



**HOUSE OF COMMONS  
CANADA**

**AHMADINEJAD'S IRAN: A THREAT TO PEACE,  
HUMAN RIGHTS AND INTERNATIONAL LAW**

**Report of the Standing Committee on  
Foreign Affairs and International Development**

**Dean Allison, MP  
Chair**

**Subcommittee on International Human Rights**

**Scott Reid, MP  
Chair**

**DECEMBER 2010**

**40th PARLIAMENT, 3rd SESSION**

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# **THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND INTERNATIONAL DEVELOPMENT**

has the honour to present its

## **THIRD REPORT**

Pursuant to its mandate under Standing Order 108(2), the Committee has studied human rights in Iran and has agreed to report the following:



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## EXECUTIVE SUMMARY

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In the summer of 2009, Canadians and the rest of the international community looked on with concern as Iranian security forces cracked down on protestors in the wake of that country's June 12 presidential election. In many respects, this development was another high profile example of the Iranian authorities' poor record with respect to human rights. The events surrounding the contested election also offered a rare glimpse of the internal tensions present in the country.

The dramatic protests in Iran last summer, the response of the Iranian authorities, and the reaction of the international community served to sharpen the focus of a study by the Subcommittee on International Human Rights of the House of Commons Standing Committee on Foreign Affairs and International Development (hereinafter the Subcommittee). The Subcommittee had begun to examine Iran's record with respect to international human rights in the 39<sup>th</sup> Parliament, when it held hearings and prepared a report on the Bahá'í community in Iran. The report was subsequently adopted by the Standing Committee on Foreign Affairs and International Development (hereinafter the Committee) and tabled in the House of Commons on March 5, 2009.

Concerned about what seemed to be the deteriorating human rights situation in Iran, the Subcommittee decided to undertake a broader study into the mistreatment of the Iranian population by the governing regime, and also into the Iranian government's role regionally and internationally with respect to human rights and violations of international law. With regard to its international role, the Subcommittee is particularly concerned about the Iranian leadership's aggressive rhetoric and its role in supporting terrorist organizations, both of which are targeted against the state and people of Israel. Even more alarming is the mistrust the Iranian government has created around its nuclear program and the potentially lethal consequences if a military application of this nuclear program were to become a reality.

Between March 10 and October 29, 2009, the Subcommittee held sixteen hearings on these subjects. It heard from expert witnesses, human rights activists representing non-governmental organizations, academics, and lawyers. In light of this testimony, the Subcommittee makes the following assessments:

- The Iranian regime has a long history of systemic and widespread human rights violations against its own people. These abuses violate its population's right to life, freedom from discrimination based on religion, sex, ethnicity, language, sexual orientation and political opinions. Often times, these abuses violate Iran's own domestic laws.
- Recording and reporting these violations has been problematic as domestic human rights organizations are often shut down by government officials, and journalists and activists are regularly harassed. Those who attempt to hold the Iranian regime accountable for its actions are often subject to arbitrary arrest under the guise of national security — some,

including juveniles, are tortured and killed. As well, international human rights organizations have not been allowed to enter Iranian territory for several years.

- Iranians who are arrested are not afforded due process under law. The judicial system in Iran remains very weak in practice, with executive authorities regularly interfering in the judicial process.
- The June 12, 2009 presidential election in Iran and the regime's violent crackdown on those protesting the official results are further proof of the regime's heavy handed approach to quelling dissent among its population. In fact, protestors were angry that even the modicum of democracy that is afforded to them in their Constitution was not respected by the hardline elements of the regime in their attempt to hold onto power.
- The Subcommittee recognises the emergence of a grassroots, civil movement born out of the Iranian population's disillusionment with its government following the June 2009 election. The Subcommittee also has faith in the youth of Iran, who are increasingly educated and technology-savvy. They are the future of Iran and are willing to continue to fight for their rights and for democracy.
- The Iranian regime supports terrorist organizations such as Hamas and Hezbollah, who are responsible for mass atrocities against Jewish people all over the world.
- The Iranian leadership's inflammatory rhetoric constitutes incitement to genocide, in violation of the prohibition against incitement in Article 3 of the *Genocide Convention*.
- The Subcommittee believes that the Iranian regime is already acting on its genocidal rhetoric against the state and people of Israel by arming and financing terrorist organizations and is therefore particularly concerned about the possibility of the regime acquiring a nuclear weapons capability.
- The Subcommittee also believes that the nuclear issue is continually distracting the international community from the Iranian regime's assault on the rights of its own people. Therefore, the regime must be discussed in the context of three converging dynamics: the rights-violating, the genocidal and the nuclear. All dialogue with the Iranian regime must include human rights at the forefront.

In conclusion, the Subcommittee firmly believes that the Iranian regime's policies and activities within its territory and those it projects internationally constitute gross violations of its obligations under international law. Canada has a number of bilateral and multilateral tools at its disposal to express its condemnation of the Iranian regime's policies

and actions, and must take action by implementing the Subcommittee's following recommendations.

## **Human Rights in Iran: List of Recommendations**

### **Recommendation 1**

**The Subcommittee recommends that the Government of Canada continue to provide moral support and should increase, if possible, its financial support for Canadian and Iranian civil society organizations and other human rights groups that document and report on human rights abuses committed by the Iranian regime.**

### **Recommendation 2**

**The Subcommittee recommends that the Government of Canada provide moral and diplomatic support to the democratic movement in Iran.**

### **Recommendation 3**

**The Subcommittee recommends that the Government of Canada demand, at every appropriate opportunity, that the Iranian government grant access to international human rights organizations within its borders and allow domestic human rights organizations to operate without restriction or harassment.**

### **Recommendation 4**

**The Subcommittee recommends that the Government of Canada consider funding a research chair at a Canadian university dedicated to the study of Canadian-Iranian relations, including the human rights situation in Iran.**

### **Recommendation 5**

**The Subcommittee recommends that the Government of Canada encourage Radio Canada International to consider programming in Farsi over its worldwide shortwave service, over conventional AM/FM broadcasting in the Gulf region, and over the Internet.**

### **Recommendation 6**

**The Subcommittee recommends that the Government of Canada take appropriate action to ensure that Iranian foreign offices, bureaus or media outlets in Canada are not used by the Iranian regime as a source of threat and intimidation of the Iranian Diaspora in Canada.**

### **Recommendation 7**

**The Subcommittee recommends that, in communicating its condemnation of the human rights violations of the Iranian regime against its own people, the Government of Canada:**

- Use all available tools, already authorized under Canada's existing immigration and visa legislation, to ensure that high-ranking members of the regime are not able to access direct or indirect support from within Canadian territory.**
- Reduce high-level interaction with Iranian Government officials and make any invitations extended to Iranian officials conditional upon effective actions taken by the Iranian government to improve the human rights situation in Iran.**

### **Recommendation 8**

**The Subcommittee recommends that the Government of Canada, in communicating its condemnation of the human rights violations perpetrated by members of Iran's state security agencies against the Iranian people, use all available tools, authorized by existing immigration and visa policies and legislation, to deny entry to Canada to members of Iran's security agencies, including members of Iran's Islamic Revolutionary Guard Corps and the Basij militia.**

### **Recommendation 9**

**The Subcommittee recommends that the Government of Canada ensure sufficient resources are available to the Department of Justice, the Canada Border Services Agency, the Canadian Security Intelligence Service, and the Royal Canadian Mounted Police, to ensure that they are able to make accurate decisions related to recommendations 7 and 8.**

### **Recommendation 10**

**The Subcommittee recommends that the Government of Canada institute targeted sanctions, including travel bans and asset freezes, against those individuals within the Iranian government and state security forces who are known to have committed human rights violations.**

### **Recommendation 11**

**The Subcommittee recommends that the Government of Canada continue to display public disapproval of the Iranian regime and its leadership and continue to make active interventions during any bilateral meetings with Iranian government officials as well as at the United Nations Human Rights Council, the United Nations General**

**Assembly and other international organisations regarding Iran's poor human rights record.**

#### **Recommendation 12**

**The Subcommittee recommends that the Government of Canada work multilaterally with other member states of the United Nations Human Rights Council to re-establish a position for a country-specific rapporteur on human rights in Iran.**

#### **Recommendation 13**

**The Subcommittee recommends that the Government of Canada completely remove immunity for foreign government officials in cases of gross violations of international human rights law, including torture, from the *State Immunity Act* allowing Canadians who are victims of such human rights violations judicial remedy within Canada's domestic legal system.**

### **Iran and International Peace and Security: List of Recommendations**

#### **Recommendation 14**

**The Subcommittee recommends that, as a member of the International Atomic Energy Agency (IAEA), the Government of Canada should use every opportunity to encourage the IAEA to continue its efforts to inspect Iranian nuclear production facilities.**

#### **Recommendation 15**

**The Subcommittee recommends that the Government of Canada continue to work with the United Nations and members of the international community to add sanctions to those already imposed against Iran. In particular, the Subcommittee recommends that the Government of Canada move in concert with its international partners to implement the necessary regulations under the *Special Economic Measures Act* (SEMA) and/or *Export and Import Permits Act* to impose:**

- A ban on all goods exported from Canada to Iran, excepting humanitarian goods such as food and medicine, and a ban on all goods imported from Iran to Canada;**
- A ban on businesses or their subsidiaries operating in Canada from exporting gasoline and other refined petroleum products to Iran or facilitating such export (i.e. the shipping and insurance industries);**
- A ban on new investment in Iran or the introduction of incentives to prevent such investments, particularly with regards to Iran's energy infrastructure, by Canadian persons**

and companies (as well as foreign companies or their subsidiaries operating in Canada) and including related industries such as shipping, insurance and construction companies;

- A prohibition on the provision of financial services to and from Iran, particularly regarding any transactions with the Iranian Central Bank, by businesses or their subsidiaries operating in Canada;
- A prohibition on the export of any technologies to Iran, particularly those that enable the Iranian regime to violate the human rights of its own people (including but not limited to surveillance equipment);
- A prohibition on Canadian-registered ships from docking in Iran and on Iranian-registered ships from docking in Canada and passing through Canadian waters.

#### **Recommendation 16**

The Subcommittee recommends that the Government of Canada call upon United Nations Secretary General Ban Ki-Moon to refer the matter of Iran's genocidal incitement to the Security Council pursuant to Article 99 of the Charter of the United Nations, on the basis that Iran poses a threat to international peace and security.

#### **Recommendation 17**

The Subcommittee recommends that the Government of Canada include Iran's Islamic Revolutionary Guard Corps as a listed entity for its role in supporting international terrorist organizations in accordance with Canadian law.

#### **Recommendation 18**

The Subcommittee recommends that the Government of Canada assist with the enforcement of standing international arrest warrants that have been filed against Iranian government officials.

#### **Recommendation 19**

The Subcommittee recommends that the Government of Canada initiate an inter-state complaint against the Government of Iran before the International Court of Justice, under Article 9 of the *Genocide Convention*, calling Iran to account for its violations of the Convention, including its failure to punish the incitement to genocide perpetrated by its officials.

#### **Recommendation 20**

The Subcommittee recommends that the Government of Canada, in accordance with Canada's responsibilities under Article 1 of the *Genocide Convention* and the prohibition against incitement to genocide in Article 3 of the Convention, invite the United Nations Security Council to consider referring to the Prosecutor of the International Criminal Court the case of President Mahmoud Ahmadinejad and those Iranian leaders participating with him in direct and public incitement to genocide, for investigation and prospective prosecution.

#### **Recommendation 21**

The Subcommittee recommends that the Government of Canada petition the United Nations Security Council, in accordance with Canada's responsibilities under Article 1 of the *Genocide Convention* and the prohibition against incitement to genocide in Article 3 of the Convention, to take appropriate action and to hold Iran to account.

### **The Human Rights Situation in Post-Election Iran: List of Recommendations**

#### **Recommendation 22**

The Subcommittee recommends that the Government of Canada encourage the governments of the P5 plus 1 (the United States, the United Kingdom, France, Germany, Russia, and China) to include a discussion of human rights issues in their negotiations with the Iranian government regarding that country's nuclear programs.

#### **Recommendation 23**

The Subcommittee recommends that the Government of Canada continue to fund the work of the Iran Human Rights Documentation Centre and encourage the Centre to open an office in Canada.

#### **Recommendation 24**

The Subcommittee recommends that the Government of Canada ensure that when federal grants and other assistance are made to educational and other institutions that this assistance be contingent on these institutions not accepting money from Iranian sources.



# AHMADINEJAD'S IRAN: A THREAT TO PEACE, HUMAN RIGHTS AND INTERNATIONAL LAW

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## INTRODUCTION

In the summer of 2009, Canadians and the rest of the international community looked on with concern and a sense of *déjà vu* as Iranian security forces cracked down on protestors in the wake of that country's June 12 presidential election. In many respects, this development was another high profile example of the Iranian authorities' poor record with respect to human rights. The events surrounding the contested election also offered a rare glimpse of the internal tensions present inside the country. In September, veteran Canadian diplomat Jeremy Kinsman commented on these tensions, remarking that: "The Iranian drama this summer has been simultaneously inspiring, depressing, illuminating and humbling. Iran is front and centre."<sup>1</sup> While Subcommittee Members and all Canadians hope that these events will eventually lead to positive changes for Iranian society over the long-term, at present there continue to be serious abuses within the country and the Iranian regime continues to pursue policies which are dangerous and, in some cases destabilising and illegal. Illegal policies include the regime's pursuit of nuclear weapons and its state-sanctioned incitement to genocide. All of these issues will be addressed in the body of this report.

The dramatic protests in Iran this summer, the response of the Iranian authorities, and the reaction of the international community have all served to sharpen the focus of a study that had been underway by the Subcommittee on International Human Rights of the House of Commons Standing Committee on Foreign Affairs and International Development. This Subcommittee had begun to examine Iran's record with respect to international human rights beginning in 2008 continuing from the meeting of the Subcommittee on March 27, 2007 in the 1<sup>st</sup> Session of the 39<sup>th</sup> Parliament. In 2008, the Subcommittee held two hearings on the specific topic of the treatment of the Bahá'í minority in Iran. A report on the Bahá'í community in Iran, prepared and moved by Subcommittee Member Mr. Mario Silva, was unanimously approved in the Subcommittee and was subsequently adopted by the Standing Committee on Foreign Affairs and International Development, also unanimously, and tabled in the House of Commons on March 5, 2009. Together, Mr. Silva and the Honourable Irwin Cotler, another Member of this Subcommittee, moved that the report be concurred in the House of Commons on March 30, 2009.

Then, concerned about the deteriorating human rights situation in Iran, the Subcommittee decided to undertake a broader study on not only the domestic human rights abuses within Iran, but also the regional and international implications of that

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1 Jeremy Kinsman, "Mulling the Mullahs: Prelude to the Next Iranian Revolution?", Policy Options, September 2009, p. 40.

country's pursuit of nuclear weapons and a delivery mechanism, and the regime's incitement to genocide.<sup>2</sup> Between March 10 and October 29 2009, the Subcommittee held sixteen hearings on these subjects. It heard from select expert witnesses, including individuals testifying on their own behalf, human rights activists representing non-governmental organizations, academics, and lawyers.

Although the majority of the testimony that was gathered dealt with activities that took place before the June presidential election, the Subcommittee strongly believes that all of its findings will be relevant in the coming months as the Canadian government and the international community work to shape their policies towards Iran. The signs of a regime that systematically and pervasively violates the human rights of its citizens, which were highlighted by witnesses in Subcommittee meetings before the June 12 presidential election, remain valid observations today. However, the troubling undertone of the evidence received by the Subcommittee in its testimony gathered in the post-election context indicates that these trends of human rights abuses have been worsened by the circumstances surrounding the election, as the governing regime cracks down on the domestic dissent that has arisen against its policies. Dr. Abbas Milani, Director of Iranian Studies at Stanford University, reinforced this view in describing a regime that "is in constant breach of human rights against the people of Iran." He suggested that since the June election "these breaches have increased. The regime feels more isolated, the regime feels weaker, as is always the case when these kinds of regimes are frightened, they show their more brutal side."<sup>3</sup> Consequently, the Subcommittee concludes that there is convincing evidence of a further escalation of human rights abuses because of the tenuous legitimacy of President Ahmadinejad's mandate in the wake of the presidential election. We have serious concerns about the circumstances surrounding the election process. President Ahmadinejad and the regime face a delicate political landscape including questions of domestic and international legitimacy and must govern a country rife with internal tensions.

While it is still perhaps too early to make any conclusions regarding how the events of last summer will affect Iran's international relations, they may present an opening for a renewed diplomatic activity and leadership on behalf of the Canadian government and the wider international community with Iran over key areas of concern. Many witnesses who appeared before the Subcommittee expressed hope for change in Iran, especially through the vibrancy of the country's youth.

However, diplomatic initiatives are extremely unlikely to succeed without comprehensive, calibrated and consequential sanctions as recommended by the Subcommittee in this report, given Iran's hostile response to the good-faith engagement of the international community on the nuclear front and the extent of Iran's massive domestic human rights violations unmasked by the June 12, 2009 election. On the eve of Iran's

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2 *Evidence*, Meeting No. 2, February 24, 2009 and *Minutes of Proceedings*, Meeting No.11, April 2, 2009.

3 *Evidence*, Meeting No. 32, October 22, 2009.

presidential election, Dr. Houchang Hassan-Yari, an Iranian-Canadian who is Head of the Politics and Economics Department at the Royal Military College of Canada, appeared before the Subcommittee and explained to Members that:

The issue of respect for human rights has always been a source of tension between the Iranian state and Iranian society... That is nothing new in Iran; it was going on before the revolution. It has been going on for hundreds of years.<sup>4</sup>

It was pointed out to the Subcommittee that following the election of President Khatami in 1997, some observers were arguing that Iran appeared to be entering a more reformist or moderate stage. However, following the 2005 presidential election, the situation deteriorated again, and it appeared that hardliners within the regime acted to sideline the more moderate elements. Indeed, one of the troubling arguments put forward by many of the witnesses was that while Iran's human rights record has been problematic over the decades, abuses have actually grown more severe since President Ahmadinejad came to power in 2005.

Indeed, witnesses informed Members of the Subcommittee that in the lead up to the June 2009 election there had been a rise in the arrests of journalists, political activists, students and academics—all in the name of “national security”<sup>5</sup>. Unfortunately for the people of Iran, many of the pre-election concerns expressed by witnesses turned out to be prescient. In its October meetings, some four months after the electoral results were announced, witnesses described the government's crackdown on protestors, and the violence committed by regime agents against street demonstrators. Witnesses also reminded Subcommittee Members of the number of those who were detained, and according to allegations, in certain cases even raped, tortured, and murdered. In commenting on these events, Professor Payam Akhavan, professor of international law at McGill University, stated: “I think it's important that we don't reduce the issue to abstractions and statistics in order to understand the horrible brutality with which the Iranian government has confronted what is essentially a peaceful, non-violent movement to call for basic human rights and democracy.”<sup>6</sup>

Throughout its hearings, other concerns about the policies of Iran's governing regime were expressed when witnesses discussed the external dimensions of Iran's human rights-related policies, notably its support for various terrorist organizations, its belligerent stance towards Israel, and the intentions of its nuclear program.

The report is divided into six parts. The first part summarises the evidence presented to the Subcommittee regarding systemic human rights abuses that have been perpetrated against specific groups within Iranian society. The Subcommittee's

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4 *Evidence*, Meeting No. 25, June 11, 2009.

5 *Evidence*, Meeting No. 6, March 10, 2009.

6 *Evidence*, Meeting No. 34, October 29, 2009.

observations are described in part two, which explain Iran's obligations towards its citizens under international law and the manner in which Canada should engage Iran on its human rights record. The third part reviews evidence received by the Subcommittee on Iran's role in exporting violence to other countries through the sponsorship of terrorism, inciting genocide towards Israel and/or Jewish people, and pursuing a nuclear program with the potential for military application. The Subcommittee's observations are described in part four, which also explains Iran's obligations with regard to the preservation of international peace and security, and the manner in which Canada should engage Iran on these obligations. The fifth section summarizes the evidence received by the Subcommittee regarding the human rights situation in Iran in the months following the presidential election of June 12 2009. The report concludes with the Subcommittee's observations on the post-election context.

Based on the testimony it received and on publicly-available information, the Subcommittee agrees to report the following findings and recommendations to the House of Commons Standing Committee on Foreign Affairs and International Development.

## **I. HUMAN RIGHTS IN IRAN: SUMMARY OF EVIDENCE**

One of the challenging aspects of studying the human rights situation in Iran is that accurate and comprehensive reporting is fairly difficult to obtain, for a number of reasons. According to witnesses, activists in Iran are routinely harassed and intimidated. The risks of arrest, expulsion and even death are high. Human rights organizations and independent newspapers within the country are often shut down. International human rights organizations, such as Human Rights Watch, have not been able to enter Iran for a number of years to conduct research. There are also many instances where information on arrests and executions has not been released publicly by the government.

The international community must therefore often rely on activists and journalists in Iran who, under dangerous circumstances, record the abuses and follow-up on the cases, while calling on the Iranian government to be more open, transparent and just. Through their perseverance, this crucial information is disseminated to their colleagues all over the world, international media outlets, and into the living rooms of ordinary Canadians. Mrs. Renee Redman, the Executive Director of the Iran Human Rights Documentation Center, pointed to these difficulties affecting the work of organizations like hers that are trying to establish a comprehensive and evidence-based account of the government's actions in the post-June 12 election period. She said, "Foreign journalists are essentially barred from operating within Iran. Domestic journalists are being arrested, and we have received word that many are on their way out of the country. Some have already managed to leave the country. This is not a good sign."<sup>7</sup>

In the meetings held before the June 12 presidential election, the Subcommittee heard divergent views as to whether or not the human rights situation in Iran had improved

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7 *Evidence*, Meeting No. 33, October 27, 2009.

in the decades following the revolution in 1979 and the creation of the Islamic Republic of Iran.

Dr. Hassan-Yari's historical and comparative perspective was somewhat optimistic. He argued that,

If we take an overall look at Iranian society since 1979, we see that there has been some progress, despite the repression and everything we hear about in the news and in stories. That is a very encouraging picture of a society that is trying to return to the values of the revolution: independence, freedom and its role as a source of legitimacy.

