



Blue Mountains Refugee Support Group

A project of the Blue Mountains Family Support Service Inc.

ABN 48 765 203 957

PO Box 197 KATOOMBA NSW 2780

Email: secretary@bmrsg.org.au

Phone: (02) 4782 7866

Apostasy as a Basis for Protection Claims by Iranians

*Graeme Swincer¹ for Blue Mountains Refugee Support Group,
October 2013*

This document is published and distributed by BMRSG under Creative Commons Attribution-ShareAlike 4.0 International (CC BY-SA 4.0) license Attribution-ShareAlike 4.0 International (CC BY-SA 4.0) license. This means that:

- Attribution — You must give appropriate credit (author and publisher), provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.
- ShareAlike — If you remix, transform, or build upon the material, you must distribute your contributions under the same license as the original.

This document is available on our website:

bmrsg.org.au/research-material/iran/

¹ Retired agricultural scientist, international development programs coordinator, and cross cultural consultant, trainer and researcher.

Introduction

Thousands of Iranians are fleeing the country because of their fears of persecution for religious reasons. This has been happening for many years, but there was significant escalation over the 4 years of Mahmoud Ahmadinejad's presidency, especially following the impact of the "Arab Spring" in early 2011. There is no sign of abatement in this trend following the election of the seemingly more moderate Hassan Rouhani on 14th June this year. Several categories are involved²:

1. Nominal Muslims who come to the notice of the authorities, security forces and vigilante groups for not being strict enough in their commitments and practices.
This group includes:
 - Kurds, especially Faili Kurds, whose traditional expression of Islam tends to be found at the "folk religion" end of the spectrum, far removed from the other extreme: fundamentalist adherence to Shariah law.
 - "Secular" Muslims who generally manage to keep their private beliefs and practices separate from their public lives³.
2. Converts from Islam to other faiths and beliefs.
This may include those who have become agnostics and atheists.
3. Members of particular non-Muslim groups who are increasingly oppressed and harassed by the authorities. These include Zoroastrians, Judaists, Bahais, Protestant and Catholic Farsi-speaking Christians and even the previously well tolerated Orthodox Christians who use non-Persian languages such as Armenian, Assyrian and Latin.

Categories 1 and 2 qualify under the definition of "Apostasy", as do some members of category 3.

² Note for example the explanation given in the UK Home Office IRAN COUNTRY OF ORIGIN INFORMATION (COI) REPORT, COI Service, 16th January 2013,

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iran/report-0611.pdf?view=Binary>

³ See *op.cit.* footnote . The Landinfo Report 2011 (note: Denmark) stated:

- According to Iranian religious tradition, there is a difference between offences that are committed in a public space and things that take place in the shelter of privacy. Issues that are at odds with Islam and take place in public must be punished, while things that take place in the private sphere, and thereby are concealed, will to a larger extent be tolerated. This could include drinking alcohol, illicit sexual affairs, illegal films, books and music as well as religious practices. A large number of Iranians, irrespective of their ethnic background and religious affiliation, in practice lead two lives: one in the public space and another in the private. As long as the private matters remain private and Islamic rules and values are not challenged or violated in a visible manner, Iranian authorities will normally not interfere in the private sphere of the citizens.
- In general, all Iranian non-Muslim minorities keep a low profile in the public space with regard to their religious affiliations. Simply put, one could say that they know their place as dhimmi (a legal term in the sharia, denoting non-Muslims living in a society governed according to Islamic law). As long as the Islamic framework is obeyed, minorities can practise their religion and operate within their organizations free from any scrutiny and interference by the authorities. However, this does not apply to the Baha'i, who are declared illegal and whose members are treated in violation of international law and human rights. Nor does it apply to the house churches, since the Iranian authorities have not endorsed their activities.

Definition of Apostasy

Apostasy is the abandonment or renunciation of a religious or political belief or principle. It is not primarily conversion to another religion, although that is the most common evidence of its occurrence. Note for example the statement of Frances Webber⁴, *retired UK barrister and world authority on this matter*, "Apostasy is conversion to another religion or simply renouncing one's own religion." It is universally recognised that "apostasy" does not depend on embracing an alternative major religion; it is sufficient that declaration is made of rejection of Islam (or occasionally another religion).

Implications for Asylum Seekers

This understanding has profound implications for the assessment of asylum seeker claims. While most assessors tend to seek ways of questioning the claimant's overall credibility, and therefore to throw doubt on claims for protection, in relation to apostasy credibility is rarely an important issue, let alone the key issue. Almost always, the danger has already been established whatever the motives and whatever the level of sincerity. All Iranians know that reports of any declared rejection of Islam will be certain to get back to Iran and spread uncontrollably among family, community, acquaintances and the authorities. The risk being taken is very great and is never taken lightly. Questions of family honour, family solidarity and family inheritance are usually extremely significant.

