

Driving while Bahá'í:¹ A Typology of Religious Discrimination

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Abstract

Artin is a six-year old child. He and his 15 year old cousin Gina are being brought up single-handedly by his paternal grandmother. It is not premature death, natural disaster or a life of crime that has led to this situation. Artin's parents are serving prison sentences due to their religious beliefs. His uncle is also serving a five-year prison sentence on grounds of his religious belief (his aunt Fereshteh Sobhani³ died of cancer a few years ago). The fate of his parents and uncle offer something of a relief considering his paternal grandfather, Rahim Rahimian,⁴ was executed in 1984, again on the grounds of his religious belief when his father and uncle were just 14⁵ and 12 years old respectively. Thanks to the Iranian authorities, his grandmother, Mrs Afagh Khosravi-Zand,⁶ was widowed in her thirties and became the sole carer for the three and 12 year old grandchildren since 2011-2012, all due to "crimes" stemming from their Bahá'í beliefs.

1. Overview

Artin's parents, Kamran Rahimian and Faran Hesami, received four-year prison sentences for teaching at the Bahá'í Institute of Higher Education (BIHE). Bahá'ís are not generally in the business of setting up their own universities. They only set the BIHE up because four years into the Islamic Revolution of 1979, and by the time its first cultural revolution, Bahá'ís had been systematically excluded as both students and faculty of universities throughout the

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- 1 A spin on the American expression "Driving While Black", an expression of the increased likelihood of police stopping blacks while driving compared to whites, i.e. of engrained prejudice against a particular target group.
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 - 3 Iranian women do not change their surnames on marriage.
 - 4 Human Rights and Democracy for Iran, "Omid, a memorial in defense of human rights in Iran: Rahim Rahimian", available at <http://www.iranrights.org/memorial/story/-3129/rahim-rahimian>.
 - 5 Tavaana, "Artin's dad [Kamran Rahimian] responds to Nourizad from prison", 18 July 2013, available at <https://tavaana.org/en/content/artins-dad-responds-nourizad-prison>.
 - 6 International Campaign for Human Rights in Iran, "Imprisoned Baha'is refused early release unless they repent", 10 September 2014, available at <http://www.iranhumanrights.org/2014/09/imprisoned-bahais>.

country, whether publically funded or private. This followed the execution, imprisonment, torture and economic devastation sharply targeting hundreds of Bahá'ís in Iran purely on grounds of their religious belief, with the simple option of “convert to escape death”⁷ extended by state agents.⁸ They were also purged and terminated from the whole Iranian civil service, forcing thousands of Bahá'ís into the private sector, though even there they were not left in peace.⁹ By a stroke of creativity, the Bahá'í community in Iran decided to set up its own self-help university, with an ingenious collaboration between the dismissed Bahá'í faculty and the dismissed students. That university remains active today, but has paid a high price.¹⁰ In addition to prison sentences against dozens of its academics and administrators, the threats against its students, the meagre BIHE facilities have been repeatedly raided and threatened, through numerous efforts over decades to close it down. Instead of bowing out, its collaborators have multiplied and spread, reducing in-person classes to remotely coordinated online seminars, and with reinforcement by a global faculty.¹¹

The intergenerational discrimination suffered by families such as that of the Rahimians, has led the UN Special Rapporteur on freedom of religion or belief to describe the situation of the Bahá'ís today as “one of the most obvious cases of state persecution in the world today” in the unrelenting “cradle-to-grave” attacks they are forced to endure.¹² This describes the

7 See Afshari, R., “The discourse and practice of human rights violations of Iranian Baha'is in the Islamic Republic of Iran”, in Brookshaw, D. P. and Fazel, S. B., (eds.), *The Baha'is of Iran: Socio-Historical Studies*, Routledge, 2008, pp. 232–277.

8 As Buck explains “[I]n the years immediately following the 1979 revolution, clerics ordered the arbitrary arrest of Bahá'ís and the torture and execution of over two hundred of them (particularly members of Bahá'í administrative bodies, often with demands that their families pay for the bullets used to kill them). Other actions taken against Bahá'ís include confiscation of property, seizure of bank assets, expulsion from schools and universities, denial of employment, cancellation of pensions (with demands that the government be reimbursed for past pension payments), desecration and destruction of Bahá'í cemeteries and holy places, criminalizing Bahá'í activities and thus forcing the dissolution of Bahá'í administration, and pronouncing Bahá'í marriages as illegal acts of prostitution. In addition, there were relentless propaganda campaigns aimed at inflaming anti-Bahá'í passions to instigate mob violence and crimes against Bahá'ís. There are many documented instances of this state instigated incitement to violence.” Buck, C., “Islam and Minorities: The Case of the Bahá'ís”, *Studies in Contemporary Islam*, Vol. 5.1–2, 2003, p. 93.

9 For numerous examples of the terminating of business licences, firebombing of businesses and threats against private Baha'i businesses see: Baha'i International Community, *The Baha'i Question: Cultural Cleansing in Iran*, September 2008, especially pp. 35–37, available at: <http://news.bahai.org/documentlibrary/TheBahaiQuestion.pdf>.

10 Small Media, *Knowledge as Resistance: The Baha'i Institute for Higher Education*, February 2013, available at: <http://smallmedia.org.uk/knowledge.pdf>. Also see: Affolter, F. W., “Resisting Educational Exclusion: The Baha'i Institute of Higher Education in Iran”, *Diaspora, Indigenous, and Minority Education: Studies of Migration, Integration, Equity, and Cultural Survival*, Vol. 1.1, 2007.

11 *Ibid.*, Small Media, pp. 25–34.