Obviously, in no way does that mean that there is no repression. There is. If we compare the Iranian revolution of 1979 to 2009 to the most famous revolutions in history such as the Soviet revolution of 1917 in Russia and the French Revolution, often called the mother of all revolutions, to the situation in Nicaragua in the late 1970s and early 1980s, and to the events in the Philippines when Marcos left power, we can see that during the 30 years of the Iranian revolution, Iran has made great strides that the French and Russians did not achieve for more than 70 years.

We need only compare the situation today, including the state of human rights, with the excesses that immediately followed the revolution. That means that there is a constant struggle between civil society and those in power. In my view, those in power are backing down. In other words, they are yielding to the advancements of civil society. And that is why I am relatively optimistic about the evolution of Iranian society.<sup>8</sup>

Moreover, according to the assessments presented by a number of witnesses, there have been both upward and downward trends in relation to specific types of human rights violations in Iran over the years. Dr. Milani argued that over the last thirty years in Iran, "there have been moments of respite and moments of true revolutionary terror." As perhaps the darkest moment in the history of the Islamic Republic, he and other witnesses singled out the 1988 execution of an estimated 4,000 prisoners "who were serving time for other crimes," in order to cleanse the prisons of "potential opponents".<sup>9</sup>

Overall, however, the predominant view expressed to the Subcommittee was that the human rights situation in Iran has once again deteriorated in the past few years. Evidence collected by the Subcommittee suggested that serious and systemic human rights violations in Iran had reached a level that was both worrying and unacceptable. Further, the testimony suggests that these violations are often committed with impunity if not encouragement by the Government of Iran and/or its agents. Whatever micro-trends or specific indices can be identified, the aggregate and long-term picture merits concern. The government's actions in the wake of the demonstrations against the announced result in the June 12 presidential election have only served to underscore these observations. It also bears noting that the more positive assessments of the human rights situation in Iran were provided in the meetings held before the June presidential election.

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8 *Evidence*, Meeting No. 25, June 11, 2009.

9 *Evidence*, Meeting No. 32, October 22, 2009.

Members of the Subcommittee were told of the severity, range and systemic dimension of human rights violations in Iran. This includes the mistreatment of religious minorities, ethnic minorities, women, activists, students, journalists, labour union leaders and dissidents; and, the mistreatment of persons based on their sexual orientation. Violations have also included state execution of juveniles. The Subcommittee was also made aware of the added difficulties facing those who belong to more than one of these groups. Overall, Dr. Milani summarized human rights abuses in Iran as being carried out according to two different methods, both of which deserve attention: “One is the overt kind of violence that this regime engages in, such as imprisoning people or executing a minor for a crime that he committed when he was only 15 years old.” The second, according to Dr. Milani, “is the slow grind of the daily abuses and inequities that are forced on the Iranian society, on the Iranian youth.”<sup>10</sup>

## **1. The treatment of religious minorities**

In Iran, clerical authorities, backed by Iran’s Islamic Revolutionary Guard Corps, exercise much power and influence within the government. This structure has contributed to conditions where religious minorities in Iran do not always enjoy full and equal respect and protections. Although some are, in theory, recognized by the Iranian constitution as legitimate religious minorities with legally protected rights, others, such as the Bahá’í, have no protection at all. The Subcommittee has heard numerous testimonies detailing problems with religious freedom in Iran and patterns of discrimination (exclusion from access to higher education or to public sector employment), restrictions in the practice of faith, language, and cultural expression, and even direct repression (arrests, attacks, convictions, and executions).

### **i. Bahá’ís**

Iran’s Bahá’ís form a community of approximately 300,000 people.<sup>11</sup> The Bahá’í are subjected to particular persecution given that under the Iranian legal system they are afforded no protections.<sup>12</sup> Article 13 of Iran’s constitution recognizes as legitimate certain religious minorities and grants them rights.<sup>13</sup> Consequently, members of certain religious faiths are granted legal status and the enjoyment of related rights. While “People of the Book”—i.e. Christians, Jews, and by special dispensation Zoroastrians—qualify as official religious minorities, the Baha’i do not. Professor Akhavan told the Subcommittee that: “... according to the hardline elements within the Islamic republic, the Iranian Bahá’ís are

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10 *Evidence*, Meeting No. 32, October 22,, 2009.

11 *Evidence*, Meeting No. 3, February 26 2009.

12 *Ibid*.

13 An unofficial translation of Article 13 reads: Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education. See <http://www.iranonline.com/iran/iran-info/Government/constitution-1.html>.

unprotected infidels who are beyond the pale of legal protection.”<sup>14</sup> Officials from the Department of Foreign Affairs and International Trade (DFAIT) also pointed to the entrenched discrimination faced by the Bahá’í community in Iran. Mr. Jeffrey McLaren, the Director of Gulf and Maghreb Relations, stated that, “Their situation in Iran is probably as bad as any identifiable group in Iran. Even Iranians who are of the reformist bent and who believe their country needs to correct its policies have a blind spot towards the Bahá’í.”<sup>15</sup>

Without official protection under the law, the Subcommittee was told that the Bahá’í are actively and systematically victimized by Iranian authorities. Witnesses also described how, in the 1980s, a significant number of Bahá’í leaders were executed. More recently, however, other means of marginalizing the Bahá’í within Iran have been used. These methods were described as follows:

The consequence in more recent times has been a more subtle form of repression that aims to bring about a civil death for Bahá’ís. Bahá’ís are systematically eliminated from economic activities: the right to education, the right to pensions, the right to employment in the public sector. All of these forms of repression are a different means of achieving the same end that the government had tried to achieve in the 1980s through systematic execution. The documents that have been leaked from within the ranks of the Iranian government indicate very clearly that the stated objective of the government is to eradicate the Bahá’í religious minority.<sup>16</sup>

The Subcommittee was told that the stigmatization of the Bahá’ís is actively promoted by Iranian authorities. Mr. McLaren (DFAIT) told Subcommittee Members that, “they are called apostates and they are viewed as threatening Islamic society. All of this, as we all know, is just nonsense. They are very loyal citizens to whatever country they live in.”<sup>17</sup> He also commented on their lack of access to university education in Iran. Ms. Suzanne Tamas, of the Bahá’í Community of Canada, read the translated version of two documents as evidence of such practices. First, a 2008 petition posted outside a mosque in which Ayatollah Khamenei was preaching, and which worshippers were encouraged to sign, read as follows:

Bahá’ism is an organized sect, with its leadership residing under the protective shade of the militantly aggressive occupier of Jerusalem, and has established its foundation by spreading lies against Islam and Iran and by openly and fearlessly advancing the political, cultural, and economic aims of global Zionism. This Zionist Bahá’í organization not only has targeted Islam for its cowardly attacks, but is negligent of humanity and its principal needs. We the undersigned, in carrying out our Islamic and human duty, request the country’s esteemed Attorney General to confront all elements of this organization and dissolve its administration.<sup>18</sup>

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14 *Evidence*, Meeting No. 3, February 26, 2009.

15 *Evidence*, Meeting No. 31, October 20, 2009.

16 *Evidence*, Meeting No. 3, February 26, 2009.

17 *Evidence*, Meeting No. 31, October 20, 2009.

18 *Evidence*, Meeting No. 3, February 26, 2009.

Second, Ms. Tamas presented to the Subcommittee a piece of correspondence between Iran's Prosecutor General and the Minister of Intelligence which contained the following excerpt:

The administration of the misguided Bahá'í sect at all levels is unlawful and banned, and their ties to Israel and their opposition to Islam and the Islamic regime are clear. The danger they pose to national security is documented and proven, and therefore it is necessary that any substitute administration that acts as a replacement for the original be confronted through the law.<sup>19</sup>

Not only is there a clear attempt by Iranian authorities to demonize the Bahá'í, witnesses who appeared before the Subcommittee testified that such activities have intensified.<sup>20</sup> Discrimination against the Bahá'í community is compounded by the fact that they are prevented from accessing media sources or forming their own media outlets. Therefore Bahá'ís have no means of challenging the official state discourse.<sup>21</sup>

According to the same witness, Ms. Tamas, charges that have been issued by the Iranian state against members of the Bahá'í faith have included: "espionage on behalf of Israel", "insult to the sacredness of Islam", and "propaganda against the regime", with execution having been adopted as a possible form of punishment for such crimes.<sup>22</sup>

Professor Akhavan suggested that such stigmatization is being used by Iranian authorities as one means of deflecting attention away from pressing social issues that are causing Iran's society to question the legitimacy of the regime.<sup>23</sup>

## **ii. People of the Book: Christians and Jews**

It was pointed out that people of the book enjoy a different legal standing from the Bahá'í, as they are subject to a form of constitutional legitimacy according to Article 13 of the Iranian Constitution. These groups therefore enjoy some degree of legal protection and their daily religious activities are often tolerated by the governing regime. Moreover, Christians and Zoroastrians do not appear to be targeted to the same extent as the Bahá'ís with active persecution.

Mr. McLaren (DFAIT) told Subcommittee Members that Iran's Jewish population is the largest such population in the Middle East region outside of Israel. He explained that as an official religious minority, "The community is allowed to function. It is allowed to carry out its religious services. Its members are allowed to hold jobs in the community in ways that the Bahá'ís, for instance, are not. That being said, they are a minority in a population

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19 Ibid.

20 Ibid.

21 Ibid.

22 Ibid.

23 Ibid.

that does not always treat its minorities well.” He described past incidents in which “the Jewish community has faced a number of charges and arrests for allegedly spying for Israel. Some of its members [had] been put in jail for that” in earlier parts of the decade. Overall, Mr. McLaren provided the assessment that Jewish people in Iran are not afforded the same treatment in practice by state agents and the broader Iranian society as are members of the Muslim population. He acknowledged the additional pressures against the rights of Jewish people in Iran, given their minority status in the country, noting that “many of the community leave.” Nevertheless, Mr. McLaren also pointed out that “they are allowed to operate their synagogues and to carry out their duties and religious activities. It’s not easy to be Jewish in Iran. There is a certain level of discrimination, or difficult times, but they are not facing the same kinds of pressures the Bahá’í community is facing.”<sup>24</sup>

Despite the fact members of the Jewish and Christian faith are not targeted for mistreatment to the same degree as members of the Bahá’í faith, the Subcommittee was told, that these groups do not enjoy comprehensive protections. Three issues were brought to the attention of the Subcommittee. First, some Christians have been arrested, apparently on grounds linked to their faith.<sup>25</sup> Second, discriminatory treatment has been noted as being commonplace. Professor Gregory Stanton, President of Genocide Watch, stated:

It is true that there is a Jewish community in Iran. There's also a Christian community. However, to characterize them as having equal rights, for instance, with the Shiite community in Iran is inaccurate. The truth is that Jews and Christians both are discriminated against in Iran in jobs, in the legal sphere, and in many other domains of life. It is not true that they have equal rights.<sup>26</sup>

Third, certain witnesses argued that Jews, not unlike the Bahá’í, are targets of an active vilification and de-humanization campaign. This report, which will also deal with incitement to genocide, highlights what some witnesses have described as insidious rhetoric used by Iran’s highest authorities in relation to Jewish people, Israel and/or Zionists. Although the genocidal rhetoric appears mostly framed in a way that targets Israeli Jews, Jews within Iran are still affected by this inflammatory discourse. Finally, as hinted by Professor Stanton in his testimony, the fact that most Iranian Jews have left their country is indicative of the manner in which they were treated.<sup>27</sup>

### **iii. Other religious minorities**

Witnesses told the Subcommittee that other religious groups in Iran face barriers to the practice of their faith.

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24 *Evidence*, Meeting No. 31, October 20, 2009.

25 *Evidence*, Meeting No. 8, March 24, 2009.

26 *Evidence*, Meeting No. 16, May 5, 2009.

27 *Ibid*.

The Subcommittee heard that Sunni clerics in Iran have been targeted for harassment and arrest.<sup>28</sup> According to Mr. Sharif Behruz, a member of the Democratic Party of Iranian Kurdistan, "... the establishment and creation of Shia Muslim mosques is heavily promoted and encouraged in non-Shia areas, like the Kurdish areas. However, the creation and building of Sunni Muslim mosques, especially in a city like Tehran, with a population of a million Sunnis, is prohibited in Iran".<sup>29</sup>

A terrorist attack was launched in Iran's southeastern Sistan - Baluchistan Province on the October 18, 2009, an attack which was condemned by the Canadian government. The two bombings were reported to have left five commanders of Iran's Islamic Revolutionary Guard Corps dead as well as injuring dozens more individuals. The insurgent group, Jundallah, claimed responsibility for the bombings. The Sistan-Baluchistan province is comprised of a majority ethnic Sunni population—Baluchis—who are a minority group in the wider country.

While all witnesses condemned this political violence, some pointed to the event as symptomatic of the deep frustrations caused by the regime's ongoing mistreatment of religious and ethnic minorities. Dr. Milani stated: "Some of the more radical elements of Shiism would not mind triggering or reopening old wounds in terms of Shiite-Sunni tensions." However, he also commented that this treatment was not exclusive to the Baluchi minority, but is also evident in the governing regime's treatment of Iran's ethnic Kurdish population, its Turks, Turkomans, and Arabic-speaking members of the Iranian population, "who are all minorities living in Iran's periphery, who have had their rights ignored in one way or another. Their fair share of the government budget, their right to celebrate their local culture, and their right to teach in their language have all been ignored." Dr. Milani remarked that "this combination of being an ethnic "other" and a religious "other", has made it so that these areas of the periphery are both ignored and now under virtual military clampdown by Iran's Islamic Revolutionary Guard Corps, particularly the Baluchistan region."<sup>30</sup>

In commenting on these tensions over the treatment of ethnic and religious minorities, Professor Akhavan drew a direct link between the failings in Iran's governance structures and the treatment of these groups by the government, pointing as well to the role of Iran's current governance practices in fomenting recent tensions between the minority groups in Iran and the majority. He argued that Iran (and the Persian Empire before it) had been a country that has tolerated a variety of religious faiths for hundreds and thousands of years, noting that the Jewish community is 4,000 years old, and that a democratic Iran would likely tolerate this mosaic of religious faiths and practices again. He stated that "it's the politicization of identity which creates these problems. A democratic Iran would not politicize identity. The Kurdish people, who are Sunni, want a democratic

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28 *Evidence*, Meeting No. 6, March 10, 2009.

29 *Evidence*, Meeting No. 12, April 21, 2009.

30 *Evidence*, Meeting No. 32, October 22, 2009.

Iran. The Baluch, who are in the border with Pakistan who are also Sunni, want a democratic Iran. Once one creates that separation of state and religion and puts an end to authoritarian rule and the use of hate-mongering as an instrument of power, many of these issues will be resolved.”<sup>31</sup>

Finally, Mr. Ahmed Batebi, Spokesperson for Human Rights Activists in Iran, testified as to the mistreatment of Darveshes, better known as Sufis, in the following terms:

The other case is about the *darvesh*. I don't know whether you are familiar with this or not. *Darvesh* refers to the Sufis. One hundred and three Sufis have been arrested, and 19 of them have been tried and have received an execution verdict.<sup>32</sup>

#### **iv. Within the Shia Majority**

Even religious figures belonging to the dominant Shiite Muslim faith have faced arrest and judicial proceedings when they have questioned official views and state authority. Describing the problem, Professor Akhavan stated:

There are more ayatollahs in prison today in Iran than there ever were under the secular government of the Shah. A special court was established in 1987 for the specific purpose of prosecuting dissident clergy. Ayatollah Montazeri, referred to by Ms. Tamas, who had issued a fatwa saying that the Bahá'ís had the rights of every other Iranian citizen, was supposed to be the successor to Ayatollah Khomeini. He's been under house arrest for the past 20 years.<sup>33</sup>

#### **2. The treatment of ethnic minorities**

As previously mentioned, Iran contains a genuine mosaic of various ethnic groups. Of a total population of approximately 70 million (Iran's 2006 census), Persians form the largest ethnic group, representing half of the country's population. The Azeris, Baluchis, and Kurds are among the largest ethnic groups considered to be minorities in Iran.

According to witnesses, the constitution of Iran protects certain rights of ethnic minorities and/or its members. Article 15 of the constitution states that the official language of Iran is Persian but provides that “the use of regional and tribal languages in the press and mass media, as well as for teaching of their literature in schools, is allowed in addition to Persian”. Moreover, Article 19 protects the rights of Iranians “whatever the ethnic group or tribe to which they belong” to enjoy equal rights.<sup>34</sup>

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31 *Evidence*, Meeting No. 34, October 29, 2009.

32 *Evidence*, Meeting No. 8, March 24, 2009.

33 *Evidence*, Meeting No. 3, February 26, 2009.

34 Islamic Republic of Iran Constitution, available at <http://www.iranonline.com/iran/iran-info/government/constitution.html>.

In practice, however, the level of enjoyment of such rights has been questioned by witnesses in their appearances before the Subcommittee. Mr. Behruz summed up the situation as follows: “Despite the façade of constitutional guarantees of equality and Iran’s deceptive international legal commitments, discrimination and repression continue for minority communities, who have been demanding greater respect for their cultural and political rights.”<sup>35</sup>

As previously discussed, the Subcommittee heard testimony on the difficulties experienced by Azeris, Baluchis and Kurds living in Iran. According to Mr. Joe Stork, Deputy Director of the Middle East and North Africa section of Human Rights Watch, ethnic minorities face discrimination, restraints on cultural and political activities, and, in some instances, persecution and prosecution on charges of threatening national security.<sup>36</sup>

With respect to specific minority groups, Mrs. Fakteh Zamani, President of the Association for Defence of Azerbaijani Political Prisoners in Iran, told the Subcommittee that Azeris face the following denial of their rights, despite being such a numerically prominent group, about 24% of Iran’s population<sup>37</sup>: they are denied education in their own language and denied access to means of transmission of their community’s cultural traditions and history.<sup>38</sup> Moreover, Mrs. Zamani described various instances of arrest, detention, sentencing and at least one occurrence of torture of Azerbaijanis who, through various peaceful activities, sought to defend and assert their linguistic rights.<sup>39</sup>

On the specific case of the Baluchis, Mrs. Zamani testified to the following:

What I have heard from Baluchis is that there is a special judge appointed by the government to try these cases. Confessions have been obtained under severe torture, and these people are tried in 10 to 15 minutes in their cells, without a prosecutor or a defence lawyer present. Just because of the special Baluchi situation, a judge shows up and asks a few questions of this tortured individual and sentences them to death. There are hundreds of Baluchis on death row.<sup>40</sup>

Further, echoing Dr. Milani’s sentiment about the marginalization of minorities in Iran’s periphery who are treated as ethnic and religious “others”, Mrs. Zamani told Subcommittee Members that many human rights violations against people who are ethnic

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35 *Evidence*, Meeting No. 12, April 21, 2009.

36 *Evidence*, Meeting No. 6, March 10, 2009.

37 CIA World Factbook, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ir.html>.

38 *Evidence*, Meeting No. 8, March 24, 2009.

39 *Ibid.*

40 *Ibid.*

minorities in Iran, especially those who do not live in central areas such as Tehran, go unreported and therefore, unnoticed. Resources are low and access to media is limited.<sup>41</sup>

Regarding Iran's Kurdish population, which constitutes approximately 7% of the population<sup>42</sup> and lives mainly in the west and northwest part of the country, the Subcommittee heard the following:

The eight-year war with Iraq in the 1980s and the emergency rule in the Kurdish areas in the last three decades has resulted in extrajudicial killings, forced evictions, resettlements, and destruction of homes and cities. Parents are banned from registering their babies with certain Kurdish names, while Persian and Islamic names are suggested and forced upon parents. The use of the Kurdish language and other national languages in the education system is prohibited.

[...]

The discriminatory *gozinesh*, or screening system, a selection procedure that requires prospective state officials, employees, and students to demonstrate allegiance to Islam and the Islamic Republic of Iran, denies Kurds equality in employment, education, and political participation.<sup>43</sup>

### **3. The treatment of activists, students, journalists and dissidents**

While there are many centres of power in Iran, it seems all societal actors who may pose a threat to the existing regime are treated with deep suspicion by Iranian authorities. Civil society and its various voices are regarded as such threats. Consequently, institutions and leaders of civil society are targets of various forms of governmental control, some of which clearly constitute human rights violations, especially civil and political rights.

Students, journalists, dissidents, labour union leaders and other activists are denied the right to freedom of association and freedom of expression. Again, "national security" is used as a justification for silencing dissent.<sup>44</sup>

Statistics and stories about specific instances of such human rights violations have been provided to the Subcommittee. Regarding journalists and newspapers, Mr. Batebi said:

First, let's talk about closing down the newspapers. In the last year, there were 29 cases. There were 16 cases of the firing of reporters, 26 cases of reporters who have been tried, 73 cases of reporters who were called to court or summoned, 21 cases of journalists who were tried and found guilty, and 17 cases of arrests of journalists and reporters.<sup>45</sup>

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41 Ibid.

42 CIA World Factbook, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ir.html>.

43 *Evidence*, Meeting No. 12, April 21, 2009.

44 *Evidence*, Meeting No. 6, March 10, 2009.

45 *Evidence*, Meeting No. 8, March 24, 2009.