Persecution of Christians in Iran

In relation to Iran the subject of Apostasy is close linked with that of persecution of Christians.

It almost goes without saying that Christians have been vulnerable to persecution in Iran for many years. Reports abound on the internet. The organisation International Christian Concern maintains comprehensive updates. The link to Iran is <http://www.persecution.org/category/countries/middle-east/iran/>.

1. A recent (November 2012) UK report⁵ is especially powerful. An official inquiry on persecution of Christians in Iran was chaired by parliamentarian David Burrowes. It resulted in a 35-page report which was presented to Alistair Burt, Britain's minister of State for the Middle East, at a London gathering attended by the UN Special Rapporteur for Human Rights in Iran, Ahmed Shaheed, and other politicians and Christian leaders. The report expressed concern about the "serious and growing persecution and discrimination" of Iranian Christians and said at least dozens of believers remain detained amid a crackdown on Christian converts in Iran.

"During the course of this inquiry we have catalogued evidence of widespread persecution of the most severe kind. . . We heard extremely harrowing stories of people who have lost their jobs, their freedom, their children and even their lives, through the Iranian Government's campaign of repression against Christians. . . . In recent years hundreds of Christians have been arrested, and many are held without charge in appalling conditions, all because of their faith."

⁴ <http://www.refugeelaidinformation.org/node/266>

⁵ *British Legislators: 'Iranian Christians Face Growing Persecution'* (19th November, 2012)
<http://www.bosnewslife.com/24792-british-legislators-iranian-christians-face-growing-persecution>.

2. A very recent (October 2013) report on Human Rights violations in Iran⁶ includes an expression of special concern about the Iranian government's treatment of religious minorities. It notes that the U.S. Commission on International Religious Freedom's annual 2013 report lists Iran as a tier 1 country of particular concern, meaning that it has engaged in "particularly severe" violations of religious freedom. *'Iran, ruled as an Islamic Republic since its 1979 revolution, continues to arrest and execute regime opponents for committing the capital crime of "warring with God."*'

Other recent reports, indicated below, reinforce this picture. Selected quotations are shown in italics.

3. Iran's Christians facing 'systematic persecution' (May 2013)
(<http://www.bpnews.net/bpnews.asp?ID=40366>)

Iran's treatment of its Christian minority has come under fresh scrutiny in recent months with some harsh reports on the country's human rights record.

Reports from the United Kingdom's Foreign & Commonwealth Office (FCO) and New York-based International Campaign for Human Rights in Iran (ICHR) cite evidence of "systematic persecution and prosecution" of Protestants and Christian converts, as part of a widespread violation of international laws.

However, ICHR's January report, "The Cost of Faith: Persecution of Christian Protestants and Converts in Iran," based on interviews with 31 Iranian Christians between April 2011 and July 2012, claims that "despite the Iranian government's assertions that it respects the rights of its recognised religious minorities, the Christian community in Iran faces systematic state persecution and discrimination."

The Cost of Faith claims the bulk of arrests of Iranian Christians are "arbitrary" and political, rather than because of any crime committed.

The most common charges, according to the report, include "propaganda against the regime," "acting against national security," "contact with a foreign enemy or anti-regime group" and "colluding with enemy foreigners."

4. **Report from the American Center for Law and Justice⁷: Iran Attempting to Root Out Christianity Pastor by Pastor: Staggering Truth about Persecution** (Matthew Clark, July 2013, <http://aclj.org/iran/iran-attempting-christianity-pastor-staggering-truth-persecution>)

The Constitution of the Islamic Republic of Iran ("Constitution") states that Islam (Twelver Ja'fari school of Islamic jurisprudence) is the nation's official religion.

Accordingly, all Iranian laws must be derived from and consistent with Islamic law. Even so, the actions of the Iranian government towards the Christian minority violate not only Iran's Constitution, but numerous international treaty obligations to which Iran has

⁶ Daniel Wiser, 7 October 2013, *Activists Call for Greater Scrutiny of Iran Human Rights, Civil Liberties Abuses* (Washington Free Beacon, a project of the Center for American Freedom) <http://freebeacon.com/activists-call-for-greater-scrutiny-of-iran-human-rights-civil-liberties-abuses/>

⁷ Led by Chief Counsel Jay Sekulow, the American Center for Law and Justice focuses on constitutional and human rights law worldwide. Based in Washington, D.C., with affiliated offices in Israel, Russia, Kenya, France, Pakistan, and Zimbabwe, the ACLJ is pro-life and dedicated to the ideal that religious freedom and freedom of speech are inalienable, God-given rights for all people. The ACLJ engages legal, legislative, and cultural issues by implementing an effective strategy of advocacy, education, and litigation that includes representing clients before the Supreme Court of the United States and international tribunals around the globe.

solemnly agreed to be bound. Iran's constitutional and treaty obligations require the Iranian government to provide a fair and public trial as well as various human rights protections, including freedom of religion and protections against torture. The Iranian government's treatment of the Christian minority consistently violates these obligations.