12 Bahá'í International Community, “UN Special Rapporteur on freedom of religion or belief discusses new report on violence against the Baha'is in Iran”, (quoting Heiner Bielefeldt's statement at a UN side meeting on 6 March 2013 in Geneva), 14 March 2013, available at <http://news.bahai.org/story/945>.

multi-pronged, state-led and state-orchestrated discrimination unleashed against the largest non-Muslim religious community in Iran. Bahá'ís are not geographically affiliated to particular regions in Iran, they are from diverse ethnic backgrounds and there is no kin-state relationship as there are no Bahá'í states. Bahá'ís are not originally migrants from another state of origin, they do not wear distinctive dress that makes them stand out, do not reject their Muslim or other compatriots and they do not even insist on formal state recognition, but they do seek respect of their human rights in line with their compatriots. The history of their Faith¹³ reaches back just 171 years and was founded in Iran.

2. The Inadequacy of Studies of the “Massively Violating”

Before turning to sketching a typology of the discrimination against the Bahá'ís in Iran, it is worth noting the acute asymmetry in the academic study of discrimination on the basis of religion or belief (henceforth “religious discrimination”). This asymmetry flows from the fact that states that have the most egregious violations prove the least academically satisfying to study. Such states do not have the ground breaking national (and rarely even, regional) cases, they do not produce the new legal developments that academics like to delve into, they do not allow individual petition and therefore do not even lead to individual communications at the UN. Detailed academic field research of these egregious violations of freedom of religion or belief are generally not funded, primarily because they are not feasible due to the serious risks that arise. In the academic literature on religious discrimination, egregious state violators of human rights only produce a faint hint of the vast gap between the normative human rights ambition and their reality on the ground. It is for this reason that the academic literature on religious discrimination clusters around what, in the global scale of things, we might term the “moderately violating” or “marginally violating” states. As a consequence, many academics consider the academic literature of the “massively violating” states as being somewhat crude and academically simplistic, primarily because it cannot build on a rich body of literature. They then dismiss it as being “advocacy” rather than “real” academic work. Legal scholars can be particularly dismissive because they do not find it academically satisfying and nuanced enough. The ironic consequence is that there will always be much more academic interest in, and scholarship on, the “moderately” and “marginally” violating rather than the “massively” violating. As a consequence, there is a dearth of academic studies addressing the discrimination against the Bahá'ís in Iran. At least in political science, there may be some appetite for such work within a historic prism, the highlighting of the political forces and characters, or framed within a comparative approach highlighting the democratic deficit. In the article below, an attempt will be made to situate the religious discrimination against the Bahá'ís in Iran within the broader academic literature, even though it proves something of an uncomfortable fit. For the reasons explained, although there will be some reference to the legal literature, most recourse will be to political science literature.

13 That is, along with its “twin revelation”, the Bábí Faith.

Another reason that the academic interest in the case of the Bahá'ís in Iran is limited, even in the political science literature, is that Bahá'ís have not responded violently to their persecution. Their treatment has not led to the emergence of separatist claims (the literature claims that “separatist minorities are likely to suffer from higher levels of repression and discrimination”)¹⁴ or has resulted in radicalism, or terrorism.¹⁵ This too makes it a less interesting topic of academic study. Furthermore, there was a long standing reluctance by Iranian Studies and Middle Eastern Studies to focus on human rights matters until there was a shift in attitude triggered by the Arab Spring. Iranian Studies did not seriously entertain the study of Bahá'ís as a mainstream topic until recently.¹⁶ Legal research interest is also hampered by the lack of comprehensive and easy access to court documents in the Middle East and the additional language barrier.

3. Sketching a Typology

Let's now turn to the features of the Bahá'í case, in a typology we may draw out of discrimination in general and religious discrimination in particular. Clearly discrimination “can take many forms and vary in intensity.”¹⁷ One way of defining “religious discrimination” is to refer to “state restrictions on religious practices and limitations on freedom of religion or belief”¹⁸ on the one hand, and social hostilities on the other. Another two-pronged definition is, on the one hand, discrimination against a person/persons on grounds of religion or belief; and, on the other, describing discrimination that (allegedly)¹⁹ stems from particular religious or belief positions but with regard to others. The parallels for the latter in racial or gender discrimination would describe ideas of racial and male superiority and the discrimination that may flow from this. Since race and gender do not constitute “comprehensive worldviews” in the same way as religion, and since they are not “partnered” to the state in such distinct ways as official state-religion relationships, race and gender do not have the same potential coercive risks to discriminate as broadly as religious discrimination. Even in the case of patriarchy,

14 Fox, J., James, P. and Li, Y., “State Religion and Discrimination Against Ethnic Minorities”, *Nationalism and Ethnic Politics*, Vol. 15.2, 2009, p. 195.

15 See, for example: Guiora, A., *Freedom from Religion: Rights and National Security*, Second Edition, Oxford University Press, 2013.

16 “Intellectual Othering and the Baha'i Question in Iran” was the first international mainstream academic conference dedicated exclusively to the question of the Bahá'ís. It was held at the University of Toronto by The Toronto Initiative for Iranian Studies in cooperation with The Foundation for Iranian Studies in July 2011, details online, available at: http://iranianstudies.ca/bahai/_img/ConferenceProgram-IntellectualOthering-30Jun32011.pdf.

17 See above, note 14, p. 194.

18 Tol and Akbaba state that “[It] involves a form of limitation on religious freedom that is unique to some but not all religions within a state.” Tol, G. and Akbaba, Y., “Minorities on ‘Civilizational’ Fault Lines: An Assessment of Religious Discrimination”, *Politics, Religion & Ideology*, Vol. 15.1, 2014, p. 165.