The Subcommittee considered the disturbing case of Mrs. Zahra Kazemi to highlight how journalists can be mistreated in the hands of Iranian authorities. Her case also underscored the direct relevance of Iran's human rights policies and practices to Canada's foreign and consular policies. Mrs. Kazemi's son, Mr. Stephen Kazemi who testified before the Subcommittee stated: "My mother was a professional photojournalist. Through her art, she wanted to inform, connect with and educate people. She gave a voice to the people of those countries she focused on—she even gave them hope."<sup>46</sup> Mrs. Kazemi was a dual citizen of Iran and Canada. For the simple act of pursuing her job as a photojournalist, she was arrested by Iranian authorities and accused of being a spy following her attempt to document a protest in front of an Iranian jail. Mrs. Kazemi died in Iranian custody under suspicious circumstances. It was soon revealed that she had died as a result of torture. To date, no member or agent of the Iranian government has been charged for her murder.<sup>47</sup>

Regarding conditions facing students in Iran, the following figures were provided to the Subcommittee:

In 2007 there were more than 600 summons either to courts or to the university disciplinary committees for students who have used their right to freedom of expression, have written, have protested, or have presented grievances. So far this year there have been 155 arrests, 26 summons to courts, and 17 cases of imprisonment. In universities, there were 164 cases of summons, 76 expulsions, and 70 suspensions.<sup>48</sup>

It appears that the Iranian state's intolerance for group protests is so acute that it intervenes even in instances where protestors are actually demonstrating in support of government actions. Mr. Keith Rimstad, a campaigner for Amnesty International, stated that:

In one particular case in January, when students were protesting Israel's attacks against Gaza, one would assume that the government would not be opposed to this, but they in fact were because it was an independent action by students. The police came in, broke up the demonstration, and arrested a number of the students.<sup>49</sup>

Mr. Rimstad further explained:

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46 *Evidence*, Meeting No. 15, April 30, 2009.

47 *Ibid.*

48 *Evidence*, Meeting No. 24, June 9, 2009.

49 *Evidence*, Meeting No. 6, March 10, 2009.

So even though it's on an issue one would think the Government of Iran would be sympathetic to, they do act. That's specifically because any independent action in Iran by any part of civil society is seen to be a threat.<sup>50</sup>

The Subcommittee also heard from Mr. Batebi who described his personal experience as a student activist protesting peacefully against Iran's government. The Subcommittee considers his story to be both a telling example of the kind of repression existing in Iran and an inspiring story of resistance against such repression. Mr. Batebi described what he endured in the following way:

I was kept for 17 months in a small room by myself, and that room was no more than a washroom. This situation caused health problems. They took me twice for execution. In one case, I was taken for execution with a group of others. Of course, I was not executed. I was in the middle, with one man on the left and another on the right. They blindfolded us and forced us to stand on top of a chair, as if to hang us. They pulled my blindfold aside a bit so I could see what was happening to the other two. These were people who were imprisoned next to me in small cells. I saw their execution.

Once, for 72 hours they didn't let me sleep. They cut me and put salt in my wounds.<sup>51</sup>

The Subcommittee also heard stories of mistreatment of labour rights activists. Mr. Jared Genser, a law lecturer at the University of Pennsylvania, reported the following incident:

Finally, on February 18, 2009, two Iranian women labour rights activists, Sousan Azadi and Shiva Kheirabadi, were flogged inside the central prison of Sanandaj, the capital of the Iranian Kurdistan province, after having been convicted of participating in May Day celebrations. Azadi received 70 lashes and Kheirabadi 15 lashes. Iranian workers are struggling to form independent labour unions but face continuous state repression. The government and the judiciary have regularly abused the justice system to imprison and silence labour activists. These rights are guaranteed under article 22 of the ICCPR, and as a member of the International Labour Organization, Iran is obligated to respect and implement these rights.<sup>52</sup>

Finally, one last account illustrates the Iranian government's systemic policy of silencing civil society activists. Dr. Roya Boroumand, the Executive Director of the Abdorrahman Boroumand Foundation, told the Subcommittee about the situation of Nobel Peace Prize winner Shirin Ebadi, who had come before the Subcommittee to testify in 2008. Dr. Boroumand stated:

You may also have heard about the closure of the office of the Nobel Peace Prize winner Shirin Ebadi, but what you may not know is that Ebadi and lawyers in her NGO were part of a committee for healthy, free, and fair elections who had called in November 2008 for electoral reforms underlining the incompatibility of Iranian laws and practices with

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50 Ibid.

51 *Evidence*, Meeting No. 8, March 24, 2009.

52 *Evidence*, Meeting No. 6, March 10, 2009.

international standards. The government's particular sensitivity regarding those who criticize the electoral laws or promote the boycott of the elections doesn't always get the attention it deserves. That is why very few knew that the young Kurd, Shivan Qaderi, who was killed by the security forces, had actively promoted the boycott of the 2005 presidential elections. Similarly, scores of students punished for criticizing electoral laws and calling for boycotts or a referendum on the constitution are rarely mentioned, let alone supported.<sup>53</sup>

#### 4. The treatment of women

The situation regarding women's rights in Iran was also the subject of much discussion by witnesses who appeared before the Subcommittee. The overall portrait given by various witnesses suggests that the role of women in Iranian civil society has been evolving, but the attitude of the regime towards women has not. Iranian women were described as being increasingly active in the public sphere and as working towards greater respect for their rights and freedoms, notably the right to equality, which is a positive trend. However, both the way in which the legal system currently treats women and the response from the Iranian government to the Iranian women's rights movement are matters of serious concern.

According to Mr. Rimstad, women's rights have improved somewhat in recent years, but there is significant room for progress. He stated:

... since the Islamic revolution, the number of women in universities, for instance, has grown; certain laws, particularly discriminatory ones, have been changed—they still remain discriminatory, but they have improved—and, I would want to emphasize particularly, women activists themselves very bravely continue to press the government and the authorities, as well as men generally, to achieve greater rights.

We're still a long way from seeing a situation in which women's rights in Iran are good, but there is hope from the women's movement that as long as space is available, they can achieve better improvements over time. For instance, right now a petition campaign is going on to achieve a million signatures to remove further discriminatory laws. In such a context as Iran, it's an extremely brave thing for women activists to go out. Having said that, those who are leading the campaign find themselves being arrested and suppressed in a variety of ways. So I don't want to leave the illusion at all that the situation is good, but I don't want to not acknowledge the fact that there has been some improvement.<sup>54</sup>

There are still systemic obstacles preventing gender equality. According to Mr. Genser:

Women are denied equal rights in marriage, divorce, child custody, and inheritance. Evidence given by a woman in court is only worth half that given by a man, and a girl under the age of 13 can be forced to marry a much older man if her father permits.<sup>55</sup>

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53 *Evidence*, Meeting No. 24, June 9, 2009.

54 *Evidence*, Meeting No. 6, March 10, 2009.

55 *Ibid.*

Dr. Milani also commented on the dismantling of women's rights that occurred in the wake of the 1979 revolution, as Islamic law began to be applied to women. Similar to the other witnesses, he pointed out that in the subsequent decades women have not enjoyed the right to divorce, while men are permitted to have more than one wife. Moreover, custody laws pertaining to children were geared to be "more or less, in favour of men," as were inheritance laws.<sup>56</sup> When Mrs. Ebadi appeared before the Subcommittee she noted similar concerns regarding women's rights in Iran. She stated that, in Iran "the value of a woman's life is half of the value of a man's life."<sup>57</sup>

On the positive side, Dr. Milani also described how women in Iran have not accepted all of these abuses and changes, and have bravely challenged the status quo, standing up against these "structural inequalities" and certain elements of their treatment under legal and societal rules. One example he enumerated of women fighting and pushing back against infringements against their human rights concerned the age of marriage, which had been dropped to nine years of age for girls. The latter was eventually increased to fourteen. Dr. Milani stated that, "When the history of Iranian democracy and the Iranian human rights movement is written, I think we will realize and conclude that women were the most relentless champions. It was, to a great extent, the women's social networks created in the campaign for a million signatures that were used by the democratic opposition during the election to organize those massive, incredibly well-organized demonstrations, when three million came out."<sup>58</sup>

As stated by Mr. Rimstad however, other witnesses confirmed that leaders of women's rights NGOs have been arrested, and some have been summoned before courts and/or found guilty for exercising their rights to express themselves and organize.<sup>59</sup> The Subcommittee was told:

In 2008 the government escalated its crackdown very significantly and visibly, subjecting dozens of women to arbitrary detention, travel bans, and harassment.<sup>60</sup>

## **5. Persecution based on sexual orientation**

Mrs. Ebadi explained the situation facing gays and lesbians in Iran as follows:

It is a criminal act under our law to be gay or lesbian. If someone just mentions that they are a gay or lesbian, that is not against the law. They have to be considered to be acting as a lesbian or gay for it to be considered a criminal act. It is a very heavy punishment,

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56 *Evidence*, Meeting No. 32, October 22, 2009.

57 *Evidence*, Meeting No. 2 (39-2), March 6, 2008.

58 *Evidence*, Meeting No. 32, October 22, 2009.

59 *Evidence*, Meeting No. 8, March 24, 2009.

60 *Evidence*, Meeting No. 6, March 10, 2009.

especially for men, if they are gay. The penalty is execution. For women it is much less; it is one hundred lashes.<sup>61</sup>

In response to a question posed by Mr. Silva, Member of the Subcommittee, regarding public perceptions of the hanging of two young gay men in Iran Mrs. Ebadi responded that “in principle, the people of Iran are not in favour of this kind of reaction by the government.”

In a document presented to the Subcommittee by the Abdorrahman Boroumand Foundation entitled “Addressing Homophobia in Iran”, it notes that official statements made by the Iranian leadership publicly denying the existence of homosexuals in Iran “only exacerbate[s] the problems faced by Iranians with a non-conforming sexual orientation or gender identity.”<sup>62</sup> Further, the document states:

The authorities’ efforts to address the issue by providing certificates of mental disorder or encouraging sex change operations are neither a sign of tolerance nor helpful. While the state assistance to sex change operations is reserved to transsexuals, many homosexuals may resort to sex change operations in search of acceptance and to escape violence.<sup>63</sup>

In this document, the Abdorrahman Boroumand Foundation calls on the Iranian government to decriminalize homosexuality completely and provide equality of rights to sexual minorities as guaranteed under the *International Convention on Civil and Political Rights*, to which Iran is party.<sup>64</sup>

## **6. The death penalty for juveniles**

The final type of systemic human rights violations that was described to the Subcommittee involves the imposition of the death penalty on juveniles. Mr. Stork explained how the Iranian legal system deals with this issue:

Iranian law allows the death penalty for persons who have reached the age of puberty, which is defined as 15 for boys and nine for girls. In 2008 a known total of six persons were executed for crimes allegedly committed while under the age of 18, and since January 2005, Iran has been responsible for 26 of the 32 known executions of juvenile offenders worldwide.

These sentences, it should be noted, typically followed unfair trials, and the executions themselves often violated Iranian law, such as the failure to notify families and lawyers 48 hours in advance of the execution.<sup>65</sup>

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61 *Evidence*, Meeting No. 2 (39-2), March 6, 2008.

62 “Addressing Homophobia in Iran”, *The Abdorrahman Boroumand Foundation*, May 15, 2008.

63 *Ibid*

64 *Ibid*.

65 *Evidence*, Meeting No. 6, March 10, 2009.

Similar figures, though not exactly the same ones, were offered by other witnesses.<sup>66</sup> In addition, Mr. Batebi stated that there are eight other persons convicted of criminal offences as juveniles who are currently on death row.<sup>67</sup> When updating the Subcommittee on the post-June 12 election crackdown by government agents on street demonstrators, Mrs. Redman also referred to the issue of the treatment of juvenile offenders by the Iranian government. She noted in broad terms that Iran has the second highest rate of administration of the death penalty against convicted prisoners in the world, behind only China. More specifically, she told members that in early October 2009 “a young man was executed for a crime that he committed when he was under the age of 18. He was reportedly actually hung by the mother of the young man whom he had killed in a street fight.”<sup>68</sup>

## II. HUMAN RIGHTS IN IRAN: THE SUBCOMMITTEE’S OBSERVATIONS

### 1. Iran’s human rights obligations toward its population

#### i. Iran’s Treaty Obligations

According to witness testimony, the issue is not that new laws are required in Iran, it is that the laws that are already in place are not being respected. Many of Iran’s human rights abuses violate its own laws and Constitution. Further, all of the witnesses agreed that Iran is bound by a series of international treaties.<sup>69</sup> Iran is a party to the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), having ratified both treaties on June 24 1975. Examples of the rights that are guaranteed under the two treaties are: the right to freedom of opinion and expression (Art. 19 ICCPR); the right to life and the right not to be arbitrarily deprived thereof (Art. 6(1) ICCPR); the right of peaceful assembly (Art. 21 ICCPR); the right to freedom of association, “including the right to form and join trade unions for the protection of his interests” (Art. 22 ICCPR); the right of equality before the law and to enjoy the protection of the law without any discrimination “on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (Art. 26 ICCPR); and the right not to be subjected to “torture or to cruel, inhuman or degrading treatment or punishment” (Art. 7 ICCPR)—to name just a few.

Iran has also ratified other international human rights treaties that deal with more specific issues. It ratified the *Convention on the Elimination of Racial Discrimination* (CERD) on August 29 1968. This treaty prohibits State Parties from undertaking any act or practice of racial discrimination against persons, groups of persons or institutions and

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66 Ibid.

67 *Evidence*, Meeting No. 8, March 10, 2009.

68 *Evidence*, Meeting No. 33, October 27, 2009.

69 *Evidence*, Meeting No. 6, March 10, 2009.

seeks to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation (Art. 2(1) (a)).

In addition, Iran ratified the *Convention on the Rights of the Child* (CRC) in 1994. However, in ratifying the CRC, Iran made the following reservation: "The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the *Convention* that are incompatible with Islamic Laws and the international legislation in effect."<sup>70</sup> The Subcommittee notes that Finland, Germany, Ireland, the Netherlands, Norway, Portugal, Sweden, Denmark, Austria and Italy objected to the validity of this reservation, notably on the grounds of it being too broad and contrary to the spirit and purpose of the CRC.

The Subcommittee notes that human rights violations for which Iran bears responsibility involve social, economic and cultural rights as well as civil and political rights. Without giving more importance to one group of rights than the other, the Subcommittee stresses that violations of rights belonging to the latter category seem particularly widespread in Iran. Among the major categories of human rights abuses, the Subcommittee takes note in particular of repeated and widespread violations of the right to freedom of expression, freedom of association, freedom of religion, the right to be free from torture and other mistreatments, procedural guarantees of fairness in judicial proceedings, and the right not to be discriminated against on various grounds.

By comparing the list of human rights guarantees that Iran has agreed to protect through international treaties and domestic law against the evidence the Subcommittee received during its hearings, it is clear that the Iranian government is violating many of its international and domestic obligations.

## ii. Iran's Obligation to Respect, Protect and Promote Human Rights

There are three forms of obligations in relation to human rights that are generally considered to be international customary law. They include a state's obligation to respect, to protect, and to promote human rights. According to the UN Office of the High Commissioner for Human Rights:

The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.<sup>71</sup>

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70 United Nations Treaty Collection, "Convention on the Rights of the Child: New York, November 20, 1989," available at [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&lang=en#EndDec](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#EndDec).

71 Office of the High Commissioner for Human Rights, "What are Human Rights?" <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>.

The previous section and the extensive reporting documented by a variety of sources including NGOs, journalists, academics, and national governments show that human rights violations in Iran are serious, pervasive and systemic. Moreover, they display violations of the three levels of obligations just described. Iran's government and state agencies are often involved directly in the commission of human rights violations, thereby violating their obligation to respect human rights. They often respond to human rights violations through inaction or mock inquiries, thereby creating a climate of impunity, which constitutes a failure to protect human rights. They also fail to actively facilitate a culture of respect for human rights in the country, thereby violating Iran's obligation to promote human rights.

### **a) Failure of the obligation to respect human rights**

Violations of the rights of freedom, of assembly and association, and due process under the law, and the right not to be subjected to torture are all primarily committed through the activities of state agencies, as they control the apparatus of government and the use of force in society. Moreover, state agencies are involved in the violation of the right to a fair trial, the right to counsel, the right not to be discriminated against, the right to freedom of religion, and collective rights of a cultural or linguistic nature. Mr. Batebi elaborated on this issue in his appearance before the Subcommittee, by stating that:

The violation of human rights in Iran is systematically done by the government. The problem is not only the violation of human rights, but the laws that support the violation are also a huge problem. Since the Iranian judicial system uses sharia laws and Islamic rules, the violation of human rights is embedded within the law and within the constitution.<sup>72</sup>

When violations are committed by state agents, Iran's government bears direct responsibility for such violations. In certain cases, it is also likely that personal responsibility—criminal, civil or both—could be invoked.

### **b) Failure of the obligation to protect human rights—a record of impunity**

Iran fails to live up to its obligation to protect in two regards. First, because Iran's state agencies are so often involved in the human rights violations described above, Iran fails to protect the human rights of its citizens.

Second, Iran has failed to provide a satisfactory response to human rights abuses, either through correction of the practice in question or through sanction of the abuser. Throughout the Subcommittee's hearings, it became clear that human rights violations in Iran often take place with impunity. Such impunity has two forms. For certain types of violations, the practices in question are permitted under domestic law. In other words, the law actually allows for such practices. Moreover, in other instances, while the practice may

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72 *Evidence*, Meeting No. 8, March 24, 2009.

not be permitted under the law and/or is expressly prohibited, the state institutions and mechanisms of accountability that are in place are too weak to provide a genuine remedy to victims or sanction for abusers. Mr. Rimstad explained this to the Subcommittee in his own terms:

Impunity for human rights violations is almost absolute. Amnesty's concerns go right back to the beginning of the Islamic Republic, particularly the period in 1988 when thousands of political prisoners were executed and prisons were cleared. These were people who were arrested in the early years of the Islamic Republic. Of course, in the case of Zahra Kazemi, although we did see some progress in that at least charges were filed against lower-level officials, the end result was that one person eventually faced court and he was found not guilty.<sup>73</sup>

### **c) Failure of the obligation to promote human rights**

When a government fails to respond to violations of human rights in an appropriate manner, and in fact repeatedly participates in or condones such human rights violations it becomes difficult to imagine that it would have discharged its obligation to promote a general culture of respect for human rights throughout the country.

### **iii. The Iranian Government's Responsibility**

All witnesses before the Subcommittee have argued that the government leadership in Iran and its agents are responsible for violating the human rights of its citizenry. However, questions remain as to which specific actors or bodies within the Iranian leadership circle are ultimately responsible.

Iran's political structure is both complex and unique, combining elected and non-elected officials under the close supervisor of the clerical leadership.<sup>74</sup> Dr. Mojtaba Mahdavi, a political science professor at the University of Alberta, explained to the Subcommittee that, "It's a combination of totalitarian and authoritarian, with some quasi-democratic elements in it."<sup>75</sup> At the apex of the structure is the Supreme Leader, Ayatollah Ali Khamenei.<sup>76</sup> He has the authority to appoint key figures, such as the head of the judiciary, six members of the Guardian Council, the commanders of all the armed forces, Friday prayer leaders and the head of the state-run radio and TV. He is chosen by the Assembly of Experts. The Supreme Leader also has decision-making authority and extensive influence on security, defence and important foreign affairs issues, and he controls the armed forces.

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73 *Evidence*, Meeting No. 6, March 10, 2009.

74 See [http://news.bbc.co.uk/2/shared/spl/hi/middle\\_east/03/iran\\_power/html/](http://news.bbc.co.uk/2/shared/spl/hi/middle_east/03/iran_power/html/).

75 *Evidence*, Meeting No. 33, October 27, 2009.

76 *Ibid*.

The President is prominent, but not supreme. The President heads the executive branch of government and presides over the cabinet. Although candidates for presidential office do campaign against each other in national elections, it should be noted that even opposition candidates are strictly vetted by the Guardian Council before they are allowed to enter the race. According to the Economist Intelligence Unit, the Council “is able to reject without right of appeal those it deems to be unqualified or of unsuitable character. This power allows conservatives enormous influence in elections.”<sup>77</sup> It is the opinion of the Subcommittee that despite the exercise of holding contested elections, one could hardly say that any part of Iran’s totalitarian regime is genuinely democratic.

Given their positions of authority in Iranian society and government, Iran’s highest officials—especially its President, Mahmoud Ahmadinejad, and its Supreme Leader, Ayatollah Khamenei, and increasingly Iran’s Islamic Revolutionary Guard Corps share responsibility for the human rights situation in Iran, having contributed to the creation of a climate in which human rights have been sacrificed to political expediency and one in which abuses go unpunished.

As previously mentioned, another key institution is the Guardian Council. It is a mixed institution, made up of six Islamic clerics appointed by the Supreme Leader, and six lay jurists who are designated by the judiciary and confirmed by Parliament. Its powers are important: “The council has to approve all bills passed by parliament and has the power to veto them if it considers them inconsistent with the constitution and Islamic law. The council can also bar candidates from standing in elections to parliament, the presidency and the Assembly of Experts.”<sup>78</sup>

While Iran’s judiciary is an institution in which more moderate figures have been able to find a place<sup>79</sup>, it remains one of Iran’s weakest institutions. Even though the separation of powers exists on paper, it is not applied in practice. According to Dr. Hassan-Yari, the judiciary is financially dependent on the executive and legislative authorities. This puts judges under extreme external pressure, denying Iranian citizens an independent judiciary as a result. There is also constant interference by members of the executive authority in the legal system, in such forms as allowing police to exert more power than what is accorded them under the law.<sup>80</sup>

Iran’s state security agencies are also extremely important societal institutions, both in terms of their responsibilities and connections within government, but also in terms of the expansive scope of their involvement in society, including in the Iranian economy. Iran’s Islamic Revolutionary Guard Corps (IRGC), which is separate from the country’s regular armed forces, is directly subordinate to the Supreme Leader of Iran, presently

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77 “Country Profile 2008: Iran”, *Economist Intelligence Unit*.

78 See [http://news.bbc.co.uk/2/shared/spl/hi/middle\\_east/03/iran\\_power/html/guardian\\_council.stm](http://news.bbc.co.uk/2/shared/spl/hi/middle_east/03/iran_power/html/guardian_council.stm).

79 *Evidence*, Meeting No. 6, March 10, 2009.

80 *Evidence*, Meeting No. 25, June 11, 2009.

