and mechanisms to challenge Iran's efforts to attain the international legitimacy it desperately seeks through its facile undertakings aimed at feigning compliance with international human rights law and cooperation with international accountability mechanisms. Initiatives should generate both external pressure and incentives, while also supporting the efforts of Iranians to advocate for human rights, rule of law and accountability in their country.

To do so, the US Government should continue to use and even consider expanding various measures permissible under international law, such as targeted sanctions imposed under the Global Magnitsky Human Rights Accountability Act to target key perpetrators.

The US should also work through various UN bodies, accountability mechanisms and processes to repeatedly challenge the legitimacy that the Iranian Government seeks from the international community and domestic audiences and encourage/foster a coherent, 'rights up front', approach to the promotion and protection of human rights in Iran among these entities. Each instance of engagement by international actors about human rights in Iran and/or that highlight the Iranian Government's destabilizing behavior in the wider region serves as an opportunity to amplify the voices of dissidents' that are calling for increased respect for human rights in the country.

And finally, when the US rejoins the UN Human Rights Council (HRC) it should work with other member states (especially Iceland and Canada) to end the business-as-usual approach that has come to characterize the Council's focus on the situation of human rights in Iran by adopting a substantive resolution that focuses on accountability and Iran's lack of cooperation with the mechanisms, including the Special Rapporteur on the situation of human rights in Iran. Such a resolution could (1) acknowledge Iran's lack of substantive cooperation with any other of the three mandate-holders appointed by the Council since 2011 to monitor and report on the situation of human rights in the country; (2) focus on Iran's lack of accountability for rights violations and abuses being carried out by authorities in the country; and (3) mandate several UN special procedures to carry out a joint investigation and to present a joint report to the Council that focuses on the inability of Iranians to hold their Government accountable for decades of human rights violations, including during the country's recent 2019 protests .²

² The HRC has set a precedent in this regard. In its resolution to extend the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Council mandates Special Rapporteur and relevant officials within the Office of the High Commissioner for Human Rights (OHCHR) to interact with the relevant subsidiary bodies of the Security Council.