19 It is not the aim of this article to examine which laws are in line with religious legislation and which are not, whose interpretation is valid and whose is not.

the scope of the resulting discrimination – though overlapping – is comparatively narrower.²⁰ Sometimes the patriarchal regime itself is imposed either through state or community norms in the name of religion.²¹ However, it is:

*[C]lear from the lack of homogeneity among religions, as well as within them, that some of the patriarchal religious norms, defended on religious freedom grounds, are not agreed upon by the different faiths or even by the various branches within each.*²²

“Religious discrimination” can therefore describe both the targets of discrimination and the rationale given for discrimination against others, for example through coercive religious regulations, imposition of laws, and restrictions imposed on others on grounds of the perpetrator’s religion or belief. It targets both those who are discriminated due to their (actual or perceived) religion or belief affiliation and those who become victims of discrimination due to the coerced religious positions of the perpetrator. The UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief defines the latter – “intolerance and discrimination based on religion or belief” – as:

*[A]ny distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.*²³

Discrimination that flows from the perpetrator’s religion or belief is usually referred to as “discrimination or violence in the name of religion”²⁴ in order to clearly distinguish it from

20 Practices fuelled by patriarchy and defended in the name of culture including the following outlined and Raday: “a preference for sons, leading to female infanticide; female genital mutilation (FGM); sale of daughters in marriage, including giving them in forced marriage as child brides; paying to acquire husbands for daughters through the dowry system; patriarchal marriage arrangements, allowing the husband control over land, finances, freedom of movement; husband’s right to obedience and power to discipline or commit acts of violence against his wife, including marital rape; family honor killings by the shamed father or brothers of a girl who has been sexually violated, whether with consent or by rape; witch-hunting; compulsory restrictive dress codes; customary division of food, which produces female malnutrition; and restriction of women to the roles of housewives or mothers, without a balanced view of women as autonomous and productive members of civil society.” Frances Raday, F., “Culture, Religion, and Gender”, *International Journal of Constitutional Law*, Vol. 1, 2003, p. 670.

21 *Ibid.*, p. 672.

22 *Ibid.*, p. 675.

23 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, UN Doc. A/RES/36/55, 25 November 1981, Article 2(2).

24 Special Rapporteur Jahangir refers to this as “discrimination and violence in the name of religion or belief (i.e. based on or arrogated to religious tenets of the perpetrator)”. Human Rights Council, Report of the Special Rapporteur on freedom of religion or belief: Asma Jahangir, UN Doc. A/HRC/13/40, 21 December 2009, p. 1.

discrimination based on the religion or belief of the victim. The two strands can, of course, overlap in cases where the perpetrator's religion or belief is used to allegedly justify violations against targeted subjects due to their religion or belief affiliation. This is the case in relation to the Bahá'ís in Iran. The discrimination is targeted against them on grounds of the religion of the Bahá'í victims. The discrimination is also perpetuated in the name of the state religion and takes place in a state that subjects many to discrimination and violence, violating numerous rights. Freedom of opinion and expression, freedom of assembly and association, the right to life, the prohibition of torture, minority rights and participation in public life are just a few of the rights violated.²⁵ Tamadonfar suggests that:

*In Iran, this effort [the Islamisation of the law] is so pervasive that the government has taken the position that only the laws that it enacts in codified or statutory forms constitute binding statements of the principles of Islamic law in its territory.*²⁶

In addition to the human rights violations affecting many in the name of the state religion, Bahá'ís face additional restrictions in relation to these already restricted rights, again as allegedly required by the state religion.

4. The Scope of Religious Discrimination

A simplistic correlation is sometimes drawn between religious discrimination and infringements to freedom of religion or belief. This is because freedom of religion or belief appears as the most obviously related right. However, just as in the case of gender and racial discrimination, the range of rights that may be violated on grounds of religion or belief also go far beyond that single right. Religious discrimination can, of course, result in a whole host of human rights violations – including the right to life, the prohibition of torture, equality before the law – and a number of other rights, economic, social and cultural as well as civil and political. The scope of the discrimination against the Bahá'ís in Iran is quite staggering. Not only was the persecution government instigated, but it has been perpetuated and has deepened over 36 years, permeating laws and policies: constitutional, educational, civil service, employment, administrative law, family law, inheritance, labour market, military, criminal law, burial, health law, press law, prison law, intelligence and the judiciary, etc.²⁷ The extent and embeddedness of the discrimination is reminiscent of Reisman's observation in relation to another context, warning that a "type of acculturation" can result from "the cascade of

25 Bahá'í International Community, *Violence with Impunity: Acts of aggression against Iran's Bahá'í community*, March 2013, available at: https://www.bic.org/sites/default/files/pdf/Violence-with-Impunity_130220-32%20Final.pdf.

26 Tamadonfar, M., "Islam, Law, and Political Control in Contemporary Iran", *Journal for the Scientific Study of Religion*, Vol. 40.2, 2001, p. 208.

27 Ghanea, N., *Human Rights, the UN and the Bahá'ís in Iran*, Kluwer Law/Martinus Nijhoff and George Ronald, 2002.

atrocities”.²⁸ Future studies should examine the implications in greater detail. Such studies should also calculate the number of civil servants, intelligence personal, cyber hackers/attackers, etc. paid for by the national purse in Iran, committed exclusively to attacking and destroying the Bahá’ís. An estimation of the resources dedicated to this activity over the past 36 years would no doubt be astounding. Even taking both prongs of the definition of “religious discrimination”, the term is rarely used to describe such a broad range of violations, over so many decades, which is why the term “religious repression” or “religious persecution” may be more apt.²⁹

5. State Religious Exclusivity

The literature strongly concurs with regard to the far greater risks of discrimination in cases of a strong state-religion relationship. Fox, James and Li refer to this as “state religious exclusivity” or SRE, defined as “state support for a single religion to the exclusion of all others”.³⁰ They observe that:

*[R]eligiously exclusive states base at least part of their regime in unpluralistic concepts, thereby increasing the likelihood that they will reject pluralism in other contexts. Endorsing one religion usually entails supporting it in some exclusive manner and correlates highly with religious discrimination. Thus, to the extent that a state separates itself from religion, it should engage in less discrimination.*³¹

28 Reisman, W. M., “Legal Responses to Genocide and Other Massive Violations of Human Rights”, *Law and Contemporary Problems*, Vol. 59.4, 1966, p. 78.