Ayatollah Khamenei. The IRGC was formed after the 1979 revolution in order to safeguard the revolution, the leaders of the Islamic Republic, and its institutions. They are quite literally guardians of the status quo system of governance and power distribution in Iranian society. It is very important to note that the IRGC's role is not just a security one, however, as it has grown to play a prominent economic role, with key holdings. This gives its members significant influence over most aspects of Iranian society, which gives them enormous leverage and an expanding power base within the Iranian governing system. Professor Akhavan told the Subcommittee as much in October, describing how "the Revolutionary Guards acquired the telecommunications company in Iran and they acquired one of the largest iron ore mines in the Middle East." He, therefore, suggested that Iran is "moving towards a military state that is dominating all the resources of the country for its own benefit. They have a network of patronage, which keeps people happy."<sup>81</sup>

Underneath the control of Iran's Islamic Revolutionary Guard Corps is the large volunteer force known as the Basij, which has played a prominent role in the recent crackdown against Iranians protesting the result of the June 12 presidential election. The Basij are a pro-government militia, often described as a "paramilitary" group, and also a social network with strong ties to the hardline elements of the regime. Professor Akhavan told Subcommittee Members that, "The Basij are clearly not a renegade force. I would compare them to the Nazi Brownshirts. They are a security force composed of plain-clothes thugs."<sup>82</sup> Despite the fact that the Basij militia are often described as a voluntary force, Professor Akhavan said that they are paid by some estimations \$200 per day to conduct such disruptions and intimidation against ordinary Iranians.

It should be noted that witnesses before the Subcommittee did not generally discuss the allocation of responsibility for the broad based human rights violations that have been described. Witness testimony on responsibility for abuses has by and large dealt with the question of incitement to genocide, explored in the next part of this report, as well as with responsibility for particular incidents, such as the crackdown on post-election demonstrations, which is addressed in the final section of this report.

## **2. Canada's Role in Engaging Iran on its Human Rights Violations**

Although diplomatic relations between Canada and the Islamic Republic of Iran were re-established in 1996, successive Canadian governments have gradually limited this engagement in reaction to the actions of the Iranian government. Officials from DFAIT told the Subcommittee that Canada instituted a Controlled Engagement Policy in 1996, due to the Iranian government's opposition at that time to the Middle East Peace Process, its support for groups engaged in terrorist activities in the region, its poor human rights record, and its nuclear program. In May 2005, Canada further tightened this policy, "as a

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81 *Evidence*, Meeting No. 34, October 29, 2009. .

82 *Ibid.*

result of Iran's failure to address the murder of Canadian photojournalist Zahra Kazemi."<sup>83</sup> Canada's diplomatic contacts with Iran were subsequently limited at first to the discussion of three issues: the human rights situation in Iran, Iran's nuclear program and the case of Mrs. Zahra Kazemi, and other consular cases. A fourth topic—regional security issues—was added in 2008, given Iran's important role and activities in the West Bank and Gaza Strip, Iraq, and Afghanistan. Mr. McLaren from DFAIT explained to Members that Canada's Controlled Engagement Policy means that "Iran is not permitted to open consulates in Canada, there are no direct air links to Canada and export controls are applied to sensitive goods. All programs of cooperation with the Iranian government were also halted."<sup>84</sup> Moreover, trade promotion activities in Iran have been terminated including those undertaken by Export Development Canada.

In their appearance before the Subcommittee, departmental officials expressed Canada's "serious concerns regarding the state of human rights in the Islamic Republic of Iran", and noted that Canada has been a consistent and outspoken proponent for improvements in the human rights situation in Iran. Mr. McLaren pointed to the example of Canada's Minister of Foreign Affairs, the Honourable Lawrence Cannon, leading a walk-out of the Canadian delegation during the September 2009 speech of Iranian President Mahmoud Ahmadinejad before the United Nations General Assembly, "in response to his ongoing and inflammatory denial of the Holocaust, his antagonism and hostility towards the people of Israel, and his complete disdain for the human rights of the Iranian people."<sup>85</sup>

Mr. McLaren noted that for six consecutive years, Canada has "spearheaded" resolutions on the Situation of Human Rights in Iran which were successfully adopted at the UN General Assembly. These resolutions have condemned abuses of human rights in Iran and outlined specific actions to be taken to rectify the situation on the part of the Iranian government. Canada's initiatives, statements, and resolutions at the UN, including those made in the General Assembly and at the Human Rights Council, have also advocated the need for Iran to fully respect the rights of its Bahá'í citizens. Although these resolutions do send a signal to Iran that such violations are of grave concern to the international community, and ensure that human rights issues are continuously debated by member states on the international policy agenda while also forcing the Iranian government to respond to these statements of international opinion, witnesses before the Subcommittee argued that although these actions are clearly helpful and noble, Canada could do much more—the Subcommittee agrees.

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83 *Evidence*, Meeting No. 31, October 20, 2009.

84 *Ibid.*

85 *Ibid.*

### **i. Continue to Support Iranians in their Pursuit of an Open and Just Iran**

The appearance and testimony of Mr. Batebi, who was depicted on the cover of the July 13 1999 Economist magazine holding up the bloodied shirt of his fallen comrade during the repression of the Student Uprising in Iran, was striking for Subcommittee Members. He described the severe beatings, threats, humiliation and mock executions he had endured while imprisoned. In general, witnesses before the Subcommittee advised that Canada must continue to support Iranians fighting for their rights and must also hold Iranian officials accountable for their actions.

Dr. Boroumand first advised the Subcommittee that any kind of Canadian support for Iranian activists must have a long-term focus. She explained:

Iranians who promote universal values rely on your support. Their advocacy is undermined and their morale affected if they feel that the human rights community and democratic governments do not uphold international standards. We do have the same rights and the same needs.<sup>86</sup>

She suggested that Canada focus on the “lesser-known activists” or those who are in remote regions where their work is more challenging and dangerous.<sup>87</sup> Mr. Genser further advocated the need for Canada, and especially Parliament, to provide financial and moral support for Iranian-Canadian and Iranian groups that document and report on human rights abuses committed by the Iranian regime.<sup>88</sup> Even reputable international human rights organizations like Human Rights Watch have been unable to enter Iran and conduct research. Its representative, Mr. Stork, appeared before the Subcommittee and recommended that the Government of Canada publicly urge Iran to grant access to organizations such as his, Amnesty International, and others.<sup>89</sup>

Dr. Boroumand also stressed the importance of supporting exiled activists and journalists. According to the witness, Iran has the tendency to exile dissidents in order to prevent their views from gaining hold within Iranian society. However, by providing these exiled activists and journalists with the tools they need to continue their work, it will make their work more effective and hopefully contribute to changes in Iran’s policies.<sup>90</sup>

According to Professor Akhavan, the state’s renewed attempts to crush civil society have revealed the desperation of Iranian government hardliners who are recognising that “the demographics of Iranian society are on the side of openness and engagement with

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86 *Evidence*, Meeting No. 24, June 9, 2009.

87 *Ibid.*

88 *Evidence*, Meeting No. 6, March 10, 2009.

89 *Ibid.*

90 *Evidence*, Meeting No. 24, June 9, 2009.

the international community.”<sup>91</sup> Although the Subcommittee heard this specific testimony from Professor Akhavan during his first appearance in front of the Subcommittee before the Iranian presidential election, it became clear to Canadians and the international community as a whole, that government crackdowns were still very much a tool employed by the state against any uprisings or protests in the country.

Dr. Boroumand insisted that Canada draw attention to these crackdowns as well as the triggers that caused the protests or dissident activity in the first place. She recommended that Canada should:

... move the debate to Iran's reason for arresting activists. Focus on laws related to the right to create association and promote ideas and laws on political parties and elections. Focus on excluded Iranians, including practising Muslims. Remind the Islamic republic that the reason for arresting a human rights defender is not due to criminal activities, but it is an effort to hide their despicable record and the Iranian people's view. Don't let the Islamic republic call the shots on what the international community can support and what it cannot.<sup>92</sup>

According to Professor Akhavan, actions such as these will help isolate the hardline elements in the Iranian government. By empowering Iran's civil society and supporting those who want to bring about a democratic transformation in Iran, the message on behalf of Canada and the international community will be clear—Iran's atrocities “will exact a price.”<sup>93</sup> However, when officials from DFAIT appeared before the Subcommittee in October 2009, Mr. McLaren told Members that, “We do not have active programs working with civil society in Iran, so we have not worked with women's groups and labour groups or others because we don't have resources for that.” He noted, however, that Canada does consistently raise these rights issues in any discussions had with Iranian government officials.

#### **RECOMMENDATION 1**

**The Subcommittee recommends that the Government of Canada continue to provide moral support and should increase, if possible, its financial support for Canadian and Iranian civil society organizations and other human rights groups that document and report on human rights abuses committed by the Iranian regime.**

#### **RECOMMENDATION 2**

**The Subcommittee recommends that the Government of Canada provide moral and diplomatic support to the democratic movement in Iran.**

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91 *Evidence*, Meeting No. 3, February 26, 2009.

92 *Evidence*, Meeting No. 24, June 9, 2009.

93 *Evidence*, Meeting No. 3, February 26, 2009.

### **RECOMMENDATION 3**

**The Subcommittee recommends that the Government of Canada demand, at every appropriate opportunity, that the Iranian government grant access to international human rights organizations within its borders and allow domestic human rights organizations to operate without restriction or harassment.**

### **RECOMMENDATION 4**

**The Subcommittee recommends that the Government of Canada consider funding a research chair at a Canadian university dedicated to the study of Canadian-Iranian relations, including the human rights situation in Iran.**

### **RECOMMENDATION 5**

**The Subcommittee recommends that the Government of Canada encourage Radio Canada International to consider programming in Farsi over its worldwide shortwave service, over conventional AM/FM broadcasting in the Gulf region, and over the Internet.**

### **RECOMMENDATION 6**

**The Subcommittee recommends that the Government of Canada take appropriate action to ensure that Iranian foreign offices, bureaus or media outlets in Canada are not used by the Iranian regime as a source of threat and intimidation of the Iranian Diaspora in Canada.**

#### **ii. Target The Individuals Responsible For Human Rights Abuses**

One witness in particular suggested that Canada could use the tools available in its immigration and visa policies as a means to both communicate its condemnation of human rights violations that are taking place in Iran and to ensure that high-ranking members of the governing regime and members of its powerful state security agencies are not able to find direct or indirect support from within this country.

When officials from DFAIT appeared before the Subcommittee, Members questioned them regarding the former First Vice-President of Iran's private visit to Canada earlier in the year. Members inquired as to why this visit had been permitted, given that Canada has adopted an official Controlled Engagement Policy in its dealings with the Iranian government. Mr. McLaren (DFAIT) explained that, "Iran's vice-president applied for a visa to enter Canada. He qualified under the provisions of entry to Canada. He had no meetings with any member of the Canadian government. ... He qualified under our entry rules as any other citizen. There is nothing in the controlled engagement policy that talks

about visas or preventing people who have legitimate access to Canada from entering.”<sup>94</sup> Other witnesses suggested, however, that Canada may want to take a closer look at the granting of visas permitting entry to Canada, even in the case of private visits, when such visits involve influential members of the Iranian government. Professor Akhavan told Subcommittee Members that:

We know that the deputy president to Mr. Ahmadinejad, Mr. Mashaei, was in Canada in March of this year and he met with business leaders in Toronto and other cities. So this is an important place for Iran, which is also why there are so many informants and agents in this country, many of whom I've come to know. All of this is to say that we should take very seriously the leverage that Canada has.<sup>95</sup>

He went on to suggest that the Government of Canada could also look at possible changes to the *Immigration and Refugee Protection Act* that would declare members of Iran's Islamic Revolutionary Guard Corps and Basij militia inadmissible to Canada. He stated that, “There is no reason that any of the members of these security forces should be allowed into Canada when they've been responsible for so many crimes.”<sup>96</sup> While such action would require careful research and intelligence gathering to ensure that innocent Iranians are not incorrectly targeted, the benefit may justify any challenges that would be encountered in implementation.

In his first appearance before the Subcommittee, Professor Akhavan argued that Canada can go beyond rhetorical condemnation of the Iranian government's human rights violations, and move to adopt more coercive policies, including, possibly, targeted sanctions. He suggested the following approach:

it may be possible for Canada to take the lead in pursuing a policy of targeted sanctions, whether we're speaking about travel bans, asset freezes, or judicial measures to isolate those individuals who are resorting to human rights violations in order to remain in power, so that those elements are isolated without isolating the Iranian people as a whole. For the most part, they want nothing to do with this sort of hate-mongering.<sup>97</sup>

Many witnesses expressed frustration to the Subcommittee that individuals responsible for the Iranian government's nuclear program have had United Nations Security Council sanctions targeted against them, while those who are responsible for committing and inciting human rights violations within Iran are not given the same treatment. There is an overall sentiment among human rights activists that the nuclear issue has been overshadowing human rights issues in Iran for quite some time. Some have even argued that this could be the very reason why Iran has been manipulating the intentions of its nuclear program on the international stage, as a means of distracting the international community from focusing instead on its internal activities. The Subcommittee

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94 *Evidence*, Meeting No. 31, October 20, 2009.

95 *Evidence*, Meeting No. 34, October 29, 2009.

96 *Ibid.*

97 *Evidence*, Meeting No. 3, February 26, 2009.

believes that the two subjects are both extremely important and must be equally and effectively dealt with by the international community.

However, Dr. Mahdavi articulated the challenges that would be involved in implementing targeted sanctions against specific individuals and organizations in Iran, including Iran's Islamic Revolutionary Guard Corps, its companies and the financial resources that support its members. In response to a question on the use of such sanctions to apply pressure against those who commit or condone human rights abuses in Iran, he asked, "What source of reliable information do we have to get this kind of information and to be really targeted...?" Dr. Mahdavi did acknowledge, however, that if western governments were able to "find, perhaps, specific names or institutions with really really reliable information, this might have some sort of positive impact on Iran's democratic movement."<sup>98</sup>

#### **RECOMMENDATION 7**

**The Subcommittee recommends that, in communicating its condemnation of the human rights violations of the Iranian regime against its own people, the Government of Canada:**

- **Use all available tools, already authorized under Canada's existing immigration and visa legislation, to ensure that high-ranking members of the regime are not able to access direct or indirect support from within Canadian territory.**
- **Reduce high-level interaction with Iranian Government officials and make any invitations extended to Iranian officials conditional upon effective actions taken by the Iranian government to improve the human rights situation in Iran.**

#### **RECOMMENDATION 8**

**The Subcommittee recommends that the Government of Canada, in communicating its condemnation of the human rights violations perpetrated by members of Iran's state security agencies against the Iranian people, use all available tools, authorized by existing immigration and visa policies and legislation, to deny entry to Canada to members of Iran's security agencies, including members of Iran's Islamic Revolutionary Guard Corps and the Basij militia.**

#### **RECOMMENDATION 9**

**The Subcommittee recommends that the Government of Canada ensure sufficient resources are available to the Department of Justice, the Canada Border Services Agency, the Canadian Security**

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98 *Evidence*, Meeting No. 33, October 27, 2009.

**Intelligence Service, and the Royal Canadian Mounted Police to ensure that they are able to make accurate decisions related to recommendations 7 and 8.**

## **RECOMMENDATION 10**

**The Subcommittee recommends that the Government of Canada institute targeted sanctions, including travel bans and asset freezes, against those individuals within the Iranian government and state security forces who are known to have committed human rights violations.**

### **iii. Use a Multilateral Approach**

According to the witnesses who appeared before the Subcommittee, the Iranian government can still be affected, at least to some degree, by international opinion. Mr. Stork explained that, “particularly when a coalition of states can be assembled that actually manages to pass the [UN] resolution, indeed they care.”<sup>99</sup> Moreover, in the context of Canadian policies and diplomacy, witnesses argued that because Canada, for example, is among other things the second largest destination for Iranian emigrants (after Dubai), Canada itself has “considerable leverage” to apply pressure on the regime.<sup>100</sup>

Unfortunately, a polarised atmosphere has been created within the international community with respect to Iran’s human rights record. This has politicized all discussions of the issue, and has made most diplomatic engagements towards the country limited and challenging. Professor Akhavan’s statement below describes the mindset of one of the sides of this polarized debate. He stated:

Part of the rhetoric of Iran is that the human rights record of Iran is fine, but that western countries under the influence of American and Zionist circles are using this as an issue to denounce the Islamic republic and the sovereignty of the Iranian people.<sup>101</sup>

Witnesses told the Subcommittee that the current regime in Iran has a surprisingly large number of supporters in South America, the Caribbean, Africa and Asia, and has even gone so far as to grant smaller countries such as the Solomon Islands aid packages in order to guarantee a favourable vote at the UN. As Mr. Genser explained, some of the countries supporting Iran would not usually be considered a part of the “solidarity of oppressors” as described by Mr. Stork. Mr. Genser used South Africa as an example. Even though the country has a tremendous recent history of having stood up and achieved reconciliation after apartheid, its record of supporting other oppressed people since becoming free has, according to Mr. Genser, been “pretty terrible.”<sup>102</sup> South Africa, he

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99 *Evidence*, Meeting No. 6, March 10, 2009.

100 *Evidence*, Meeting No. 3, February 26, 2009.

101 *Ibid.*

102 *Evidence*, Meeting No. 6, March 10, 2009.

argued, has stood in support of the Burmese junta and Mugabe in Zimbabwe—and this, he argues, is because of this solidarity among developing countries or more broadly the global debate over the powerful versus the powerless.

Moreover, a neo-colonialist interpretation has often been used to explain the international debate on Iran’s human rights record to domestic audiences, as state figures in Iran accuse western countries of trying to put “pressure on Third World and developing countries” to change their systems.<sup>103</sup>

At the same time, the Subcommittee believes that the human rights situation in Iran must be kept on the international agenda. Moreover, the Government of Canada should make active interventions regarding the more egregious violations through diplomatic activities at the UN Human Rights Council and General Assembly, even perhaps at the Commonwealth Secretariat’s human rights unit, as suggested by one witness.<sup>104</sup> The government could also lobby the Human Rights Council for the return of country-specific rapporteurs, a position which has been eliminated.

#### **RECOMMENDATION 11**

**The Subcommittee recommends that the Government of Canada continue to display public disapproval of the Iranian regime and its leadership and continue to make active interventions during any bilateral meetings with Iranian government officials as well as at the United Nations Human Rights Council, the United Nations General Assembly and other international organisations regarding Iran’s poor human rights record.**

#### **RECOMMENDATION 12**

**The Subcommittee recommends that the Government of Canada work multilaterally with other member states of the United Nations Human Rights Council to re-establish a position for a country-specific rapporteur on human rights in Iran.**

#### **iv. End State Immunity for Individuals Responsible for Crimes Against Humanity**

A number of witnesses who appeared before the Subcommittee expressed frustration regarding cases where Canadian citizens who have been tortured, or who have loved ones who have been tortured and killed by another state, cannot seek justice through the Canadian court system. The *State Immunity Act* is the law that prevents these cases from being heard and has caused the UN Committee Against Torture, which is

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103 Ibid.

104 *Evidence*, Meeting No. 3, February 26, 2009.

responsible for monitoring the implementation of the *Convention Against Torture*, to find Canada in breach of its international obligations as a signatory to the *Convention*.

State immunity is based on state sovereignty, a fundamental principle of international law and the UN Charter. This principle is meant to prevent states from interfering in each other's internal affairs. As a result, state immunity generally prevents the courts of one nation from sitting in judgment of another country's official or "sovereign" actions.<sup>105</sup>

When its *State Immunity Act* was passed in 1982, Canada took a "restrictive" approach to immunity. While it acknowledged that foreign states and officials could not be immune from everything, this approach was mostly targeted at commercial activities. Mrs. Jayne Stoyles, Executive Director of the Canadian Centre for International Justice, explained to the Subcommittee that:

Although the *State Immunity Act* begins with the presumption that foreign governments are immune in Canadian courts, the act then sets out exceptions for which immunity will not be granted. For example, foreign states are not immune from civil liability for commercial activities, nor are they immune from any death, bodily injury, or property damage that occurs in Canada. These exceptions apply because the underlying activities are not deemed to be sovereign in nature.<sup>106</sup>

According to the same witness, the international community now considers torture an "act that is not appropriate for any sovereign to undertake."<sup>107</sup> Mrs. Stoyles argued that under international law, the prevention of torture is paramount and is considered an international norm, or, binding on all nations. Along with many of the Subcommittee's other witnesses, she stated that under no circumstances should the act of torture be immunised.<sup>108</sup>

Having ratified the *UN Convention Against Torture*, according to Article 14, Canada shall:

... ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.<sup>109</sup>

Witnesses mentioned a few high profile torture cases that have been dismissed by Canadian courts on the basis of state immunity. In 2004, Mr. Houshang Bouzari accused Iranian officials of torturing him while he was detained in an Iranian jail for refusing to

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105 *Evidence*, Meeting No. 15, April 30, 2009.

106 *Ibid.*

107 *Ibid.*

108 *Ibid.*

109 This Convention is available at: <http://www.hrweb.org/legal/cat.html>.

accept a bribe from the Iranian President's brother while working for one of the country's top oil companies. His case was dismissed by Ontario courts on the basis of immunity even though the case could have been dismissed based on jurisdiction since Mr. Bouzari was not a resident of Ontario until he fled Iran following his release.<sup>110</sup> Still, the dismissal based on immunity grounds set a precedent.