How does Iran circumvent its own constitution and treaty obligations? First, it claims that converts to Christianity aren't really Christians deserving of any protections under the law. Second, even though "apostasy" is not a codified crime, Iran makes judicial determinations according to radical Shariah law. In fact, "Article 167 of the Constitution instructs judicial authorities to make their judgments based on 'authoritative Islamic sources and authentic fatwa,' rather than dismissing a case for lack of a codified crime or sentence." In other words, Iranian judges, like that of many radical Islamic nations operating under Shariah law, use the opinions and proclamations of radical clerics in determining that someone is an apostate and must be punished under Islamic law, and in an alarming number of cases even executed. In short, Christian conversion is anathema to the Islamic regime.

As a result, "prosecutors often bring charges against Christians, asserting that their Christian activities amount to crimes such as 'propaganda against the Regime' and 'acting against national security.' The reality is, although Iran acknowledges constitutional protections, it fails to uphold them for its Christian community."

.....

A 2012 report issued by U.N. Special Rapporteur on Human Rights in Iran, Ahmed Shaheed, details the intensity of the persecution faced by Iran's Christians. The report's findings are based on interviews with 221 prisoners of conscience. The results are staggering.

Approximately 73 per cent . . . alleged that they were blindfolded during interrogations; 58 per cent reported the use of prolonged solitary confinement; 62 per cent reported intimidation of family members for the purpose of placing pressure on the target of interrogations; 78 per cent stated that they were beaten during interrogations; and 8 per cent reported being hung from ceilings for the purpose of soliciting confessions. Moreover, 64 per cent of those interviewed alleged that they were denied adequate access to a lawyer after the investigative phase of their case, and another 82 per cent stated that they believed that the judge had already made up his mind about their case, and that he was being directed by the Prosecutor's Office.

The U.S. State Department reports "disappearances; cruel, inhuman, or degrading treatment or punishment, including judicially sanctioned amputation and flogging; politically motivated violence and repression, such as beatings and rape; harsh and life-threatening conditions in detention and prison facilities, with instances of deaths in custody; arbitrary arrest and lengthy pre-trial detention."

.....

Suspicious disappearances, beatings, torture, death threats, and murder have become astonishingly commonplace for these Christians.

Many nations of the world have recognized these disturbing facts. In refugee proceedings, New Zealand⁸ has found that Christian converts "would be in very serious trouble" if forced to return to their Iranian homeland, and Australia has noted Christian converts face "serious harm" in Iran. The ECLJ report notes that other nations such as

⁸ <http://www.refworld.org/docid/4b91285e2.html>



Canada, Ireland, and the United Kingdom have also publicly recognized the worsening plight of Christians at the hands of the radical Islamic regime.

....

“It is unquestionable that persecution of Christians is on the rise.” (emphasis added)

5. UK Home Office IRAN COUNTRY OF ORIGIN INFORMATION (COI) REPORT COI Service, 16th January 2013

(<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iran/report-0611.pdf?view=Binary>)

Proselytizing Christians have been attacked, kidnapped and killed by mobs or state agents. One of the main reasons for such intense persecution has been the high number of apostates from Islam in Evangelical and Pentecostal churches. Unlike ethnic Christians of the Armenian and Assyrian communities, Protestant churches actively proselytise. The fact that most of these groups meet on private property also fuels suspicion and reaction from local authorities. The government has requested that church leaders provide a full list of their members to the Ministry of Information and Islamic Guidance and do not allow any Muslims to attend their churches or change their religion. Many church leaders continue to ignore these orders. In 2009, an Assyrian church in Tehran which allowed Christians from a Muslim background to attend its services and to be members of the church was shut down by authorities.⁹

....

Human Rights Activists in Iran write that the Iranian state is depriving Iranians of their human rights to change religion and faith. Nor is there any right to speak about one's own faith collectively and publicly, in Farsi, in the context of churches' religious instruction and in church masses.

.....

An article dated 10 January 2011 by the Hudson Institute's Center for Religious Freedom, reported developments since the end of 2010:

- ... the Iranian government is now conducting a massive roundup of Christians, often converts from Islam and including evangelical and ethnic Armenian Christians.*
- Beginning on December 26 [2010], security forces raided Christian homes in Tehran and elsewhere, abused and handcuffed their occupants, and dragged 25 people off to prison and interrogation. Amongst those taken were married couples, at least two of whom were forced to leave babies behind. Police raided another dozen houses but the occupants were not at home — the homes were ransacked, looted, and sealed, and their occupants ordered to turn themselves in to the authorities...*
- This is the largest targeted Iranian violence against Christians since the government assassination campaign against Protestant leaders in the mid-1990s, and perhaps since the earliest years of the revolution.*

....