29 On the inconsistency of the terms being used to describe the gravity of violations, even when only accessing expert regional and UN human rights bodies, the Geneva Academy observes: “Having examined the practice of a range of expert human rights bodies, what conclusions can be drawn? First of all, they do not use a uniform terminology. ‘Gross’, ‘flagrant’, ‘grave’, ‘serious’, and other qualifiers (‘egregious’, ‘massive’) are often used interchangeably and sometimes cumulatively. (...) International bodies sometimes draw on other bodies of law (such as [international humanitarian law]) to strengthen legal claims that a given violation of human rights is ‘severe’ or ‘grave’. (...) The analysis undertaken for this report suggests that expert human rights bodies apply several criteria when they distinguish ‘serious’ violations, though their use is often implicit and no set of criteria has been formally agreed. ‘Serious’ violations are determined by:

- The character of the right.
- The magnitude of the violation.
- The type of victim (vulnerability).

The impact of the violation.”

Geneva Academy of International Humanitarian Law and Human Rights, *Academy Briefing No. 6, What amounts to ‘a serious violation of international human rights law’? An analysis of practice and expert opinion for the purpose of the 2013 Arms Trade Treaty*, August 2014, p. 34.

30 See above, note 14, p. 190.

31 *Ibid.*, p. 191.

They recognise the religious exclusivity of Saudi Arabia and Iran as “extreme”, noting in the case of Iran that it “supports a single version of Islam but tolerates some, but not all, other religions, which are given a second-class status”,³² and that this discrimination and repression also restricts Iran’s:

*Shi’i Azerbaijani minority as well as several Sunni Muslim minorities. Pakistan, a Sunni Muslim state, restricts the Baluchi, Mohajir, Pashtun, and Sindhi minorities – all of whom are also Sunni Muslims. (...) [B]oth of these states restrict some religious minorities such as the Christians and Bahai in Iran and Ahmadis in Pakistan to a greater extent than non-religiously distinct minorities.*³³

Ghanem focuses on ethnic minorities. He critiques scholars who have failed to adequately factor in regime type when examining discrimination against minorities, stating that this has a distorting effect. He elaborates the “ethnocracy” or “ethnocratic regime” which employs “democratic procedures while ensuring the hegemony of a particular portion of the population”.³⁴ In such a regime, minority groups cannot enjoy equality and have “limited participation in the nation’s politics, society, economy, and media”.³⁵ According to Ghanem:

The guiding principles of an ethnocratic state guarantee the dominance of the majority and marginality of the minority, as follows:

- *A dominant ethnic group takes control of the machinery of state.*
- *Ethnicity (and/or religion), rather than citizenship, becomes key to the distribution of resources and power, undermining the ‘demos.’*
- *There is a gradual ethnicization of politics, which is organized by ethnic classes.*
- *The result is repeated instability.*

*The ethnocratic logic provides the analytical basis for understanding societies in which the political regime gives sweeping preference to one group over others.*³⁶

The ethnocratic regime is:

[F]ounded on the presumed superiority of the dominant group, is not interested in integrating the minority into the larger society. Rather, its aim is to maintain the distinctness of the ruling group and to impose on the (immigrant or native)

32 *Ibid.*, p. 190.

33 *Ibid.*, pp. 205–206.

34 Ghanem, A., “Understanding Ethnic Minority Demands: A New Typology”, *Nationalism & Ethnic Politics*, Vol. 18.3, 2012, p. 362.

35 *Ibid.*, p. 365.

36 *Ibid.*, p. 365.

*minority inherent rules of discrimination and segregation that anchor favoritism for the hegemonic group.*³⁷

In order to camouflage their quest for superiority and to perpetuate control, such governments often resort to fear mongering against particular target groups in order to perpetuate the longevity of their rule.

6. Creative Scapegoating

The track record of the Islamic Republic of Iran, of politicising and arming the public with numerous justifications for scapegoating minorities, is not unique to the Bahá'ís, though it is very pronounced with regard to them. Regarding Jews in Iran, Shahvar emphasises that:

*[I]n spite of its repeated public announcements in differentiating between 'Jews' and 'Judaism' (the religious dimension), on the one hand, and 'Zionism' and 'Israel' (the political dimension) on the other, the Islamic regime in Iran not only fails to make such a differentiation, but actually often identifies the two as one.*³⁸

Jaspar notes the ideological utility of collapsing anti-Semitism and anti-Zionism:

*[T]he maintenance of Khomeini's overt anti-Semitic and anti-Zionist ideology may constitute a means of safeguarding the continuity principle amid important social and political change in Iran. (...) [T]he 'Jewish threat' to continuity is actively accentuated by the regime.*³⁹

In the Bahá'í case, too, the government has sought to fuse theology and politics with accusations of promiscuity, espionage and threat,⁴⁰ to concoct a wide base for mobilising Bahá'í

37 *Ibid.*, p. 366.

38 Shahvar, S., "The Islamic regime in Iran and its attitude towards the Jews: The religious and political dimensions", *Immigrants and Minorities*, Vol. 27.1, 2009, p. 82. This intended obfuscation of the historical, theological and political falls on fertile soil as "the existing anti-Semitic feelings among the Shi'i population are based not only on religious grounds (regarding Jews as infidels, impure and enemies of Islam and his Prophet), but also on political and economic grounds (as collaborators with the Shah and in control of the economy). These anti-Jewish sentiments can also be discerned on the very same grounds at the external level: Jews were the agents and 'fifth-columnists' of Israel, Zionism and the West; in control of world's economy and media; and oppressor of other Muslims (Palestinians and Lebanese). Jews under the Islamic regime in Iran (or under similar regimes throughout the Muslim world) are, therefore, damned. The most they can expect is to be tolerated as 'second rate citizens', and as 'Zionist Jews' they are viewed as 'the enemy of both the state and the people'", Shahvar, p. 105. "Elsewhere Khamenei even suggested that the Zionists closely collaborated with no less than Nazi Germany, adding that the 'exaggerated numbers' of Holocaust victims were fabricated to solicit world sympathy for the Jews," Shahvar, p. 97.