Following the dismissal of Mr. Bouzari's case, the UN Committee Against Torture conducted a review of Canada's compliance with the treaty. According to experts who appeared before the Subcommittee, this UN Committee rejected Canada's argument that Article 14 is limited to compensation for victims tortured within its own borders. Rather the UN Committee was clear that Article 14 requires the provision of a civil remedy for all victims of torture, whether the torture occurred at home or abroad and urged Canada to reconsider its position. This would mean amending the *State Immunity Act*.<sup>111</sup>

Unfortunately, according to witnesses, the dismissal of Mr. Bouzari's case set a precedent for other claims including the case of Mr. Maher Arar. His lawsuits against the governments of Syria and Jordan were also dismissed on immunity grounds.<sup>112</sup>

In the case of Mrs Zahra Kazemi, her family took her case to Iran. Iranian government whistleblowers have revealed that she did die as a result of torture, which raises serious and troubling questions regarding Iran's investigation of what happened in the prison. However, no one was charged for her murder, which has left the Kazemi family still searching for justice. The case brought by the Kazemi family is now before Quebec courts and, according to Mr. Kurt Johnson, a lawyer with Irving Mitchell Kalichman, it will face no jurisdictional restrictions as Mrs. Kazemi had been a Quebec resident since 1993. It remains to be seen what the judgement will be. Witnesses who appeared before the Subcommittee expressed concern that another family will be denied justice due to the *State Immunity Act*. Further, if the Kazemi case is dismissed based on immunity grounds, there is a fear that this will cause Canadian courts to permanently shut down any future possibility for Canadian survivors of torture to seek redress.<sup>113</sup>

Mr. Mathieu Bouchard, also a lawyer with Irving Mitchell Kalichman, explained to the Subcommittee how domestic laws in common-law countries differ from the European continental legal regime with regards to civil and criminal charges being laid against foreign officials. These differences subsequently lead to dissimilar domestic applications of international laws:

We have here the common law system, where in criminal cases the crown prosecutes the criminals. In the continental legal system, private parties can join the prosecution and claim civil damages. That's what they call the *partie civile* in France. So it is possible in

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110 *Evidence*, Meeting No. 15, April 30, 2009.

111 Ibid.

112 Ibid.

113 Ibid.

those European countries for a victim of torture to actually join the prosecution and ask for compensation against foreign officials, whereas, here, in Britain, and in common law countries we don't have that possibility.<sup>114</sup>

Dr. François Larocque, a Professor of Law at the University of Ottawa, noted that although the United States has allowed exceptions in its state immunity legislation, this is not the approach he would recommend for Canada. The U.S. allows for its citizens to file lawsuits only against foreign officials from the countries on its “terror list” (i.e. state sponsors of terrorism). According to Dr. Larocque this is both too restrictive and problematic. For instance, North Korea, Iraq and Libya are no longer on that list since diplomatic relations have been normalised between both countries. Lawsuits can now only be brought against officials from the four remaining countries on the list: Iran, Sudan, Syria and Cuba. At the same time, only U.S. Citizens can make these civil claims, denying permanent residents the same justice.<sup>115</sup>

Dr. Larocque and the other expert witnesses who appeared before the Subcommittee recommended that Canada should completely remove immunity for gross violations of international law from its *State Immunity Act*. On the other hand critics of this recommendation cite the potential damage this could have on Canada’s bilateral and multilateral diplomatic and trade relations. They also fear that this course of action would “open the floodgates” allowing victims of torture from around the world to seek refuge in Canada to enable them to file suits against foreign officials in pursuit of compensation.<sup>116</sup>

However, as Mrs Stoyles pointed out, in terms of diplomatic relations, the cases being mentioned here are civil cases between an individual or family in Canada and foreign officials abroad, not criminal cases with the Government of Canada prosecuting officials of another country. Moreover, she argued that the Canadian judicial system has enough checks and balances to sort through cases and follow through with those that have merit. She stated:

And as I said, there's a two-part test: it has to have a real and substantial connection to Canada, and in fact this has to be the best forum in which to bring the case.<sup>117</sup>

On November 26 2009, Liberal Member of Parliament (MP) Irwin Cotler introduced private member’s Bill C-483 with the support of members of all parties (seconded by Conservative member Scott Reid, Bloc Québécois member Francine Lalonde and New Democratic Party (NDP) member Paul Dewar) that would amend the *State Immunity Act* to allow Canadian victims of torture, crimes against humanity and other international crimes to sue in Canadian courts the foreign governments and officials that perpetrate these gross human rights violations.

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114 Ibid.

115 Ibid.

116 Ibid.

117 Ibid.

Bill C-483 takes account of the recommendations and concerns of the expert witness testimony that appeared before the Subcommittee. Accordingly, the Bill includes significant protection for countries with fair and impartial justice systems requiring that victims invoke and exhaust all domestic remedies in these countries before filing lawsuits. Canada therefore respects its international relationships and defers to the judicial systems of states that provide justice to victims. Moreover, as expert witness Jane Stoyles put it, the jurisdictional checks and balances of the common-law judicial system already limit the application of the amendment to those cases with a “real and substantial connection” to Canada and where Canada is the most convenient forum.<sup>118</sup>

### **RECOMMENDATION 13**

**The Subcommittee recommends that the Government of Canada completely remove immunity for foreign governmental officials in cases of gross violations of international human rights law, including torture, from the *State Immunity Act* allowing Canadians who are victims of such human rights violations judicial remedy within Canada’s domestic legal system.**

## **III. IRAN AND INTERNATIONAL PEACE AND SECURITY: SUMMARY OF EVIDENCE**

The Subcommittee heard testimony suggesting that there are external linkages that can be drawn with respect to Iran’s record on international human rights. Witnesses argued that the external dimensions of Iran’s human rights related policies that merit further examination include Iran’s support for various terrorist organizations, its belligerent stance towards the State of Israel, and the possible intentions of its nuclear program.

### **1. Iran’s Sponsorship of Terrorist Groups<sup>119</sup>**

The Subcommittee heard from a number of witnesses who spoke candidly about Iran’s support for terrorist groups that operate in other countries, most notably Hamas and

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118 Ibid.

119 The Subcommittee would like to note that in early November 2009, it was reported in the media that the Israeli military had intercepted a large shipment of weapons. One of these reports summarized that, “Israel has said the cargo ship its troops seized off the coast of Cyprus was carrying 500 tons of Iranian-made weapons for Lebanese Hezbollah militants. The ship had dozens of containers with Iranian markings on it.” The news report noted that, “Both Iran and Hezbollah have denied the Israeli claims.” It also wrote that, “Israel says the confiscated arms cache – the largest it has ever seized – did not include any new types of weapons for Hezbollah. However, the arms would have given Hezbollah a month’s worth of firepower in time of war. ... Among the arms Israel says it found aboard the vessel were 9,000 mortar bombs; 3,000 Katyusha rockets, 3,000 anti-tank shells, 20,000 grenades and more than a half million rounds of small arms ammunition.” See, The Associated Press, “Israel Shows Documents it Says Link Iran to Arms,” *The New York Times*, November 11, 2009 (filed at 2:33 p.m. ET).

Hezbollah.<sup>120</sup> Mr. McLaren (DFAIT), told the Subcommittee that Iran had provided the initial support that led to the creation of Hezbollah in Lebanon in the conflict years of the 1980s; therefore, Iran is still “probably Hezbollah’s most important international ally” in terms of current day funding and support. In this regard, he articulated the Government of Canada’s concerns that “Iran is playing a troubling role in the wider Middle East. Its activities in the region, particularly its support for listed terrorist entities such as Hamas, Palestinian Islamic Jihad, and Hezbollah, have long constituted serious obstacles to peace in the Middle East.”<sup>121</sup>

Mr. Patrick Clawson, Deputy Director of Research at the Washington Institute for Near East Policy, told Subcommittee Members that this support for terrorist networks may constitute the gravest threat posed by Iran to its region. He said:

...I personally worry more not about the hateful statements that Iran makes about wiping Israel off the map but about the hundreds of millions of dollars that Iran is spending to arm, train, and finance those organizations that are fighting to do exactly that, such as Hamas.<sup>122</sup>

Mr. Clawson went on to tell Subcommittee Members that there have been disturbing indications that Iran has been smuggling more sophisticated weapons to Hamas and not just small arms. In illustrating the danger of this, he told the Subcommittee that Iran had been similarly supporting Hezbollah for a number of years, which has resulted in Hezbollah, over time, turning into a “pretty impressive light infantry force.”<sup>123</sup> These weapons systems include longer-range and more precise rockets, as well as, anti-aircraft and anti-tank missiles.<sup>124</sup> Further, Mr. Genser argued that Iran is a destabilizing force in the broader Middle East considering its role as a major funder and supporter of terrorist activities that are directed against the Israeli population.<sup>125</sup>

Witnesses cited intelligence sources as well as publicly-available information, which included admissions made by Hamas leaders and Hezbollah. Professor Gregory Gordon, Director for Human Rights and Genocide Studies at the University of North Dakota, told the Subcommittee:

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120 According to Canada’s Department of Public Safety, Hamas is a “radical Sunni terrorist organization that uses political as well as violent means in pursuit of its goal of establishing a Palestinian State in Israel.” Hezbollah is a “radical Islamic terrorist organization that uses political and violent means with the intent of removing all Western influences from the Middle East”, and “liberating all Palestinian territories and Jerusalem from what it sees as Israeli occupation.” Both organisations have been identified by the Government of Canada as being associated with terrorism. <http://www.publicsafety.gc.ca/prg/ns/le/cle-eng.aspx>.

121 *Evidence*, Meeting No. 31, October 20, 2009.

122 *Evidence*, Meeting No. 14, April 23, 2009.

123 *Ibid.*

124 *Ibid.*

125 *Evidence*, Meeting No. 6, March 10, 2009.

You don't have to follow a Byzantine money trail. These people have come out and admitted to their links and their sponsorship and all these things. So it's pretty compelling.<sup>126</sup>

Witnesses told the Subcommittee that Iran has been providing support to groups— Hamas and Hezbollah—that have used violent tactics not only against the State of Israel and its population, but also against a variety of other civilians targets for several years.

When asked whether or not Iran could be held legally accountable for this support and if there have been any precedents to this effect established in international law, Professor Gordon responded that in terms of crimes against humanity, “there has to be a widespread or systematic attack against a civilian population.” In his opinion, Iran’s sponsorship through funding and training of Hamas and Hezbollah attacks against the Israeli population fits this criterion.<sup>127</sup>

According to Professor Gordon, there have been cases where sponsor countries have been liable for an organization’s actions when it has been determined that there is a “direct enough” relationship between the country and client organization. He, along with other witnesses, referenced the case of U.S. v Nicaragua before the International Court of Justice.<sup>128</sup> In this case, the Court, by twelve votes to three, decided that the United States, by arming, equipping, financing and supplying the contra forces or otherwise encouraging, supporting and aiding military and paramilitary activities in and against Nicaragua, had acted, against the Republic of Nicaragua, in breach of customary international law.<sup>129</sup> The latter obliges states not to intervene in the affairs of another state, not to use force against another state, and not to violate the sovereignty of another state.

Professor of Law Alan Dershowitz advised the Subcommittee that a similar legal regime to U.S. conspiracy laws could be created at the international level.<sup>130</sup> The *Racketeer Influenced and Corrupt Organizations Act*, otherwise known as the RICO Act, was enacted by the United States in 1970. It was intended to be used to prosecute not only members of the mafia and other members of organised crime groups, but more specifically, the leaders of these groups who may not have personally conducted “racketeering activities”, but organised or ordered them. Over the years, the Act has also been applied to businesses, political protest groups, and terrorist organisations. Therefore, a person could be criminally prosecuted by the U.S. government under RICO for being the leader of an enterprise that, for example, engaged in a pattern of racketeering activity—criminal activities including extortion, illegal drug trading and murder. In addition, a victim of these criminal activities could also file a suit against the leader of an enterprise in civil

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126 *Evidence*, Meeting No. 10, March 31, 2009.

127 *Ibid.*

128 *Ibid.*

129 See: <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=66&case=70&code=nus&p3=5&PHPSESSID=5a41b319ba8b08ad0da599144e69c2dd>.

130 *Evidence*, Meeting No. 17, May 7, 2009.

court with the aim of recovering any economic losses he or she has suffered from the crime.<sup>131</sup>

Professor Dershowitz also suggested that Argentina's investigation of Iran's complicity in the terrorist attack against the largest Jewish community in Latin America should be viewed as an example of an international application of conspiracy law.<sup>132</sup> In 1994, the bombing of a Jewish community centre left 85 Argentine citizens dead and hundreds wounded. It was determined that the Iranian regime through its international proxies, including Hezbollah, conducted the attack. In October 2006, the Argentinean prosecution unit requested international assistance in apprehending and extraditing eight Iranians, including the man who had been president of Iran at the time of the attack, Ali-Akbar Hashemi Rafsanjani.<sup>133</sup>

Further, in November 2006, Judge Canicoba Corral declared the attack against the community centre a crime against humanity. He then issued the national and international arrest orders requested by the Prosecution, and issued a formal request to INTERPOL. However, it appears that, after 15 years, the accused are still living freely in safe-haven countries (Saudi Arabia and Syria) and some have even travelled; no attempts were made to arrest and extradite them.<sup>134</sup>

Many of the same officials indicted in the Argentine investigation are also the subject of the international arrest orders of other countries. For example, Iran's former Minister of Intelligence, Ali Fallahian, is currently the subject of two other international arrest warrants issued by Germany and Switzerland due to his alleged leadership role in the murder of Iranian dissidents in those two countries.<sup>135</sup> As mentioned, to date, no further legal action has been taken against these senior officials. In fact, many of these officials remain influential figures within the Iranian leadership circle. For example, Iran has appointed as its Minister of Defence – overseeing its nuclear program and weapons development – Ahmad Vahidi, for his role in the Buenos Aires bombing. However, since the court orders were issued, it appears that these officials have not traveled to European countries.<sup>136</sup>

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131 Jeffrey E. Grell, "Rico in a Nutshell" <http://www.ricoact.com/ricoact/nutshell.asp>.

132 *Evidence*, Meeting No. 17, May 7, 2009.

133 The seven other Iranian officials with arrest orders against them are former ministers Ali Fallahijan and Ali Akbar Veleyati; former military commanders Mohsen Rezai and Ahmad Vahidi; the former head of security for Hezbollah Imad Favez Mughniyah (reportedly assassinated in 2008), the former cultural attaché Mohsen Rabbani and the Third Secretary Reza Ashgari, who were both posted to the Iranian Embassy in Buenos Aires at the time.

134 Golnaz Esfandiari, "Iran: Argentinian Warrants Urge Rafsanjani's, Ex-Officials' Arrests," Radio Free Europe/Radio Liberty, <http://www.rferl.org/content/article/1072648.html>.

135 Iran Human Rights Documentation Centre, "No Safe Haven: Iran's Global Assassination Campaign," May 2008, p. 11.

136 Golnaz Esfandiari, "Iran: Argentinian Warrants Urge Rafsanjani's, Ex-Officials' Arrests," Radio Free Europe/Radio Liberty, <http://www.rferl.org/content/article/1072648.html>.

## 2. Incitement to Genocide

Beyond proven support for terrorist organizations that are responsible for human rights violations and for threatening prospects for peace and security in the Middle East, certain influential members of the Iranian government have also made statements that can be viewed as inciting hatred against the State of Israel. Some witnesses who appeared before the Subcommittee argued that these statements constitute not just hate speech, but incitement to genocide, which is defined as a crime under international law. Iran's President, Mahmoud Ahmadinejad, has made public statements condemning and threatening the existence of the State of Israel. On this topic, the Subcommittee heard from academics who are familiar with the Iranian leadership and its policies as well as from legal scholars.

While the most troubling and widely-reported statement by the Iranian leadership to date was President Ahmadinejad calling for the State of Israel to be "wiped off the map" at the 2005 "World Without Zionism" conference in Tehran, witnesses mentioned others that can be attributed to representatives of the Iranian regime, such as: "There is only one solution to the Middle East problem, namely, the annihilation and destruction of the Jewish state"; and "If they [Jews] all gather in Israel, it will save us the trouble of going after them worldwide".<sup>137</sup> Mr. Genser noted that on March 4 2009, while the Subcommittee was studying these very issues:

Supreme Leader Khamenei, again referred to Israel as "a cancerous tumor", exhorting attendees to "resistance", his euphemism for violence as the only solution. And President Ahmadinejad repeated his Holocaust denial, stating "The story of the Holocaust, a nation without a homeland and a homeland without a nation...are the big lies of our era".<sup>138</sup>

Further, Professor Dershowitz alerted Subcommittee Members to the extent to which the Iranian regime would be willing to go to pursue its strategic objectives. He referred to a statement made by Hashemi Rafsanjani to an American Journalist in which he "boasted" that:

...an Iranian [nuclear] attack would kill as many as five million Jews, Rafsanjani estimated that even if Israel retaliated by dropping its own nuclear bombs, Iran would probably lose only fifteen million people, which he said would be a small "sacrifice" from among the billion Muslims in the world.<sup>139</sup>

Members of the Subcommittee asked what many Canadians are no doubt asking themselves: what do these statements really mean in practice? Does Iran intend to act on

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137 *Evidence*, Meeting No. 6, March 10, 2009. For additional evidence of incitement see also the international petition entitled, *The Danger of a Nuclear, Genocidal and Rights-Violating Iran: the Responsibility to Prevent*, as tabled before this Subcommittee in June 2009. An updated version, now endorsed by 60 leading international law scholars, experts on genocide and survivors, is available at <http://content.liberal.ca/fe9cf988-49a0-42eb-9e11-2a512494abd7/pdf/2010-01-07-r2p-petition.pdf>.

138 *Ibid.*

139 *Evidence*, Meeting No. 17, May 7, 2009.

these threats? Should Canada and the international community be concerned and if so, what should they do about it?

Professor Gordon told Subcommittee Members: “There is an ecosystem of hate against Israel that has been forming and that has already come into existence.”<sup>140</sup> These statements calling for the destruction of a sovereign country and the death of its people have been voiced numerous times before various audiences and in full view of the international community.

Professor Stanton argued that the statements that have been made by Iran’s leadership “advocating the murder of Jews everywhere by Iranian-financed media such as Palestinian television” have had international reach. For example, in 2005, the television network run by the Palestinian Authority called for the “butchering of all Jews everywhere” in a Friday sermon. Since then, Professor Stanton believes the propaganda against the Jewish people has intensified.<sup>141</sup>

On June 18 2009, the Honourable Irwin Cotler, MP, tabled a petition entitled: *The Danger of a Genocidal, Rights-Violating and Nuclear Iran: The Responsibility to Prevent Petition* with the Subcommittee. In his presentation, Professor Cotler explained that the petition is based on the possible dangers to Israel and the international community associated with the convergence of three major dynamics emanating from the Iranian regime: the nuclear, the genocidal, and the rights-violating dimensions. This petition was initiated and was endorsed by some 50 international law scholars, genocide experts, and victims of genocide including Madam Justice Louise Arbour, the former United Nations High Commissioner for Human Rights, Salih Mahmoud Osman, a survivor of the conflict in Darfur, and Nobel Peace laureate Elie Wiesel.<sup>142</sup>

According to Professor Cotler, the significance of this petition also lies in its outline of the eight precursors to genocide that he argues have been exhibited in President Ahmadinejad's Iran, as well as the comprehensive and documented evidence supporting each precursor.

According to Professor Cotler, this petition and Bill C-412 the *Iran Accountability Act*, (a private member’s bill which he introduced in the House of Commons on June 9 2009), have been organized around a “particular finding of fact and conclusion of law... that Iran has already committed the crime of incitement to genocide in violation of the genocide convention's prohibition.”<sup>143</sup>

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140 *Evidence*, Meeting No. 10, March 31, 2009.

141 *Evidence*, Meeting No. 16, May 5, 2009.

142 *Evidence*, Meeting No. 27, June 18, 2009.

143 *Ibid.*

## i. The Eight Stages of Genocide

Professor Stanton, who is also President of the International Association of Genocide Scholars, told Subcommittee Members that he has analyzed most of the genocides that have been perpetrated in recent history and has discovered a predictable pattern:

Genocide is not an accident. It develops following a predictable process... I call the process the eight stages of genocide...At this point, every one of the first six stages has already happened in Iran. The next stage, stage seven, is genocide itself.<sup>144</sup>

The following passage is Professor Stanton's analysis of what he considers to be Iran's incitement to genocide towards Israel, in his own words:

The eight stages are, in a nutshell, as follows.

The first is classification. Every culture has to distinguish people into us versus them, and in this case the us versus them is Iranians versus Jews and other groups. In fact, even within Iranian society certain people are considered to be "them"—the Bahá'í, for instance, the Azeris, and a lot of other groups that are outside the normal political rights of the society. In the case of Jews, for example, Ahmadinejad has said that Jews, these "fabricated" people, cannot continue to exist. I mean, that's otherness; that is a declaration that they have no rights. He has said, for instance, that Jews have no roots in Palestine.

The second stage, symbolization, is the one in which we give names to these classifications in which symbols may even, in fact, be placed upon the people who represent the classification. The most famous, of course, is the yellow star used by the Nazis. This was also done, by the way, in Cambodia. Ben Kiernan and I discovered that blue and white checked scarves were used to mark the people in the eastern zone before they were forced and deported out of the eastern zone to their deaths.

In this case the main symbols are, of course, the names—Jews, Zionists, and so forth—but they are coupled with the third stage, namely dehumanization. In this, the rhetoric of Ahmadinejad is absolutely replete. He has called Israel a blot, a stain, a cancer, filthy bacteria, a wild beast. He says that Jews are animals, barbarians, mass murderers. He has picked up on the language in the Protocols of the Elders of Zion, for instance. This sort of dehumanization is characteristic of genocidal regimes. For instance, Tutsis in Rwanda were characterized as cockroaches, or Jews were characterized as vermin during the Holocaust.

The fourth stage, organization, is one in which you develop the organizations to carry out the genocide. In this case I particularly want to stress agreement with my fellow professor here on the point that even if the nuclear weapons of Iran are only used as a shield, they nevertheless would provide a shield for organizations like Hezbollah, Hamas, and other terrorists with genocidal ideologies to organize killings and to continue to terrorize Israel.

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144 *Evidence*, Meeting No. 16, May 5, 2009.

The fifth stage, polarization, is one in which the extremists drive the groups apart. We see this in some of the statements by the regime, such as those to the effect that the Zionist regime cannot continue to exist. This is a statement by Ahmadinejad.

The sixth stage, preparation, is one in which the victims are identified and separated out because of their ethnic or religious identity. In this case it's Israel, or the Zionists, as he likes to call them. Then they're attacked by terrorist organizations like Hamas or Hezbollah or, as in this case, there is an overall pattern of attack that is sponsored and paid for by the Iranian state.

The seventh stage, extermination, is genocide itself. It's the commencement of the actual mass killing. Genocide is not an all-or none thing. It can be slow; it can be done very gradually, as we have seen in Sudan, for example. I believe that is the ultimate long-range proposal that Iran has for Israel—to wipe them out slowly—but if they don't do that, they will have the nuclear weapons to do it all at once.