The Christian Solidarity Worldwide (CSW) report of August 2011 also reported on the situation since December 2010:

⁹ It is important to note that what is called “proselytising” includes simply open declaration of Christian allegiance (or “witness”), and this is universally regarded as fundamental to being a Christian.

Beginning with a wave of arrests on 26 December 2010, the situation facing Christians has deteriorated severely; evangelical Iranian Christians now live increasingly in an atmosphere of instability. This intensification of persecution has been undergirded by a proliferation of anti-Christian rhetoric from authority figures in Iran.

....

The same CSW report further noted:

The majority of the Christians arrested in the last year have been released, either on bail or the families of many have been forced to hand over the title deeds to their homes as bail. Once released, they are closely monitored, and risk re-arrest and imprisonment if they engage or are suspected of engaging in any Christian activity. Many will face a gruelling legal process, and until their case is heard, which could take several years, their lives are in limbo. Those awaiting trial that flee the country are tried in absentia.

....

The USCIRF Report 2012 stated:

During the reporting period [1 April 2011 to 31 March 2012], the number of incidents of Iranian authorities raiding church services, harassing and threatening church members, and arresting, convicting, and imprisoning worshippers and church leaders increased significantly. Christians, particularly Evangelical and other Protestants, are subject to harassment, arrests, close surveillance, and imprisonment; many are reported to have fled the country. Indigenous Assyrian and Armenian Christian religious leaders also have been targeted.

....

The USSD IRF Report 2011 stated that:

- *The constitution does not provide for the rights of Muslim citizens to choose, change, or renounce their religious beliefs. The government automatically considers a child born to a Muslim father to be a Muslim and conversion from Islam is deemed apostasy, which is punishable by death.*
- *Furthermore, there were numerous incidents during the year of Muslim converts to Christianity facing harassment, arrest, and sentencing. Many arrests took place during police raids on religious gatherings, during which religious property also was confiscated.*

6. Captive in Iran, Maryam Rostampour, Marziyeh Amirzadeh with John Perry, Tyndale 2013.

This recent book contains the first-hand account of two young Iranian women who, having converted from Islam to Christianity, were captured and incarcerated in the infamous Evin prison. They suffered greatly and observed the injustice and suffering experienced by many others. After Amnesty International and other groups publicised their plight they were released in May 2010, having spent more than 14 months “inside”. Eventually they got to the USA and documented their story. In the book (page 6) they state that:

“Technically, it’s not illegal to be a Christian in Iran. However in practical terms, policemen, Revolutionary Guards, judges, and every other authority in the country interpret the law for themselves and aren’t accountable to anyone. These two boys and the young woman with them could charge us with anything, or hold us and not charge us at all. And though being a Christian was not a crime, converting from Islam to another faith and evangelizing on behalf of that faith were considered crimes of apostasy and punishable by death.”

The authors emphasise that “apostates” are peculiarly vulnerable to extreme harm, precisely because of the uncertainty of the law and its application. On page 151 they mention how Amnesty International quoted Article 23 of the Iranian Constitution, which says, “The investigation of individuals’ beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief,” . . . and Article 18.1 of the International Covenant on Civil and political Rights (to which Iran is a party), which states, “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”

The Amnesty International document noted that *“evangelical Christians . . . often face harassment by the authorities. Converts from Islam can risk arrest, attack or the death penalty. Conversion from Islam (apostasy) is considered as forbidden under Islamic Law, which requires apostates to be put to death if they refuse to reconvert to Islam. There is no specific provision in the Iranian Penal Code for apostasy, but judges are required to use their knowledge of Islamic Law to rule on cases where no specific legislation exists in the Penal Code. A new version of the Iranian Penal Code is currently under consideration by the [Parliament] and prescribes the death penalty for those considered to be apostates.”*

Summary

Iran’s population includes hundreds of thousands of people who are vulnerable to increasing levels of persecution on religious grounds. “Traditional” Christians who are an historically tolerated group are now living precariously, and many are choosing to flee. But even more exposed to oppression and danger are “apostates”, both those who have abandoned Islamic allegiance and practice without embracing an alternative major religion, and those who have taken the next step, usually aligning themselves as Christians. Many “secular” Muslims manage to survive by a mixture of hypocrisy and separation of their lives into private and public spheres. However they are always at risk of persecution, especially if other factors trigger special attention from the authorities. If discovered they may be accused of being “infidels” and enemies of the regime, and worthy of extreme punishment and even death. For these, the pressure to seek asylum in other countries is very high. The same certainly applies to those who embrace Christianity, whether this takes place before or after departure from Iran. In this case the question of sincerity or authenticity hardly applies. The danger has already been established, at least at the point of identification or declaration.