39 Jaspar, R., "Anti-Semitism and anti-Zionism in Iran", *Israel Affairs*, Vol. 19.2, 2013, p. 252.

40 See above, note 27.

hatred.⁴¹ The shifting discourse⁴² around this opportunistic obfuscation, is the very reason why much of the scholarship on different types of discrimination utilises discourse-analytical approaches to examine ideologies and social practices. As the case of Iran's painting of the Bahá'ís illustrates, it is through discourse that "discriminatory exclusionary practices are prepared, promulgated and legitimised".⁴³ Discourse analysts "relate the discriminatory linguistic features to the social, political and historical contexts of the analysed 'discursive events'".⁴⁴ Counter-actions or responses to discrimination also make use of discourse to "criticise, delegitimise, and argue against"⁴⁵ such discriminatory positions and practices.

The fact that major international events impact the treatment of minorities is well recognised in the literature. For example, Sheridan and Gillett note that:

*[S]ignificant world events do impact on racial and religious prejudice and on discriminatory actions, and that in the current work, religion was more important than ethnicity in indicating which groups were most likely to experience racism and discrimination post-September 11. Major world events that occur in one country have implications for social groups living in another country. (...) The attacks carried out on September 11, 2001 by al-Qaeda, a radical Islamic organization, activated discrimination against other members of the Islamic faith. These results highlight links between world events and intergroup relations, and suggest that norm violators should be aware that the harm they inflict upon other groups can impact members of groups perceived to share their values, even in geographically distant places.*⁴⁶

The situation of Bahá'ís, Jews and Christians in Iran raises a more dominant concern with the fabrication or exaggeration of associations with international "events". In the case of the Bahá'ís, the most persistent alleged linkage is with Israel,⁴⁷ so much so that Iran expert Nikki

41 Bahá'í International Community, *Inciting Hatred: Iran's Campaign to Demonize Bahá'ís*, October 2011, available at: https://www.bic.org/sites/default/files/pdf/inciting-hatred-book_0.pdf.

42 See above, note 27.

43 Reisinger, M. and Wodak, R., *Discourse and Discrimination: Rhetorics of Racism and Antisemitism*, Routledge, 2001, p. 1.

44 *Ibid.*, p. 1.

45 *Ibid.*, p. 2.

46 Sheridan, L. P. and Gillett, R., "Major world events and discrimination", *Asian Journal of Social Psychology*, Vol. 8.2, 2005, p. 196.

47 The Founder of the Bahá'í Faith, Bahá'u'lláh, suffered his fourth exile to the prison city of Acre/Acca in 1868 and passed away there in 1892. Acca, which was a penal colony of the Ottoman Empire, later situated in Palestine. This city found itself within the boundaries of the State of Israel in 1948. Considering its significance as the place of the passing of the Founder, in due course the administrative centre of the Bahá'í community – the Bahá'í World Centre – built up in the nearby city of Haifa.

Keddie noted that more Bahá'ís than Jews in Iran have been accused of being Zionists.⁴⁸ Of course both claims are spread without any evidence and are purely intended to whip up hatred, but this nevertheless underscores the depths of the desire to endanger Bahá'ís.

7. Non-recognition and Discrimination

The mere fact that discrimination results from a strong state-religion relationship or SRE does not necessarily imply that all discrimination is state-led, state-orchestrated and state-maintained in the same way that occurs in the case of the Bahá'ís in Iran. Gurr uses the term “group discrimination” to distinguish the discrimination imposed on minorities “as a matter of public policy”.⁴⁹ Fox, James and Li emphasise the type of discrimination that is “the result of intentional behaviour”,⁵⁰ in our case it comes with a documented, sustained, and high level of state intentionality behind it.

Christians, Jews and Zoroastrians are singled out in the Constitution of the Islamic Republic of Iran as the only recognised religious minorities.⁵¹ This follows the Islamic terminology's distinction between the abode of peace (Dar al-Islam or Dar al-sulh) and the abode of war (Dar al-harb), and the Qur'anic status offered to protected minorities who are “People of the Book” (Ahl al-Dhimmah) due to their mention in the Qur'an. The Bahá'ís, though constituting the largest non-Muslim religious minority community in Iran,⁵² are not “People of the Book” (i.e. recognised in the Qur'an) as their religion post-dates Islam by some 1,200 years. Shahvar describes that the:

*[E]ssence of this [Ahl al-Dhimmah] approach is the possibility of living and subsisting under the patronage of the Islamic regime, albeit subject to discrimination as compared to the Muslim population.*⁵³

48 Keddie, N. R., “Islamic Revivalism Past and Present, with emphasis on Iran”, in Rosen, B. M., (eds.) *Iran Since the Revolution, Internal Dynamics, Regional Conflict, and the Superpowers*, Columbia University Press, 1985, p. 152 quoted in Ghanea, N., “Ethnic and Religious Groups in the Islamic Republic of Iran”, produced for the *UN Working Group on Minorities Session 9*, UN Doc. E/CN.4/Sub.2/AC.5/2003/WP.8, 5 May 2003, p.13, available at: <http://www.ohchr.org/EN/Issues/Minorities/Pages/9WGMInorities.aspx>.

49 Gurr, T. R., *Peoples versus States: Minorities at Risk in the New Century*, United States Institute of Peace Press, 2000, p. 106.

50 See above, note 14, p. 193.

51 Constitution of the Islamic Republic of Iran, 1979 amended 1989, Article 13, available at: <http://www.wipo.int/wipolex/en/details.jsp?id=7697>.

52 Ghanea, N. and Hass, B., “Seeking justice and an end to neglect: Iran's minorities today”, Minority Rights Group International, 2011, available at: <http://www.minorityrights.org/download.php?id=939>.