Finally, denial is the eighth and final stage of every genocide. Every genocide is denied by the people who are committing it, and that stage actually begins right from the start. The people who are going to commit the genocide will deny that they're about to commit it, they will deny it while they're committing it, and then they'll deny it after they have committed it. We've seen all of that in Iran.<sup>145</sup>

The testimony provided by Professor Cotler to the Subcommittee supported Professor Stanton's assessment. Even though the United Nations Security Council condemned President Ahmadinejad's incitement towards Israel in 2005, witnesses pointed out that to date Iran has not renounced these statements. Rather, the incitement has continued.<sup>146</sup> By way of recent example, in March 2010, on a Iranian Press TV, Ahmadinejad referred to Israel as the "... most criminal people in the world... stationed ... in our region with lies and fabricated scenarios... [and] with God's grace this regime will be annihilated."<sup>147</sup>

## ii. Canadian Policy and The *Genocide Convention*

According to Mr. McLaren (DFAIT):

On the issue of incitement to genocide, Canada delivers on its obligations to both prevent and punish genocide by criminalizing the crime of genocide under domestic law, thus enabling domestic prosecution in Canadian courts where there is both jurisdiction and evidence to support such action. Canada is also a supporter of the International Criminal Court, which deters and punishes perpetrators of genocide.

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145 Ibid.

146 By way of illustration, see *supra* note 139.

147 Available at <http://www.presstv.ir/detail.aspx?id=120579&sectionid=351020101>.

Canada supported the appointment of a special advisor on the prevention of genocide, with the mandate to make appropriate recommendations for prevention to the UN Security Council through the UN Secretary General.<sup>148</sup>

Further, Mr. McLaren referred the Subcommittee to DFAIT's responses to two inquiries that were submitted in the House of Commons. In its response to an inquiry dated June 11 2009 from Ms. Kirsty Duncan, MP, the Department stated that the Government of Canada does recognise that with regards to the *1948 Convention on the Prevention and Punishment of the Crime of Genocide* [hereafter the *Genocide Convention*], "actual destruction of a group is not required, rather genocide will be present when enumerated acts are committed with the specific intent to destroy a group. Specific intent is thus a critical element of the crime for genocide."<sup>149</sup>

On the other hand, the document also notes that the *Genocide Convention* "does not contain an obligation 'to intervene and protect' populations facing genocidal acts. While the *Convention* imposes an obligation on its Contracting Parties to both 'prevent and punish' the crime of genocide, it does not spell out what a State must do to comply with this obligation."<sup>150</sup>

On the specific subject of Iran, in its response to an inquiry dated June 17 2009 by the Honourable Irwin Cotler, the Department stated that, "Canada and like-minded states will continue to monitor statements emanating from the Government of Iran, including its President. Canada ... has publicly condemned President Ahmadinejad's egregious and offensive comments."<sup>151</sup>

Echoing this sentiment, Mr. McLaren stated before the Subcommittee that in addition to the Minister of Foreign Affairs' boycott of President Ahmadinejad's speech at the UN General Assembly in September 2009, the Government of Canada "takes the threat of Iran very seriously," it supports Israel and shares "many of the same concerns Israel has about the threat posed by Iran".<sup>152</sup>

The Subcommittee also heard some views suggesting that the threat posed to Israel by these statements may be more of a rhetorical or symbolic nature than one constituting a direct military threat. One witness, Dr. Hassan-Yari argued that it is important to differentiate between members of the Iranian government and broader Iranian society. He stated "for that reason, I strongly urge this Subcommittee to take a good look at what is

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148 *Evidence*, Meeting No. 31, October 20, 2009.

149 Inquiry of Ministry, Question no. Q-331 by Ms. Kirsty Duncan, MP (Etobicoke North), June 11, 2009.

150 *Ibid.*

151 Inquiry of Ministry, Question no. Q-331 by Mr. Irwin Cotler, MP (Mount Royal), June 17, 2009.

152 *Evidence*, Meeting No. 31, October 20, 2009.

happening in Iranian society. Do not react to the inflammatory words of people like Ahmadinejad.”<sup>153</sup>

Mr. McLaren had noted that the intention behind President Ahmadinejad’s inflammatory statements may lie in domestic consumption, in the desire to distract the Iranian populace from their other economic, political and human rights concerns, and to drum up nationalistic fervour in the country against western governments. Mr. McLaren noted that while the international community should not dismiss the threats made by President Ahmadinejad, they should be cognizant that:

... sometimes he’s trying to whip up domestic support, and saying nasty things about Israel unfortunately is one way to bolster his credibility in the streets of Iran and in some parts of the Arab world. We need to take his comments seriously, but also sometimes the perspective is that it’s aimed more at the domestic audience. He knows when he says things like that the western world is going to get angry, and then he can look to his people as if he’s standing up to the west. That’s part of the domestic play on that.<sup>154</sup>

Mr. McLaren also pointed out that the Iranian President is careful in the statements mentioned above to refer to the State of Israel, as opposed to Jewish people in more general terms. Another witness, Dr. Mahdavi stated that President Ahmadinejad may be using this hateful incitement as another means of distracting the international community from Iran’s poor domestic human rights record. Dr. Mahdavi cautioned against focusing too much on the anti-Israel incitement of the hardline elements in the Iranian regime as, “They want to shift the focus and attention away from the democratic movement and human rights to a more nationalistic agenda.”<sup>155</sup>

### **3. Iran’s Nuclear Ambitions**

One witness, Dr. Hassan-Yari, told Subcommittee Members that the three unsuccessful candidates in Iran’s presidential election in June 2009 had repeatedly maintained that Iran is not seeking to become a nuclear power and have denounced the language mentioned previously that has been used by President Ahmadinejad.<sup>156</sup> The majority of witnesses who appeared before the Subcommittee, however, do not believe that the motivations behind Iran’s nuclear program are non-military in nature and application. In fact, many witnesses argued that it is not a matter of “if” but “when” Iran will develop a nuclear weapons capability. Dr. Emanuele Ottolenghi, Executive Director at the Transatlantic Institute, explained to the Subcommittee:

The evidence available from open sources is something that should concern us tremendously... I just want to mention a few things that emerge from documents such as the reports of the International Atomic Energy Agency. First, Iran has aggressively sought

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153 *Evidence*, Meeting No. 25, June 11, 2009.

154 *Evidence*, Meeting No. 31, October 20, 2009.

155 *Evidence*, Meeting No. 33, October 27, 2009.

156 *Evidence*, Meeting No. 25, June 11, 2009.

enrichment and the mastery of the nuclear cycle... The second point is that Iran has aggressively sought to enrich uranium.<sup>157</sup>

He further commented that:

Iran has conducted a number of experiments and activities that can only be explained in the context of a military program, including experiments with high explosives that are typically used to trigger a nuclear chain reaction in a device. It has experimented on specific, very special kinds of triggers that are typical of nuclear weapons. It has sought the plans and technology and has experimented with milling uranium metal and shaping it in the form of hemispheres, which can only be used in nuclear weapons. All of this is documented, let alone the fact that much of the technology Iran achieved originally for its nuclear power comes from the illicit nuclear network run by the Pakistani scientist and father of the Pakistani bomb, Abdul Qadeer Khan. We know a lot of things about the nuclear program in Iran from that source, which further confirms the concern that this program has military dimensions.<sup>158</sup>

With this in mind, the Subcommittee decided to examine Iran's nuclear ambitions in order to gain a better understanding of the possible rationale behind its desire to become a nuclear power, a timeline according to which Iran could possibly build a nuclear weapon, and finally, what a nuclear Iran would mean for the region and the international system.

### **i. The Rationale Behind Iran's Nuclear Program**

According to Mr. Clawson, there are a number of possible reasons why Iran would want to become a state with a nuclear weapons capability. At the international level, it would give Iran greater clout, power and influence by admitting Iran into a select group of nuclear powers. There is also a prestige element involved in a country's acquisition of nuclear weapons. Dr. Mahdavi made many of these same arguments before the Subcommittee, when he explained that Iran offers the following arguments and rationale to support its nuclear ambitions: the country has a legitimate right to pursue a nuclear policy in order to satisfy national prestige, commensurate with Iran's growing power in the Gulf and Middle East regions; that it needs to establish an alternative source of energy, considering that Iran currently must import refined oil products; and that it must ensure its national security and regime survival, given perceptions in Iran of threats to its security posed by other states in the region (the legacy of the Iran-Iraq war) and further abroad (statements from the George W. Bush administration in the United States).<sup>159</sup> Dr. Mahdavi also informed the Subcommittee that, "Almost all the people, even the opposition, support national rights for having a nuclear capability. No matter whether they are reformists or

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157 *Evidence*, Meeting No. 16, May 5, 2009.

158 *Ibid.*

159 *Evidence*, Meeting No. 33, October 27, 2009.

hard-liners, or even some of the opposition, they suggest this is a national right and that it is based on NPT's articles."<sup>160</sup>

Mr. Clawson argued that President Ahmadinejad and Iran's Islamic Revolutionary Guard Corps are pushing to expand Iran's influence and want Iran to become the pre-eminent power in the Persian Gulf region. Mr. Clawson believes this reinforces Supreme Leader Ayatollah Khamenei's utmost domestic preoccupation—regime survival. The Supreme Leader's fears of the West's cultural influence and his paranoia over the possibility of a revolution being orchestrated or abetted by the West is an important motivation driving his role in Iran's nuclear ambitions.<sup>161</sup> Mr. Clawson explained:

... it would seem to me that Khamenei's concern is how to use the nuclear program to force the west to back off and not to provide support for non-governmental organizations.<sup>162</sup>

## ii. Timeline

There was much speculation, but no firm prediction expressed by witnesses, as to how far away Iran is from producing its first nuclear weapon.

Dr. Ottolenghi told Subcommittee Members that:

...we cannot determine the timeline very accurately. Also, this is a very complicated process that is very dynamic, and it is a process that countries concerned about its consequences constantly try to disrupt. So when high-placed officials tell you that Iran is six months or six years away from having nuclear weapons, take those assessments with a grain of salt, because even the most informed people in the business do not have the exact, precise, accurate timeline down to the last month or day.<sup>163</sup>

Mr. Clawson shared his assessment of Iran's capabilities with the Subcommittee:

Iran has enough centrifuges and enough low-enriched uranium that it could, if it threw out the UN inspectors, probably make a nuclear weapon in a matter of months. Perhaps, if things went badly, it would take a year. But that would be a pretty primitive weapon, heavy and big, hard to deliver. It certainly wouldn't fit on a warhead of a missile, and it would be only one.<sup>164</sup>

Mr. Clawson also told the Subcommittee that if Iran did indeed have "nasty intentions," it would probably seek to build more than just one missile and one warhead. Many of these questions remain speculations—however, as Mr. Clawson reiterated, Iran

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160 Ibid.

161 *Evidence*, Meeting No. 14, April 23, 2009.

162 Ibid.

163 *Evidence*, Meeting No. 16, May 5, 2009.

164 *Evidence*, Meeting No. 14, April 23, 2009.

has been refusing to answer many of the International Atomic Energy Agency's questions on its programs.

Officials from DFAIT told the Subcommittee that there is significant disagreement in the policy community over the potential timeline and over Iran's current technological capacity. Mr. Shawn Caza, Deputy Director of Nuclear Cooperation and Compliance, said that "it's very difficult to come up with any timeline that's very accurate." He noted that timelines are dependent on several assumptions and assessments, including whether or not Iran has first made a "political decision" to develop a nuclear weapons capability, and also their progress in enriching nuclear material into "high-level" weapons-grade material. With respect to the latter, Mr. Caza stated that such high-level enrichment activities take "some amount of time" ("at least a year of activity" after making the decision revealing their political intentions) and would either be observed directly by IAEA observers at their facilities, "or they would have to kick out the IAEA inspectors, which would set off significant alarm bells and we think would lead immediately to action at the Security Council." Finally, Mr. Caza noted that progress towards an actual weapons capability would depend also on the ability to weaponize the enriched material. He assessed that it is unclear at this point whether Iran has "mastered all the proper knowledge to make a weapon."<sup>165</sup>

#### **4. The Possible Consequences of a Nuclear Iran: The Connection between Iran's Nuclear Capabilities and International Human Rights**

##### **i. The potential for Iran to act on its genocidal rhetoric**

Some witnesses who appeared before the Subcommittee expressed their belief that Iran's genocidal declarations against Israel are inextricably linked to its desire for nuclear weapons. Professor Dershowitz warned Subcommittee Members,

This is the first time we've had the following combination of three factors, maybe four. One is a genocidal nation bent on inciting genocide. Two, they're soon to be armed with nuclear weapons. Three, there's a culture of suicide that has an unwillingness to be deterred. At least with Nazi Germany, the Stalinists, the Soviet Union, and Saddam in Iraq, they didn't want to die. Their leaders wanted to live. They weren't promised paradise if they killed so many people. When you have a combination of incitement to genocide, the capability of inflicting it through nuclear weapons, and a lack of concern with losing 15 million people—all of whom would immediately go to paradise and be treated as martyrs, at least that's what they believe—that triple combination.... Plus it's coming from religious leaders with whom you have no right to disagree. That four-way combination is unprecedented in human history and presents the greatest threat of genocide ever presented on this planet, in my view.<sup>166</sup>

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165 *Evidence*, Meeting No. 31, October 20, 2009.

166 *Evidence*, Meeting No. 17, May 7, 2009.

Professor Stanton also linked Iran's nuclear ambitions to its leaders' inflammatory incitement regarding the State of Israel. He stated:

Israel is a small country that can be reached within minutes by Iranian ballistic missiles. It is densely populated and home to the largest number of Holocaust survivors in the world. Time is of the essence, and delay could be catastrophic. In fact, President Ahmadinejad says it's a really good thing that so many Jews have concentrated themselves in the state of Israel, because it will make wiping them out easier.<sup>167</sup>

## **ii. A potentially destabilising force regionally and internationally**

Some of the Subcommittee's witnesses pointed out that the broader Middle East region is already beginning to exhibit signs of an increasing conventional arms race. Mr. Clawson told Members that countries in the region have ordered more than one "hundred billion dollars worth of arms in the last three years."<sup>168</sup> Even more alarming, he declared:

Many of the countries in the region have expressed interest in starting their own nuclear programs in response to Iran's advances.<sup>169</sup>

Professor Dershowitz echoed the same theory while explaining how a nuclear Iran would be a threat to international peace and security:

Saudi Arabia has the capacity to buy nuclear weapons. Probably Egypt and Jordan, and maybe even some of the Emirates, would feel so vulnerable and exposed, because remember that Ahmadinejad, in his speech at the UN in Geneva last week, directed his attention not only against Israel but against "all liberal democracies in the world"—Canada, the United States, Western Europe. His goal is to end democracy. He thinks democracy is a dinosaur and would substitute a kind of religious fundamentalism, backed by nuclear weapons.<sup>170</sup>

Professor Dershowitz also noted that a nuclear Iran would change the balance of power in the region. He explained, "...you cannot end a country's aggression if it has nuclear weapons."<sup>171</sup> Witnesses believed that it is possible that Iran might use its nuclear weapons to project power both in the region and internationally. Mr. McLaren (DFAIT) stated that Canada does perceive a threat posed to Israel and other countries in the region "by Iran and its pursuit of a nuclear capability." He went on to state that while there may be disagreements over the timelines of Iran's potential development of a capability, "it is a severe enough matter that all countries are trying to come up with a way to end any

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167 *Evidence*, Meeting No. 16, May 5, 2009.

168 *Ibid.*

169 *Ibid.*

170 *Evidence*, Meeting No. 17, May 7, 2009.

171 *Ibid.*

chance of Iran having a nuclear weapons capability.”<sup>172</sup> International attempts at negotiation continue at the UN Security Council, through the IAEA, and in the P-5-plus-1 process (the five permanent members of the UN Security Council plus Germany).

In analyzing the effect that the possible acquisition of nuclear weapons is having on Iranian President Ahmadinejad’s approach to international relations, Mr. Clawson argued that:

In his mind, the advances in the nuclear program show how Iran has the ability to do what it wishes, irrespective of complaints by outsiders, so the nuclear program has been very useful. Even when Iran does not have nuclear weapons, Iran can use this image that it’s making advances on the nuclear front to argue that Iran’s position should be listened to carefully, that the tide of history is with it, and that Iran has every right to voice whatever opinion it wishes in meetings such as that in Geneva the other day.<sup>173</sup>

From the regional perspective, Dr. Ottolenghi told Subcommittee Members that,

Even if the Iranian leadership uses the rhetoric only as a tool for propaganda and in truth wants nuclear weapons just to somehow strengthen its power and protect itself and its survival, the meaning of that acquisition is that Iran, in the combination of nuclear weapons and its ideology, will destabilize the region for decades to come and will make it impossible for the forces in the region that seek reconciliation among peoples, resolution of armed conflicts, the defeat of radical ideologies, and the assertion of human rights across the Middle East to actually triumph.<sup>174</sup>

If Iran were to acquire nuclear weapons, Dr. Ottolenghi believes it could possibly result in scenarios whereby members of the international community would have to negotiate with Iran, but with little bargaining leverage, meaning that they would ultimately have to accept necessary compromises on key issues.<sup>175</sup>

#### **IV. IRAN AND INTERNATIONAL PEACE AND SECURITY: THE SUBCOMMITTEE’S OBSERVATIONS**

##### **1. Iran’s International Peace and Security Obligations**

###### **i. Iran’s Treaty Obligations**

As many witnesses before the Subcommittee stated, Iran is party to the *Genocide Convention* which ensures the following: states undertake to prevent and punish genocide (Art. 1); and, beyond the commission of genocide itself, direct and public incitement to commit genocide is punishable (Art. 3). According to Professor Stanton, Iran’s open and

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172 *Evidence*, Meeting No. 31, October 20, 2009.

173 *Evidence*, Meeting No. 14, April 23, 2009.

174 *Evidence*, Meeting No. 16, May 5, 2009.

175 *Ibid*.

direct declarations of aggressive intentions towards another sovereign UN member state are also violations of Article 2(4) of the UN Charter.

Professor Gordon told Subcommittee Members that:

Given the totality of circumstances, legal precedents from the Rwandan genocide prosecutions teach that Ahmadinejad's urging to liquidate Israel could be charged as a direct and public incitement to genocide and crimes against humanity.<sup>176</sup>

Further, he added:

... to convict an accused of crimes against humanity, it must be proved that the crimes were related to the attack on a civilian population. I believe the available evidence suggests that Ahmadinejad's "eliminate Israel" advocacy would be related to the attacks on Israeli civilians, seemingly sponsored by Ahmadinejad and perpetrated by Hezbollah and Islamic Jihad.<sup>177</sup>

In terms of Iran's nuclear ambitions, it should be noted that Iran is a party to the 1968 *Treaty on the Non-Proliferation of Nuclear Weapons* (NPT). Even as a current non-nuclear state, there are still obligations under the NPT according to which witnesses say Iran is in violation. Article 2 of the NPT prohibits each non-nuclear-weapon State Party to the Treaty from undertaking not to receive, transfer, control, manufacture or acquire directly or indirectly any nuclear weapon or other nuclear explosive devices.

The NPT does permit a state's inalienable right to research, produce and use nuclear energy for peaceful purposes. Along these lines, the International Atomic Energy Agency (IAEA) is mandated to verify whether or not a non-nuclear state is acquiring nuclear weapons and/or diverting its nuclear energy from peaceful uses to weapons applications.

Mr. Clawson argued that Iran is failing to meet these NPT obligations. He said:

Unfortunately, Iran is cooperating less and less with the International Atomic Energy Agency. It now is probably not even fulfilling the absolute minimum requirements. There's a dispute between Iran and the International Atomic Energy Agency about whether or not Iran is fulfilling the absolute minimum requirements, and I do mean minimum, for these inspections. Whereas previously Iran better understood that openness did much to dispel concerns and was leading us towards some confidence that we had a handle on or an understanding of what Iran's program is like, now there's a lot of concern that Iran may in fact be trying to hide some covert activities and develop some capabilities similar to what it did during the 18 years before 2003, when, it is now acknowledged, it was doing things covertly.<sup>178</sup>

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176 *Evidence*, Meeting No. 10, March 31, 2009.

177 *Ibid.*

178 *Evidence*, Meeting No. 14, April 23, 2009.

## RECOMMENDATION 14

**The Subcommittee recommends that, as a member of the International Atomic Energy Agency (IAEA), the Government of Canada should use every opportunity to encourage the IAEA to continue its efforts to inspect Iranian nuclear production facilities.**

### ii. Iran's Non-Treaty Obligations

Iran's obligations under international law extend beyond those defined by the international treaties to which it is a signatory.

In the field of human rights or humanitarian law, customary international law imposes prohibitions against certain conduct being committed by state authorities and/or of individuals. These prohibitions are considered to be binding on all states, including the prohibition of various acts constituting war crimes and/or crimes against humanity.

Second, the Subcommittee was told that the 1998 *Rome Statute of the International Criminal Court* gives jurisdiction to the International Criminal Court (ICC), in certain circumstances, to try persons accused of having committed the most serious forms of crimes under international law ( i.e. crimes against humanity, war crimes and genocide), even when they involve nationals of non-party states. Therefore, the *Rome Statute* could potentially be applicable to some of Iran's leaders if they were to commit these crimes even though that country has not ratified the *Rome Statute*.

Third, the Subcommittee heard that Iran has been the target of sanctions adopted by the United Nations Security Council according to its mandate to maintain international peace and security.<sup>179</sup> Under international law, if such resolutions are adopted under Chapter VII of the United Nations Charter and if they are phrased using mandatory language, they create legal obligations that are binding on UN member states. Iran, as the target of such a sanctions regime, is therefore bound by international law to abide by their terms.