53 See above, note 38, p. 86.

The controlled, concessionary, second-class status⁵⁴ is described by the Iranian authorities as a privilege. The discriminatory treatment against the three “Recognised Religious Minorities”⁵⁵ has led to thousands of them leaving the country⁵⁶ and a regular obligation for the five parliamentary representatives of the Iranian Majlis being “wheeled out” to swear their superlative gratitude to the Iranian Government for their treatment.⁵⁷ In this regard it is worth drawing from the study of Tol and Akbaba. They examine whether civilisational ethnoreligious minorities are discriminated against more compared to non-civilisational minorities. As they explain:

Since our focus is on how Western and Islamic civilizations treat ethnoreligious minorities, we recoded the civilizational identity of the majority group as Western, Islamic or Non-Western/Non-Islamic (i.e. other).⁵⁸

They find that Islamic civilisations “discriminate more against non-civilizational minorities than against civilizational ones”⁵⁹ and identify the heightened sense of threat as one of the reasons for this.⁶⁰ They give the following illustrations of the distinction:

An example of a civilizational ethnoreligious minority, i.e. an ethnoreligious minority that belongs to a different civilization than the majority, would be Turks in Germany. An example of a non-civilizational ethnoreligious minority, i.e. an ethnoreligious minority that belongs to the same civilization as the majority, would be Baha'is in Iran.⁶¹

Though incorrectly including Bahá'ís as amongst the category of “Muslims who do not belong to the sect of the majority”⁶² nevertheless their observations are pertinent:

54 See above, note 52.

55 See Sanasarian, E., *Religious Minorities in Iran*, Cambridge University Press, 2000.

56 For example, Shahvar notes that “[A]ll those limitations, restrictions and discrimination brought the majority of the Jewish community in Iran, estimated before the 1978–89 Revolution at between 80 to 100,000 to emigrate, leaving behind only some 25 to 30,000, still considered to be the biggest Jewish community in the entire Muslim world”. See above, note 38, p. 90.

57 “As to those Jews who stayed behind, they had to adjust to their inferior status, concentrate more on their own personal and community affairs, and to show, from time to time, their ‘solidarity’ and ‘loyalty’ to the clerical regime.” *Ibid* and note 52.

58 Tol, G. and Akbaba, Y., “Minorities on ‘Civilizational’ Fault Lines: An Assessment of Religious Discrimination”, *Politics, Religion & Ideology*, Vol. 15.1, 2014, p. 170.

59 *Ibid.*, p. 177.

60 *Ibid.*, They define an ‘ethnoreligious minority’, p. 175 as one “when at least 80 per cent of that group’s members are of different religious denominations than that of the dominant ethnic group”, p. 168.

61 *Ibid.*, p. 162, footnote 2.

62 *Ibid.*, p. 175.

Islamic civilizations discriminate against non-civilizational minorities more than civilizational ones. This is an interesting finding that contrasts with Huntington's predictions. Could some of the non-civilizational minorities constitute a threat for Islamic civilizations? Muslims who do not belong to the sect of the majority may be perceived as especially threatening or offensive, thus justifying even higher levels of discrimination. For instance, ethnoreligious minorities such as Ahmadis in Pakistan and Baha'is in Iran are both non-civilizational minorities in Islamic states and they all face very high levels of systematic religious discrimination with religious discrimination (...) The Qur'an recognizes Judaism and Christianity as dhimmis, or 'people of the book'. It considers them earlier and imperfect forms of Islam itself and views them as containing a genuine if distorted divine revelation. Therefore, in the early years of Islam, Christian and Jewish communities were allowed the tolerance of the Islamic state. They were allowed to practice their religions and enjoy a measure of communal autonomy. However, Islam has had great difficulty in accommodating monotheistic religions that emerged from within the Muslim community after the advent of Islam. Heterodox Muslims, such as the Baha'is and Ahmadis, are considered by some orthodox Muslims to be heretical offshoots of Islam and are often subject to severe restrictions. Their followers cannot be dismissed 'either as benighted heathens, like the polytheists of Asia and the animists of Africa, nor as outdated precursors, like the Jews and Christians, and their very existence presents a challenge to the Islamic doctrine of the perfection and finality of Muhammad's revelation.' In an interview in 1979, Ayatollah Khomeini was asked about the position of religious minorities in a future Islamic republic. He said that their rights would be respected and that the new republic would guarantee their protection and freedom. When asked specifically about the Baha'is, he asserted that they were harmful and would not be accepted. Both in the official rhetoric and public opinion in Iran, Baha'is are portrayed as apostasy from Islam and are subject to severe discrimination. The decision of an Iranian court illustrates the point. In 1993, a court in Iran found two Baha'is guilty of holding meetings in their homes, and engaging in other Baha'i activities. The court quoted Ayatollah Khomeini's pronouncement that 'the privileges of the people of Dhimmi [protected infidels] do not apply to the Baha'is.'⁶³

Whilst non-recognition itself raises discrimination concerns,⁶⁴ in the case of the Bahá'ís the documentation by the state, delineating the intent to destroy the Bahá'ís, far overshadows it. There are hundreds of documents confirming dismissals of Bahá'ís from civil service jobs, rejections of pensions, demands to repay pensions paid over decades, confiscation of properties, rejection of business licences, refusal of university entrance, even threats to life purely and simply due to Bahá'í belief. Two further documents, however, stand out for laying out

63 See above, note 58, pp. 175–176.

64 On questions of recognition, state religion and discrimination see: Human Rights Council, *Report of the Special Rapporteur on freedom of religion or belief*, Heiner Bielefeldt, UN Doc., A/HRC/19/6022, December 2011.

the comprehensive and disquieting approach of the Iranian government to the Bahá'ís. The first is the 1991 Secret Memorandum that was leaked to the UN by the UN Special Rapporteur on the human rights situation in the Islamic Republic of Iran in 1993. Signed by the Supreme Leader of the Islamic Republic of Iran Ayatollah Khamenei and entitled “the Baha’i question”, the Revolutionary Cultural Council sets out the policy objective of destroying the roots of the Bahá'ís both inside and outside the country, to block their progress and diminish their influence whether through denial of employment, positions of influence or even higher education.⁶⁵ The second was released by the UN Special Rapporteur on freedom of religion or belief in March 2006. The Command Headquarters of Armed Forces in Iran, in a confidential letter dated 29 October 2005, instructed the Ministry of Information, the Revolutionary Guard and the Police Force on behalf of the Supreme Leader Ayatollah Khamenei, to identify all the Bahá'ís in Iran, monitor their activities, and in a highly confidential manner to collect information about them.⁶⁶

8. The Response: Constructive Resilience

The response to religious persecution will often be through national courts and procedures, with regional courts providing subsidiary protection and international norms and procedures offering some oversight through the assistance of an independent judiciary and an independent civil society.⁶⁷ In the case of the Bahá'ís in Iran, however, their demeaning legal-theological status as “those whose blood can be shed with impunity”, and impure persons⁶⁸ who have no constitutional or criminal law status, means that national courts have largely failed to protect them. Furthermore, there is no regional human rights system that has Iran within its purview. In relation to international oversight mechanisms, no in-

65 See above, note 9, p. 6.

66 Office of the High Commissioner of Human Rights “Press Release: Special Rapporteur on freedom of religion or belief concerned about treatment of followers of Bahá'í Faith in Iran”, 20 March 2006. See above, note 9, p. 11.

67 See: Karlberg, M., “Constructive Resilience: The Bahá'í Response to Oppression,” *Peace & Change*, Vol. 35.2, 2010. Karlberg notes, “The Bahá'í community in Iran is thus pioneering a radical new model of social change – entirely non-adversarial in nature – that appears initially to be viable even in the face of violent oppression”, p. 247.

68 The same is held with regard to Jews, as Shahvar explains: “The Shi'is have interpreted the Qur'a'nic saying ‘the unbeliever is impure’ literally, and they therefore believe that contact with infidels makes the Muslim impure (najes). Thus, Muslims refrain from any physical contact with them, especially eating or drinking from any dish touched by the unbeliever, or food cooked, prepared or sold by them.” See above, note 38, p. 86. A consequences of this presumed impurity is that “after the establishment of the Islamic Republic (...) certain categories of shopkeepers (mainly those who sold foodstuffs) among the Jews and other religious minorities were required to post signs on their shop, identifying the owners as non-Muslims – a practice reminiscent of Nazi Germany”. *Ibid.*, p. 88. See also Ghanea, N., “Phantom Minorities and Religions Denied: Muslims, Bahá'ís and International Human Rights”, *Shia Affairs Journal*, Vol. 1, 2009, available at: http://www.researchgate.net/publication/233970479_Phantom_Minorities_and_Religions_Denied_Muslims_Bah%27s_and_International_Human_Rights.

dividual petitions to the UN treaty body have been possible due to the fact that Iran has not allowed for the relevant procedures to apply.⁶⁹ However, the Special Procedures, oversight processes of the UN Human Rights Council, resolutions of both the Human Rights Council and General Assembly, diplomatic channels⁷⁰ and Universal Periodic Review⁷¹ are actively utilised to channel condemnations of Iran's human rights record, including its treatment of the Bahá'ís in Iran.

Despite the challenges of oversight, the ongoing violations against the Bahá'ís in Iran have not led them to demand separatism, resort to violence or terrorism. This flies in the face of studies that draw a connection between denial of rights and the drive by minorities to such claims. In relation to minorities and terrorism, for example, one research study examined four areas: political participation and representation, economic status, and religious and language rights. Of these, it found that "socioeconomic discrimination against minorities is the only consistently significant and highly substantive predictor of terrorism"⁷² and recommended "a reconsideration of more nuanced or targeted measurements of political opportunities available to all segments of society and economic status or inequality as root causes of terrorism."⁷³ Bahá'ís in Iran suffer from all of these violations, and violations of their socioeconomic rights are particularly severe. However, they have not responded through violence and terrorism.

Some, like Gurr, have misconstrued the reaction of the Bahá'ís in Iran as political passivity. Gurr observes that:

Nonviolent politics is not a sovereign remedy for all disadvantaged minorities and hopeful ethnonationalists. In some countries and situations, nonviolent ethnic movements are very likely to fail. (...) In Iran, the Baha'is' doctrine of political passivity has not protected them from persecution by Islamists. Indeed, throughout most of the Islamic world, the rights of non-Muslims and members of 'heretical' sects are restricted by religious doctrine and public policy.⁷⁴

69 Iran has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. However, it has not allowed for individual petition under any of these treaties.

70 See above, note 27.

71 See: Bahá'í International Community, *Unfulfilled Promises: Iran's failure to act after its 2010 Universal Periodic Review*, September 2014, available at: https://www.bic.org/sites/default/files/pdf/Bahai_Un-Promises%202014.pdf.

72 Piazza, J. A., "Types of Minority Discrimination and Terrorism", *Conflict Management and Peace Science*, Vol. 29.5, 2012, p. 521.

73 *Ibid.*, p. 542.

74 Gurr, T., "Nonviolence in Ethnopolitics: Strategies for the Attainment of Group Rights and Autonomy", *Political Science & Politics*, Vol. 33.2, 2000, p. 160.