Among other things, these UN resolutions call upon Iran to cooperate with the IAEA's efforts to verify what Iran maintains is the exclusively peaceful nature of its nuclear program and to suspend certain proliferation sensitive nuclear activities. They also call upon other states to "exercise vigilance and restraint" regarding the admittance of a list of designated individuals into their territory, and the prevention of "the supply, sale or transfer directly or indirectly from their territories or by their nationals" of certain categories of items, materials, equipment goods and technology linked to nuclear activities and weapon delivery systems." Finally, resolutions have called on states to "exercise vigilance over the activities of financial institutions in their territories with all banks domiciled in Iran [...] to

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179 See the following United Nations Security Council Resolutions: Resolution 1696 (2006); Resolution 1737 (2006); Resolution 1747 (2007); Resolution 1803 (2008); Resolution 1835 (2008).

avoid such activities contributing to the proliferation of sensitive nuclear activities ...”, and to inspect relevant cargoes to and from Iran.<sup>180</sup>

## **2. Implications for Canada**

### **i. The Responsibility to Protect and Prevent**

Witnesses explained to Subcommittee Members that Canada has a moral and legal responsibility to prevent crimes against humanity and genocide. Members were told that as a party to the *Genocide Convention* and considering Canada’s leading role in the adoption of the Responsibility to Protect doctrine at the United Nations, Canada may call upon the competent organs of the United Nations to take such action under the UN Charter as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article 3 (Art. 8). Canada may also submit disputes related to the application of the *Genocide Convention* before the International Court of Justice (Art. 9).

Professor Stanton told the Subcommittee:

I now want to turn briefly to the responsibility to protect. The ethical principle that needs to guide international action to prevent genocidal threats is that human life is the most fundamental human right, because without life there is no other right. Canada has been the most important leader in creating a newly emerging norm of international law. The International Commission on Intervention and State Sovereignty, sponsored by the Canadian government, defined what is now called “the responsibility to protect,” which was affirmed in the Millennium Summit outcome document of 2005. It is based on the principle that the international obligation to protect human life and well-being overrides the sovereignty claims of any government whose actions demonstrate genocidal intent.

...

Now I want to turn to another basic principle of genocide prevention, the precautionary principle... The principle states simply that when there is uncertainty concerning the risk from a situation with potentially catastrophic effects upon human health and safety, the risks of inaction far outweigh those of preventive action... Preventive action, of course, means the obligatory imposition of effective sanctions to prevent Iranian development of nuclear weapons and includes immediate and continuous IAEA inspections of all Iranian nuclear facilities as well as confiscation of all technology, equipment, and nuclear material that could be used by Iran to manufacture nuclear weapons.<sup>181</sup>

### **ii. Addressing Iran’s Nuclear Program**

Canada has implemented the binding provisions of the Security Council Resolutions listed in the previous section. According to Mr. Clawson, these resolutions have been effective at slowing down Iran’s nuclear program, however:

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180 Ibid.

181 *Evidence*, Meeting No. 16, May 5, 2009.

The Security Council sanctions have really been targeted at the nuclear and missile program. The council has not done very much about political sanctions designed to press the Iranian government to come back to the negotiating table.<sup>182</sup>

Some witnesses recommended the imposition of economic sanctions, even though the effectiveness of these types of sanctions remains debatable. Mr. Victor Comras, lawyer, told Members that:

Let's be clear, the low-impact sanctions now on the table simply will not work. The sanctions measures adopted so far by the Security Council are clearly insufficient to motivate Iran to change course. Rather, it seems to me they've conveyed the sense that the key countries continue to lack the political will necessary to face up to Iran's challenge to non-proliferation norms. And this signal has been received loud and clear by the Iranian regime...<sup>183</sup>

At the more general level, thus, several witnesses told the Subcommittee that western states should not focus their energies on considering the imposition of broader economic sanctions against Iran as such sanctions raise complex issues that can, if implemented incorrectly, lead to more harm than good. In the testimony received in October 2009, most witnesses expressed caution, noting in particular the potential negative side effects of broad-based sanctions that target the country as a whole. Dr. Mahdavi argued that policy makers in Canada and like-minded states "should say no to economic sanctions on Iran, because they would simply be a collective punishment."<sup>184</sup> Similarly, Professor Akhavan noted that, "One needs to think very carefully about what impact sanctions are going to have on those we want to pay the price for the violations."<sup>185</sup> Dr. Mahdavi also pointed out that ineffective sanctions can serve to bolster the position of members of the governing elite, who control key sectors of the economy and access to licit and illicit goods. He argued that "any kind of economic sanctions would play into the hands of again, the Revolutionary Guards, because they have already created a kind of mafia economy, a black market economy." The Guards could, according to Dr. Mahdavi, "exploit Iran's economic resources and get out of these so-called sanctions."<sup>186</sup>

Witnesses also noted that one has to be realistic regarding the efficacy of economic sanctions that could be imposed by states such as Canada on an individual basis in response to human rights violations, given that Iran's most significant trading and investment relationships are with China and neighbouring states in the Gulf Region. Dr. Milani expressed these geopolitical realities in frank terms, arguing that:

When the regime has \$80 billion to \$100 billion in oil revenues to play with; when it has China, Russia, India, the United Arab Emirates, and even some European companies

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182 *Evidence*, Meeting No. 14, April 23, 2009.

183 *Evidence*, Meeting No. 25, June 11, 2009.

184 *Evidence*, Meeting No. 33, October 27, 2009.

185 *Evidence*, Meeting No. 32, October 29, 2009.

186 *Evidence*, Meeting No. 33, October 27, 2009.

willing to help it; and when the regime has an estimated 40,000 companies based in the United Arab Emirates whose sole job is to buy embargoed commodities, bring them into the United Arab Emirates, and then ship them across the channel to Iran, then embargoes seem to play into the hands of the regime, because they offer an excuse for its incompetence. They offer an excuse for its absolutely embarrassing corruption and incompetence.<sup>187</sup>

Other witnesses pointed out that outside of its important and growing economic relations with countries like the UAE and China, Iran's most statistically important trading relationships are with European countries. Given these realities, Dr. Milani's testimony suggested that an effective sanctions regime would have to be international in its scope and universally-applied, involving these key regional and international economic players and, in the model of the sanctions regime that was imposed against the apartheid-era governing regime in South Africa, would also have to specifically target Iran's sales of oil and gas, which account for an approximate 70 to 80 percent of the Iranian government's revenue stream. He stated clearly that, "If the world stops buying oil and gas from Iran, this government will listen to anything the world has to say."<sup>188</sup> Dr. Milani, however, expressed pessimism over the probability that these types of sanctions could ever be agreed to and implemented by the key states. The prospects of imposing strict international economic sanctions through the United Nations Security Council is also complicated, given the roles of Russia and China which are permanent veto-wielding members of the Council. Both of these states have expressed somewhat cautious attitudes in response to the possibility of adopting resolutions that would impose strict international economic sanctions against Iran. Dr. Mahdavi argued that a strategy that does not include the cooperation of Russia and China "will be irrelevant".<sup>189</sup>

Although Canada does not have a significant trade relationship with Iran, Dr. Ottolenghi advised that the Government of Canada should be paying attention to Iranian companies in Canada that may be a front for illegal procurement activities. Although he had no evidence to suggest that any such activities were currently being conducted in Canada, he pointed to an Iranian company with branches across Europe (and a branch in Canada) that the European Union has planned to "designate and sanction because of its illegal activities." In addition, he added that Iran has been known to acquire technology that is "ostensibly bought for entirely legitimate purposes". However, "open sources demonstrate conclusively that this technology has been diverted to entities that are designated by the U.S. Department of Treasury and are sanctioned by the European Union or the United Nations, and that it's technology that will eventually end up being used for purposes not for which it was sold."<sup>190</sup>

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187 *Evidence*, Meeting No. 32, October 22, 2009.

188 *Ibid.*

189 *Evidence*, Meeting No. 33, October 27, 2009.

190 *Evidence*, Meeting No. 16, May 5, 2009.

Professor Akhavan suggested that certain companies could be boycotted because their products were sold to the Government of Iran which has allegedly used them in the violation of human rights. He also suggested that Canada could “reward certain companies [...] that have withdrawn from Iran because of their opposition to the current climate.”<sup>191</sup>

Witnesses also stated that because the European Union is a more important trading partner for Iran than either Canada or the United States, it has more leverage and tools at its disposal to implement effective economic sanctions against Iran. Therefore, witnesses suggested that the Government of Canada work with its European allies to encourage the enactment of these sanctions.

With that in mind, Mr. Comras also suggested the following approach for Canada and like-minded states:

Europe, Japan, and Canada could also join the United States in cutting off Iran's access to high-tech items, including potential dual use equipment and expertise. Together, we could put considerable pressure on the UAE, on Dubai, and the free port of Jebel Ali, which serves as a trans-shipment point for so many of the items that are not supposed to be shipped there. Europe, Canada, and Japan might also consider joining with us in restricting access of Iranian ships to our ports, or refusing to insure or re-insure Iranian ships or cargoes, or increasing insurance premiums for Iranian merchandise or for ships carrying such merchandise. We could start imposing travel restrictions. We could cut off cultural, sporting, and scientific exchanges with Iran. These are examples of measures that could be threatened or taken to convince Iran that we mean business.<sup>192</sup>

In this context, witnesses also reiterated that the position taken by Canada and the international community towards Iran's nuclear program cannot be treated in isolation from the broader questions on international human rights. Mr. Clawson argued that because of the limitations described above, a “political stance of unity” by Canada and like-minded states would likely be more effective in this case and have a greater impact on Iran than economic sanctions.<sup>193</sup>

## **RECOMMENDATION 15**

**The Subcommittee recommends that the Government of Canada continue to work with the United Nations and members of the international community to add sanctions to those already imposed against Iran. In particular, the Subcommittee recommends that the Government of Canada move in concert with its international partners to implement the necessary regulations under the *Special Economic Measures Act* (SEMA) and/or *Export and Import Permits Act* to impose:**

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191 *Evidence*, Meeting No. 34, October 29, 2009.

192 *Evidence*, Meeting No. 25, June 11, 2009.

193 *Evidence*, Meeting No. 14, April 23, 2009.

- **A ban on all goods exported from Canada to Iran, excepting humanitarian goods such as food and medicine, and a ban on all goods imported from Iran to Canada;**
- **A ban on businesses or their subsidiaries operating in Canada from exporting gasoline and other refined petroleum products to Iran or facilitating such export (i.e. the shipping and insurance industries);**
- **A ban on new investment in Iran or the introduction of incentives to prevent such investments, particularly with regards to Iran’s energy infrastructure, by Canadian persons and companies (as well as foreign companies or their subsidiaries operating in Canada) and including related industries such as shipping, insurance and construction companies;**
- **A prohibition on the provision of financial services to and from Iran, particularly regarding any transactions with the Iranian Central Bank, by businesses or their subsidiaries operating in Canada;**
- **A prohibition on the export of any technologies to Iran, particularly those that enable the Iranian regime to violate the human rights of its own people (including but not limited to surveillance equipment);**
- **A prohibition on Canadian-registered ships from docking in Iran and on Iranian-registered ships from docking in Canada and passing through Canadian waters.**

### **iii. Linking Iran’s Nuclear Program with its Genocidal Intentions**

A number of the witnesses who appeared before the Subcommittee argued that their most urgent concern was the danger that Iran poses to the international community because of its leaders’ genocidal incitement, and the connection that could possibly be drawn between its nuclear program and its regional ambitions. Professor Cotler argued that when the international community just focuses on the nuclear, “there is a danger of ignoring and sanitizing the genocidal context in which the nuclear takes place and makes the nuclear so threatening.”<sup>194</sup>

According to Professor Dershowitz, the international community needs to take action against these statements because:

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194 *Evidence*, Meeting No. 27, June 18, 2009.

When Ahmadinejad incites genocide, he does so with the full force of the Iranian government behind him... There is no marketplace of ideas, at least not officially, in Ahmadinejad's Iran. Accordingly, Ahmadinejad's incitement to genocide is not offered as an idea to be debated. Instead, it is a direction, an instruction. It is closely analogous to the incitements to genocide that have been punished in Rwanda by the international courts.<sup>195</sup>

Further, he stated:

... the combination of such incitement to genocide and the development of nuclear weapons presents a clear and present danger of actual genocide to the world in general and to Israel and the Jewish people in particular.

...

There are those who argue that Ahmadinejad's call to wipe Israel off the map is intended as a metaphor, or has been translated incorrectly, or is merely a political statement. This misses the point. Ahmadinejad well knows that his statements will be understood by many as a call for genocide.

...

These weapons need not be fired from rocket launchers or dropped from planes. They can be smuggled into a country as dirty bombs by individuals who have been incited by what they regard as superior orders or religious obligations.<sup>196</sup>

Professor Gordon expressed similar concerns. He stated before the Subcommittee that:

I come here today with a certain sense of moral outrage. Since when is it acceptable for a world leader to advocate the destruction of another country? And in that context, is it not problematic for that same leader to dehumanize the people of that country? How is it that we can abide this leader calling for deportation of an entire people from its own country? Mahmoud Ahmadinejad has been doing this in relation to the state and people of Israel since 2005. I am here today to tell you that I believe something must be done about it.<sup>197</sup>

#### **iv. Canada's Bilateral and Multilateral Options**

A number of the Subcommittee's witnesses suggested that Canada take action against high-ranking members of the Iranian government, notably President Ahmadinejad, in international legal fora, for what they consider to be his role in inciting genocide against Israel and Jews and for his role in what may be an illicit nuclear weapons program.

In terms of bilateral actions, a number of witnesses recommended that the Government of Canada initiate an inter-state complaint against the Government of Iran

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195 *Evidence*, Meeting No. 17, May 7, 2009.

196 *Ibid.*

197 *Evidence*, Meeting No. 10, March 31, 2009.

before the International Court of Justice, under Article 9 of the *Genocide Convention*. According to Professor Gordon, the Australian government has “spoken seriously about doing this but has not yet taken action.”<sup>198</sup>

Dr. David Matas, Senior Legal Counsel for B’nai Brith Canada, and other witnesses suggested that Canada could also move to ban President Ahmadinejad and other Iranian officials from entering Canada. Canada could also add its voice and assist with the enforcement of the standing international arrest warrants against various Iranian officials.<sup>199</sup>

Finally, at the bilateral level, Canada could also take action to recognise Iran’s aforementioned role in regional destabilisation through its support for such listed entities as Hamas and Hezbollah. Canada could take clear symbolic and legal action by including Iran’s Islamic Revolutionary Guard Corps as a listed entity due to its connection to international terrorism as explained in a previous section of this report.

Another option, according to Mr. Genser, would involve the following multilateral action:

The obviously very hard, and probably impossible, thing to do, but perhaps the morally correct thing to do, is to also urge that the UN Security Council, under a chapter 7 resolution, refer the situation of Iran and its incitement to genocide to the International Criminal Court for investigation and potential prosecution. That would be individual criminal liability for those involved in the incitement themselves. I think it's unlikely, given the vetoes in the Security Council and the complicated nature of what's going on, that this would be successful.<sup>200</sup>

The ICC has been pursuing the case of Sudanese President Omar Al-Bashir for allegations related to his role in the violence and abuses that occurred in the Darfur region of that country. Although this case has set a precedent for the indictment of a sitting head of state, Professor Gordon explained that “incitement charges have never been filed in the absence of subsequent mass atrocity, and so it is unlikely they would be filed” in the case of Iran.<sup>201</sup> He believes that one of the lessons the international community should draw from past genocides is that the jurisprudence of “incitement law should turn its current focus from post-atrocity prosecution and punishment to pre-atrocity deterrence. That is the true purpose of the incitement crime. It is not enough to punish it after the mass graves have been filled.”<sup>202</sup>

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198 *Evidence*, Meeting No. 17, May 7, 2009.

199 *Evidence*, Meeting No. 11, April 2, 2009.

200 *Evidence*, Meeting No. 6, March 10, 2009.

201 *Evidence*, Meeting No. 10, March 31, 2009.

202 *Ibid.*

Also at the multilateral level, witnesses before the Subcommittee urged Canada to continue using the UN Security Council, General Assembly and the Human Rights Council as venues to send messages to Iran's leaders that their incitement and violent actions are unacceptable.

#### **RECOMMENDATION 16**

The Subcommittee recommends that the Government of Canada call upon United Nations Secretary General Ban Ki-Moon to refer the matter of Iran's genocidal incitement to the Security Council pursuant to Article 99 of the Charter of the United Nations, on the basis that Iran poses a threat to international peace and security.

#### **RECOMMENDATION 17**

The Subcommittee recommends that the Government of Canada include Iran's Islamic Revolutionary Guard Corps as a listed entity for its role in supporting international terrorist organizations in accordance with Canadian law.

#### **RECOMMENDATION 18**

The Subcommittee recommends that the Government of Canada assist with the enforcement of standing international arrest warrants that have been filed against Iranian government officials.

#### **RECOMMENDATION 19**

The Subcommittee recommends that the Government of Canada initiate an inter-state complaint against the Government of Iran before the International Court of Justice, under Article 9 of the *Genocide Convention*, calling Iran to account for its violations of the Convention, including its failure to punish the incitement to genocide perpetrated by its officials.

#### **RECOMMENDATION 20**

The Subcommittee recommends that the Government of Canada, in accordance with Canada's responsibilities under Article 1 of the *Genocide Convention* and the prohibition against incitement to genocide in Article 3 of the Convention, invite the United Nations Security Council to consider referring to the Prosecutor of the International Criminal Court the case of President Mahmoud Ahmadinejad and those Iranian leaders participating with him in direct and public incitement to genocide, for investigation and prospective prosecution.

## RECOMMENDATION 21

The Subcommittee recommends that the Government of Canada petition the United Nations Security Council, in accordance with Canada's responsibilities under Article 1 of the *Genocide Convention* and the prohibition against incitement to genocide in Article 3 of the Convention, to take appropriate action and to hold Iran to account.

## V. THE HUMAN RIGHTS SITUATION IN POST-ELECTION IRAN: SUMMARY OF EVIDENCE

The events following the announced result of the June 2009 presidential election in Iran have deeply affected the Iranian people and in turn, the Iranian governing regime. According to Mr. McLaren (DFAIT), the Iranian people thought that their election was taken from them.<sup>203</sup> Perceptions of electoral fraud in the country and the general sense amongst segments of the Iranian population that the announced electoral victory of incumbent President Ahmadinejad did not reflect a process that had been entirely free or fair, led to significant mass public demonstrations and protests, the likes of which had not been seen in Iran since the 1979 revolution. This public outcry was in turn met by swift action from government and government-affiliated agents against demonstrators and outspoken opponents of the ruling regime. Many observers within Iran and those commenting from around the world have argued that the actions that were taken to break up street demonstrations and stifle dissent have constituted serious human rights abuses.

According to Mr. McLaren, since the June 2009 election, the "veneer of democracy inside Iran", where "the regime would tell their people there's a democratic system on top of the Islamic republic" has been shattered.<sup>204</sup> It remains to be seen how these events will affect Iran politically, spiritually and socially. Observers, however, worry that the future may hold further violent clashes. Observers are also waiting for Canada and the international community to formulate their policies in response to these human rights violations in Iran, in the hopes that actions and decisions taken by these pro-"status quo" actors in Iran do not hinder the democratic movement that is gaining in popularity.

### 1. The current political and human rights situation in Iran

The majority of Iran's population is young, and increasingly educated and technology-savvy, particularly in urban areas. However, the opportunities available to Iran's youth are stifled by severe rates of unemployment. Professor Akhavan captured the situation well, commenting that, "The reason we have had millions of people coming onto the streets of Iran is the desperation of people there."<sup>205</sup> He noted that in a country where some 70 percent of the population is under 30 years old, estimates suggest that 25 to 40

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203 *Evidence*, Meeting No. 31, October 20, 2009.

204 *Ibid.*

205 *Evidence*, Meeting No. 34, October 29, 2009.

percent of the youth is either underemployed or unemployed. The stark realities facing this young population and their desire for change were expressed by Professor Akhavan who said that, “when young people are willing to get murdered in the streets, it’s not because they’re fanatics, it’s because they have no hope. They’re desperate. They would rather get killed than remain silent.”<sup>206</sup>

Perhaps the element of the presidential election that served to highlight the heavy-handed nature of the governing regime’s response to street demonstrations was the fact that these ordinary Iranians were not attempting to overthrow their political system through a new revolution. The demonstrators were simply expressing the desire to ensure that the political system that exists in Iran is respected. Professor Akhavan made this clear when he stated, “... this was not an election, it was a selection... The structure is that the supreme leader will determine who can run for elections or run for Parliament, and that’s the façade of democracy that the regime has created to legitimize itself without actually having a democracy.”<sup>207</sup> The candidates for presidential office had already been vetted by the Supreme Leader and Guardian Council before the election took place, to ensure that all candidates who were permitted to run were more or less supportive of the country’s status quo institutions, but differing on policy areas within that overall structure. Mrs. Redman told the Subcommittee that “people who are looking for change are not looking to overthrow the government; they’re looking for change within the government structure right now.”<sup>208</sup> Similarly, Dr. Mahdavi explained to the Subcommittee that the new generation of young people in Iran consists of “realists” who are “ready to work within the system”<sup>209</sup>:

For this reason, they voted twice for Mohammad Khatami in 1997. We know that reformists failed to deliver on their promise, thanks to the structure of the Islamic Republic of Iran.

In 2009, they were ready to play within the restricted system. They voted for one of the candidates of the establishment. None of these four candidates was revolutionary or radical. They realized that the regime is not going to tolerate even Mr. Mousavi or Mr. Karoubi.<sup>210</sup>

Ironically, the regime’s violent response to the peaceful post-election demonstrations was a crackdown on people who were largely supporting the status quo, but who were seeking to ensure that the small democratic space that exists within this status quo system was respected. Mrs. Redman illustrated the extent of the regime’s paranoia with respect to any societal expressions in favour of democratic values. She referred to the regime’s use of forced public confessions reflective of its tenuous grip on power. She told the Subcommittee that in one such show trial “a document called an

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206 Ibid.

207 Ibid.

208 *Evidence*, Meeting No. 33, October 27, 2009.