It may be that this stance has not crushed the robust policy of the Iranian government against the Bahá'ís, but it has widened the support base in favour of the Bahá'ís. In the years since 1979, even senior Shi'a Ayatollah and other senior clerics have, over time, stood up for respect of their basic human rights as citizens. A few prominent expressions of support have come from Ayatollah Montazeri in 2008, Ayatollah al-Sadr in 2011 and Ayatollah Abdol-Hamid Masoumi-Tehrani in 2014.⁷⁵ These have been joined by numerous civil society expressions of support by prominent Iranians both inside and outside Iran.⁷⁶ Ghanem puts emphasis on both the type of minority and type of regime⁷⁷ in impacting responses, and recognises that in the case of ethno-cratic regimes, bent on the presumed superiority of a dominant group against others, the effectiveness of minority demands for equality is shaped by "the minority's social and demographic power, the strength of its group identity, and its ability to maintain a united front against the ethnic majority".⁷⁸ The stance of the Bahá'ís is not against the "ethnic majority", they have no religious position or policy "against" Shia Muslims or ethnic Persians. However, their position remains strongly "for" justice for all.⁷⁹ Instead of Gurr's description of "political passivity", the stance of the Bahá'ís may be better described by borrowing Tønder's understanding of "active tolerance", a stance that can mobilise tolerance "against inequality and repression".⁸⁰ With their constructive resilience, Bahá'ís in Iran are subverting the Iranian government's objective to destroy them, to crush them and to drive them out.

Looking ahead, we can again turn to Habermas to note the gap between non-discrimination and active tolerance. Whereas numerous Iranians within and outside Iran are increasingly joining the rallying cry of putting an end to the discrimination against the Bahá'ís in Iran – not least as a key litmus test for an inclusive Iran⁸¹ – what will it take for that call to bridge over to "active tolerance"? Habermas recognises non-discrimination as providing a shared standard for "the moral and the constitutional reasons for toleration".⁸² He also notes that:

75 See: Ghanea, N., "Using faith to reinforce human rights of Bahá'ís in Iran", Open Democracy, May 2014, available at: <https://www.opendemocracy.net/openglobalrights/nazila-ghanea/using-faith-to-reinforce-human-rights-of-bah%C3%ADs-in-iran>.

76 See: Iranian.com, "We are ashamed", 4 February 2009, available at: <http://iranian.com/main/2009/feb/we-are-ashamed.html>; and Shaheed, A. "Voices of Support for Iran's Baha'is," 23 May 2014, available at: <http://shaheedoniran.org/english/blog/voices-of-support-for-irans-bahais>.

77 See above, note 34.

78 See above, note 34, p. 366.

79 Ghanea, N., "The Enigma of Human Rights Responsibilities: Religious Minorities and the UN Declaration on Minorities", in Caruso, U. and Hofmann, R., (eds), *The United Nations Declaration on Minorities: An Academic Account on the Occasion of its 20th Anniversary (1992–2012)*, Brill/Martinus Nijhoff, 2015, forthcoming.

80 Lars, T., "Spinoza and the Theory of Active Tolerance", *Political Theory*, Vol. 41.5, 2013, p. 700.

81 Afshari, R., *Human Rights in Iran: The Abuse of Cultural Relativism*, Second Edition, University of Pennsylvania Press, 2001, p. 128.

82 Habermas, J., "Intolerance and Discrimination", *International Journal of Constitutional Law*, Vol. 1.1, 2003, pp. 3–4.

*The end of a form of discrimination does not always signify the beginning of toleration toward the person whom is no longer discriminated against (...) [as this may] only reveal the covert persistence of the old prejudices. In such a situation, 'tolerance' would simply be the expression of patronizing benevolence and would not be on a par with the reciprocal toleration of different religious doctrines as is mandatory in a liberal state.*⁸³

Distinguishing “mere toleration of outsiders, who are nevertheless considered inferior; and toleration based on mutual recognition and mutual acceptance of divergent worldviews”, he underscores the latter as allowing “religions and democracy to coexist in a pluralistic environment”.⁸⁴ The constructive resilience of the Bahá'ís in Iran perhaps resembles a response of “active tolerance” to oppression by the victim. By not being satisfied with a patronising benevolence towards their shortcomings, the victims are playing a role in pointing towards the beginning of an active tolerance by all and towards all. The stance of the Bahá'ís in Iran instead is, in the midst of an increase in persecution, one of focusing on building the groundwork for a different culture of coexistence along with likeminded compatriots.

To Habermas this calls for a differentiation between the religious community and the larger political community, as the “political order no longer obeys the religious ethos.”⁸⁵ He goes on:

*This results, among other things, in the renunciation of violence and the acceptance of the voluntary character of religious association. Violence may not be used to push forward religious beliefs inside or outside the community. Religious doctrines that once provided the state with a sacred source of legitimation cope with an imposed depoliticization.*⁸⁶

The depoliticisation of the dominant religion(s), the inclusion of religious minorities in the political community and religious pluralism:

*[K]indles and fosters sensitivity to the claims of discriminated groups in general. (...) When the relationship between a dominant religion and the state and its political culture is severed, space is created for the liberties of religious minorities.*⁸⁷

83 *Ibid.*, p. 11.

84 *Ibid.*, p. 2.

85 *Ibid.*, p. 6.

86 *Ibid.*

87 *Ibid.*, pp. 8–9.

Conclusion

The religious discrimination against the Bahá'ís in Iran depicts an extreme example of religious discrimination which is systematic, extensive, state-orchestrated and inter-generational. It is an unusual form of discrimination in that it allows for an "opt out" through coerced conversion. As in other cases of massive violations, its academic study has been largely neglected, though some disciplines have started tackling overlapping issues. The two-pronged definition of religious discrimination helps explain its form, and the literature on state-religion relationships, state religious exclusivity, the ethnocratic logic and the scapegoating rationale, helps us understand its durability. The response of the Bahá'ís to their persecution can be considered as a response of "active tolerance" - refusing to let the prejudice of the oppressor tarnish their world view and focusing instead on the ground works of an alternative.

Justice means giving every individual the opportunity to make use of all of their capabilities. Freedom means the potential and capacity of a human being to grow, evolve, and prepare for change, in line with the values of humanity, without any exceptions among mankind, and without regard to anything which serves to differentiate us, such as ethnicity, race, nationality, gender, religion, or education. (...) I wish that Artin and all the other children, regardless of the family they grew up in and the beliefs they grew up with, could have the chance to learn and to gain knowledge. I wish that, in trying to seek the truth, they could make an informed decision about their beliefs, so that their actions could be the product of those beliefs.⁸⁸

88 See above, note 5.