209 Ibid.

210 Ibid.

indictment was read. It wasn't a legal indictment as we or the Iranian judicial system would recognize, but more of a political statement about their fomenting velvet revolutions and corresponding with foreign human rights organizations and foreign governments."<sup>211</sup>

Allegations of election fraud, not only by the Iranian population, but also by members of Iran's political and religious elite, have served to delegitimize the authority of the entire regime, including a loss of confidence in the Supreme Leader who strongly supported the electoral outcome and called for demonstrations disputing this outcome to end. As Professor Akhavan stated:

... the supreme leader who for many years was above these kinds of political divisions, has now become regarded as merely one political faction among others. The Office of the Supreme Leader has lost its legitimacy in an irreparable way. It's impossible for that institution to ever retrieve the authority that it once had.<sup>212</sup>

According to a number of witnesses who appeared before the Subcommittee, the response by the Iranian government to the demonstrations and protests can be described as a "brutal crackdown." In addition, one of the witnesses, Mrs. Redman, stated that there is reason to believe that "the human rights situation has become worse since June and July."<sup>213</sup> As Dr. Milani explained:

Unfortunately, since June 12 and what I think was an electoral heist, these breaches [of human rights] have increased. The regime feels more isolated, the regime feels weaker, and as is always the case when these kinds of regimes are frightened, they show their more brutal side.<sup>214</sup>

Several of these witnesses told Subcommittee Members that these human rights violations have included mass arrests, imprisonments, and executions. Reports of prisoners being tortured and forced to confess under duress in televised mass show trials that do not even conform to Iranian law are also a cause for concern.<sup>215</sup> Other troubling incidents were documented because demonstrators and members of the opposition took advantage of the Internet and new media to disseminate images and stories of brazen shootings, stabbings and harassment of civilians, many of whom were only demonstrating in the streets or looking on as bystanders, by member of the Basij militia, a plain-clothed terror squad under the auspices of Iran's Islamic Revolutionary Guard Corps, who in turn take direction from the Supreme Leader.<sup>216</sup>

Unfortunately, the crackdown has also made it difficult to assess the full scope and severity of these human rights violations due to insufficient access to information and a

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211 Ibid.

212 *Evidence*, Meeting No. 34, October 29, 2009.

213 *Evidence*, Meeting No. 33, October 27, 2009.

214 *Evidence*, Meeting No. 32, October 22, 2009.

215 *Evidence*, Meeting No. 33, October 27, 2009.

216 *Evidence*, Meeting No. 34, October 29, 2009.

general absence of transparency in the country. The threats against domestic journalists have forced some to leave the country and foreign journalists have been barred from entering. In addition, human rights organizations in Iran have been shut down.<sup>217</sup> Therefore, it is difficult to obtain comprehensive and verifiable information to piece together exactly what has taken place.<sup>218</sup> The Iran Human Rights Documentation Center is currently in the process of conducting an investigation into the human rights abuses that followed the June 12, 2009 election. Witnesses praised the Government of Canada, which put forward \$60,000 from DFAIT's Glyn Berry program to help the Center with this investigation.<sup>219</sup>

Witnesses appearing before the Subcommittee agreed that this crackdown sanctioned by the Iranian government against opposition groups, journalists, government critics, demonstrators and others has not achieved the objective of silencing the Iranian population's struggle for democracy. In fact, according to Dr. Mahdavi, what the world is currently witnessing in Iran is an "authentic grassroots, bottom-up, social and political movement for democracy and human rights," not an uprising or foreign-inspired revolution, but a civil rights movement—an "unprecedented and unique green movement."<sup>220</sup>

In terms of the regime itself, witnesses described its situation as an unprecedented crisis, "not only because it is facing the wrath of the Iranian people, but for the first time, it is also broken right in the middle in its own ranks."<sup>221</sup> According to Dr. Milani, not only are the two surviving key architects of the original 1979 revolution, Ayatollah Khamenei and Ayatollah Hashemi Rafsanjani, fighting against each other, but there have also been indications that some of Iran's Islamic Revolutionary Guard Corps commanders are not in line with the leadership's call to complete the suppression of the opposition movement.<sup>222</sup> This rift in the regime has apparently reached the bureaucracy. For example, many employees in the intelligence ministry, who do not believe that this democratic movement is a concoction of the "West," are being forced out.<sup>223</sup>

Although some within the senior ranks of Iran's regime may disagree with the institution of further repression, witnesses appearing before the Subcommittee were concerned that these tensions could result in the further militarization of Iran as elements within the regime attempt to hold on to their power. Professor Akhavan explained that

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217 *Evidence*, Meeting No. 33, October 27, 2009.

218 *Ibid.*

219 *Evidence*, Meeting No. 31, October 20, 2009.

220 *Evidence*, Meeting No. 33, October 27, 2009.

221 *Evidence*, Meeting No. 32, October 22, 2009.

222 *Ibid.*

223 *Ibid.*

Iran's regime is now a military one since "key members of the cabinet are now members of the Sepah-e, the Revolutionary Guards."<sup>224</sup> Dr. Milani concurred, saying that:

What I fear most, to be honest with you ... is that the Revolutionary Guards will take over in a fashion that will resemble the Myanmar or Pakistan version of a military clampdown. I think that holding power is so important to the Revolutionary Guards that if they feel they are losing control, they might do something like Musharraf in Pakistan or the junta in Myanmar. They would take over and suspend all civil rights and the constitution.<sup>225</sup>

Still, the overwhelming assessment among the Subcommittee's witnesses remains that a major political and societal shift has occurred. According to Dr. Mahdavi, in 1997 when the reformists came to power in Iran, they soon realized how little power they actually had under the existing political system to deliver on their promises.<sup>226</sup> The June election further proved to reformists that given the existing structures of power, bringing change to Iran from within the leadership ranks is very challenging.<sup>227</sup> However, witnesses before the Subcommittee were hopeful that change in Iran can and must come from its people. As several witnesses told Members, the new generation in Iran, "the children of the revolution", are "not happy with the social, economic, and political policies of the Islamic Republic of Iran."<sup>228</sup> This new generation is well-educated, worldly, and realistic. According to Professor Akhavan:

One of the slogans on the streets now is "Neither Gaza nor Lebanon; I will only sacrifice my life for Iran". What are they saying? They're saying they are tired of hate-mongering and the use of imaginary external enemies as a way of crushing internal dissent and that they want to live in peace with their neighbours.<sup>229</sup>

What worries many of the witnesses, however, is how this change will come about and whether or not violence in Iran will escalate in the process. Violence has already emerged in certain regions of Iran over the recent months, especially in regions populated by ethnic and religious minorities, such as the Baluchistan region.<sup>230</sup> These regions have been neglected by the regime and are often the poorest regions in the country. As previously mentioned, recent talks between Iran's Islamic Revolutionary Guard Corps commanders and Baluchi elders to dispel some of the tensions were met by a terrorist bombing. Baluchis, who are Sunni Muslims, are both an ethnic and religious minority. According to Dr. Milani, "some of the more radical elements of Shiism would not mind triggering or reopening old wounds in terms of Shiite-Sunni tensions."<sup>231</sup> According to the

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224 *Evidence*, Meeting No. 34, October 29, 2009.

225 *Evidence*, Meeting No. 32, October 22, 2009.

226 *Evidence*, Meeting No. 33, October 27, 2009.

227 *Ibid.*

228 *Ibid.*

229 *Evidence*, Meeting No. 34, October 29, 2009.

230 *Evidence*, Meeting No. 32, October 22, 2009.

231 *Ibid.*

same witness, a peaceful solution to the Baluchi problem is important because if the situation gets out of hand, there could be a resurgence of Sunni-Shiite sectarian violence.<sup>232</sup>

Professor Akhavan stated:

There is a real fear on the part of the non-violent democratic movement that as people in certain minorities become increasingly desperate, they will resort to violence [... ] My own sincere hope is that this democratic movement maintains its discipline and succeeds through non-violence, but one has to also anticipate the possibility that the longer this situation continues and the longer that the international community helps prop up this regime, the greater the prospect that some, discouraged by non-violence, will begin to resort to violent methods. That will be, I think, most unfortunate for the future of Iran and what kind of regime we will end up with.<sup>233</sup>

## 2. The response from the international community and Canada

Witnesses before the Subcommittee repeatedly expressed frustration at the fixation in the international community, and particularly by the United States, with the nuclear issue as opposed to the grave breaches of human rights that followed the June 12 election in Iran. It seems in particular that since Iran's recent revelation that it had built an additional covert enrichment facility and then signalled its on and off willingness to participate in the P-5 plus 1 talks<sup>234</sup> that the issue of human rights in Iran has dropped off the table in favour of the nuclear talks.

According to Professor Akhavan, it is not a coincidence that soon after the United States government announced its funding cuts to the Iran Human Rights Documentation Center and a number of other human rights and democracy programs aimed to educate Iranians about these issues, President Ahmadinejad suddenly expressed, at the P-5 plus one talks, his initial willingness to consider cooperation in the proposal to ship Iran's uranium abroad to safe third-party countries for enrichment.<sup>235</sup> Witnesses told Subcommittee Members that Iran's leadership has been able to manipulate these issues to its advantage in the past. In their view, it is unlikely that Iran will keep its promises in the future. In the meantime, the democratic movement in Iran will suffer as a result of the lack of international attention paid to the country's domestic human rights situation. As Professor Akhavan explained:

The Iranian government is watching and calculating how much it can get away with. If the message of the international community is that cooperation on the nuclear issue would mean acquiescence in all manner of atrocities, then the hardliners, as they try to

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232 Ibid.

233 *Evidence*, Meeting No. 34, October 29, 2009.

234 The P5+1 group includes the Permanent five Member-States of the UN Security Council: the United States, Russia, China, the United Kingdom and France, plus Germany.

235 *Evidence*, Meeting No. 34, October 29, 2009.

consolidate their grip, will execute and torture as many people as they can get away with. We should have no illusions about their capacity to do that.<sup>236</sup>

Dr. Milani expressed similar concerns:

Unless human rights and democratic rights are kept part of the discussion, the Iranian democrats, the Iranian citizens, will think that the west has sold them [out] in return for a promise on the nuclear issue or oil issue. That would be detrimental to the future of the democratic movement in Iran. The democratic movement in Iran needs, I think, to know that the west is aware of its existence and aware of its legitimacy...<sup>237</sup>

In fact, every witness before the Subcommittee stated that human rights must be part of every dialogue with Iran, if not representing the first and foremost priority. Despite the fact that Iran argues it has the sovereign right to develop a nuclear energy capability, Dr. Mahdavi argues that Iran also has a legitimate obligation “to enrich democratic values and institutions”.<sup>238</sup> The two issues cannot be separated, with a negotiated solution to the nuclear issue overlooking the human rights concerns. One should not be sacrificed for progress in the other as was done in Libya. According to Dr. Milani, Iranians are very well aware of the “Libya syndrome”: once Libya gave up its nuclear program, its “egregious errors and breaches in human rights” were forgotten, and its leader was invited to the capitals of the West instead of being treated like the “criminal” that he was.<sup>239</sup>

With respect to Canadian policy following the June 12, 2009 election in Iran, officials from DFAIT stated that:

The post-election situation is deeply troubling for Canada. Canada has maintained that the allegations of discrepancies in the June 12 presidential elections are serious and need to be answered. Prime Minister Harper issued two statements condemning the use of violence in the crackdown on protesters by Iranian security forces. The Minister of Foreign Affairs also issued statements condemning the use of violence by Iranian security forces, and has called upon Iran to fully respect all of its human rights obligations, both in law and practice. He has called on Iran to conduct a thorough and transparent investigation into the allegations surrounding the elections. Canada also joined the G-8 on July 8 in expressing its concerns regarding the elections.<sup>240</sup>

Witnesses were very supportive of Canada’s role to date. As mentioned earlier, they welcomed Canadian funding for the ongoing Iran Human Rights Documentation Center’s investigation into the human rights abuses in Iran following the presidential election. Witnesses also encouraged the Government of Canada to maintain its leadership role regarding the UN General Assembly resolutions which hold “the Iranian government

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236 Ibid.

237 *Evidence*, Meeting No. 32, October 22, 2009.

238 *Evidence*, Meeting No. 33, October 27, 2009.

239 *Evidence*, Meeting No. 32, October 22, 2009.

240 *Evidence*, Meeting No. 31, October 20, 2009.

to account for its systemic and persistent human rights violations” and “sets out specific actions to be taken by Iran to rectify its human rights situation.”<sup>241</sup>

## **VI. THE HUMAN RIGHTS SITUATION IN POST-ELECTION IRAN: THE SUBCOMMITTEE’S OBSERVATIONS**

The Subcommittee notes that the witnesses who appeared following the June 12, 2009 election were more or less unified in their recommendations to the Government of Canada on how it should engage with the Government of Iran. They all agreed that military action by the international community against Iran is not an option. They also agreed that blanket economic sanctions would only help the regime. Some witnesses supported targeted sanctions, although many were skeptical as to how these would work in practice. All witnesses agreed that any Canadian effort to dialogue with the Government of Iran must maintain the issue of human rights and democracy at the forefront. The Subcommittee recognizes this need.

As stressed by Dr. Milani:

Again, I have always been for negotiations with this regime. I have never believed that not talking to this regime is a policy. Not talking is not a policy; not talking is a failure of having a policy. My suggestion has been, and still is, that the west must talk to this regime, but it must talk with this regime with the issues of human rights and the democratic rights of the people on the table, front and centre.<sup>242</sup>

The Subcommittee questioned witnesses as to what kind of an impact, realistically, Canada could have on the political and human rights situation in Iran. As mentioned by Dr. Mahdavi, Canada and Iran do not have good relations.<sup>243</sup> Professor Akhavan stated:

... Canada is extremely important to the Iranian community, both to the democrats and human rights activists who have made Canada their home and are proud members of this nation, and also among the elites of the regime who send their children to school here, who have major investments here, and who are also trying to lobby the members of this House of Commons for their own business and other interests.<sup>244</sup>

Dr. Mahdavi, along with all the other witnesses, stressed the importance of giving moral and spiritual support to the democratic opposition in Iran.<sup>245</sup> Professor Akhavan suggested that in addition to supporting the Iran Human Rights Documentation Center in its investigation, opening an office in Canada would send a clear symbolic message.<sup>246</sup>

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241 Ibid.

242 *Evidence*, Meeting No. 32, October 22, 2009.

243 *Evidence*, Meeting No. 33, October 27, 2009.

244 *Evidence*, Meeting No. 34, October 29, 2009.

245 *Evidence*, Meeting No. 33, October 27, 2009.

246 *Evidence*, Meeting No. 34, October 29, 2009.

Multilaterally, the Subcommittee notes that although the Government of Canada does abide by its international obligations under the UN Security Council Resolutions 1737, 1747, and 1803 (which impose sanctions on specific individuals, arms and goods with respect to Iran's nuclear program), no such resolution exists for individuals in Iran and companies that are complicit in the regime's human rights abuses towards its population.

Dr. Mahdavi stated that Canada should do whatever it can to urge other governments and the United States that are currently dialoguing with Iran on the nuclear issue to stand by the democratic movement in Iran and to keep human rights and democracy as a priority issue.<sup>247</sup> In fact, a democratic Iran would solve not only the issue of human rights but also the nuclear issue. As suggested by Dr. Milani:

It is my hope that the international community, in its understandable eagerness to engage with the regime on the nuclear issue, will not forget the human rights issue and the democratic rights of the Iranian people. Ultimately, I think we have to accept, and we will realize, I think, that the only solution to the nuclear issue is also to have a more democratic Iran. There is no other solution, I think, to the democratic issue. If we pay more heed to the human rights abuses and support more vigorously the democratic rights of the Iranian people, I think we will also be helping to find a structural, strategic solution to the nagging problem of the nuclear issue.<sup>248</sup>

In conclusion, the Subcommittee was troubled by the testimony brought forth by witnesses following the June 2009 presidential election in Iran. It is impossible to predict what will happen next in Iran, whether there will be more demonstrations and more violence. In addition, the longer term impact of the government crackdown on Iran's democratic movement that took place following the election remains to be seen.

Still, witnesses appearing before the Subcommittee continued to express their optimism and faith in the resilience and passion of Iran's youth, who continue to fight for democracy in Iran. Dr. Hassan-Yari argued that although Iranians are clearly living under repressive conditions, it could also be argued that the long-term trend in Iran is positive and Canada and other states should pursue dialogue with Iran.<sup>249</sup>

Similarly, Professor Akhavan suggested that despite the pervasive human rights violations in Iran, there may be some reason to hold out hope for a better future in that country. He also pointed in particular to Iran's youthful population and the grassroots movement that was born from the recent post-election protests. He stated:

The promise of Iran is that there is now a grassroots social movement calling for democracy. This is no longer just factional politics. The protestors, the millions in the streets, may have used the elections as a pretext to come out on the streets, but there

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247 *Evidence*, Meeting No. 33, October 27, 2009.

248 *Evidence*, Meeting No. 32, October 22, 2009.

249 *Evidence*, Meeting No. 25, June 11, 2009.

are women's groups, human rights activists, student leaders, unemployed people, and just grandmothers and grandfathers and children who want freedom. They want hope.<sup>250</sup>

#### **RECOMMENDATION 22**

**The Subcommittee recommends that the Government of Canada encourage the governments of the P5 plus 1 (the United States, the United Kingdom, France, Germany, Russia, and China) to include a discussion of human rights issues in their negotiations with the Iranian government regarding that country's nuclear programs.**

#### **RECOMMENDATION 23**

**The Subcommittee recommends that the Government of Canada continue to fund the work of the Iran Human Rights Documentation Centre and encourage the Centre to open an office in Canada.**

#### **RECOMMENDATION 24**

**The Subcommittee recommends that the Government of Canada ensure that when federal grants and other assistance are made to educational and other institutions that this assistance be contingent on these institutions not accepting money from Iranian sources.**

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250 *Evidence*, Meeting No. 34, October 29, 2009.

# **LIST OF RECOMMENDATIONS**

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## **RECOMMENDATION 1**

The Subcommittee recommends that the Government of Canada continue to provide moral support and should increase, if possible, its financial support for Canadian and Iranian civil society organizations and other human rights groups that document and report on human rights abuses committed by the Iranian regime.

## **RECOMMENDATION 2**

The Subcommittee recommends that the Government of Canada provide moral and diplomatic support to the democratic movement in Iran.

## **RECOMMENDATION 3**

The Subcommittee recommends that the Government of Canada demand, at every appropriate opportunity, that the Iranian government grant access to international human rights organizations within its borders and allow domestic human rights organizations to operate without restriction or harassment.

## **RECOMMENDATION 4**

The Subcommittee recommends that the Government of Canada consider funding a research chair at a Canadian university dedicated to the study of Canadian-Iranian relations, including the human rights situation in Iran.

## **RECOMMENDATION 5**

The Subcommittee recommends that the Government of Canada encourage Radio Canada International to consider programming in Farsi over its worldwide shortwave service, over conventional AM/FM broadcasting in the Gulf region, and over the Internet.

## **RECOMMENDATION 6**

The Subcommittee recommends that the Government of Canada take appropriate action to ensure that Iranian foreign offices, bureaus or media outlets in Canada are not used by the Iranian regime as a source of threat and intimidation of the Iranian Diaspora in Canada.

## **RECOMMENDATION 7**

The Subcommittee recommends that, in communicating its condemnation of the human rights violations of the Iranian regime against its own people, the Government of Canada:

- Use all available tools, already authorized under Canada's existing immigration and visa legislation, to ensure that high-ranking members of the regime are not able to access direct or indirect support from within Canadian territory.

- **Reduce high-level interaction with Iranian Government officials and make any invitations extended to Iranian officials conditional upon effective actions taken by the Iranian government to improve the human rights situation in Iran.**

#### **RECOMMENDATION 8**

**The Subcommittee recommends that the Government of Canada, in communicating its condemnation of the human rights violations perpetrated by members of Iran's state security agencies against the Iranian people, use all available tools, authorized by existing immigration and visa policies and legislation, to deny entry to Canada to members of Iran's security agencies, including members of Iran's Islamic Revolutionary Guard Corps and the Basij militia.**

#### **RECOMMENDATION 9**

**The Subcommittee recommends that the Government of Canada ensure sufficient resources are available to the Department of Justice, the Canada Border Services Agency, the Canadian Security Intelligence Service, and the Royal Canadian Mounted Police to ensure that they are able to make accurate decisions related to recommendations 7 and 8.**

#### **RECOMMENDATION 10**

**The Subcommittee recommends that the Government of Canada institute targeted sanctions, including travel bans and asset freezes, against those individuals within the Iranian government and state security forces who are known to have committed human rights violations.**

#### **RECOMMENDATION 11**

**The Subcommittee recommends that the Government of Canada continue to display public disapproval of the Iranian regime and its leadership and continue to make active interventions during any bilateral meetings with Iranian government officials as well as at the United Nations Human Rights Council, the United Nations General Assembly and other international organisations regarding Iran's poor human rights record.**

#### **RECOMMENDATION 12**

**The Subcommittee recommends that the Government of Canada work multilaterally with other member states of the United Nations Human Rights Council to re-establish a position for a country-specific rapporteur on human rights in Iran.**

#### **RECOMMENDATION 13**

**The Subcommittee recommends that the Government of Canada completely remove immunity for foreign governmental officials in cases of gross violations of international human rights law, including torture, from the *State Immunity Act* allowing Canadians who are victims of such human rights violations judicial remedy within Canada's domestic legal system.**

#### **RECOMMENDATION 14**

The Subcommittee recommends that, as a member of the International Atomic Energy Agency (IAEA), the Government of Canada should use every opportunity to encourage the IAEA to continue its efforts to inspect Iranian nuclear production facilities.

#### **RECOMMENDATION 15**

The Subcommittee recommends that the Government of Canada continue to work with the United Nations and members of the international community to add sanctions to those already imposed against Iran. In particular, the Subcommittee recommends that the Government of Canada move in concert with its international partners to implement the necessary regulations under the *Special Economic Measures Act (SEMA)* and/or *Export and Import Permits Act* to impose:

- A ban on all goods exported from Canada to Iran, excepting humanitarian goods such as food and medicine, and a ban on all goods imported from Iran to Canada;
- A ban on businesses or their subsidiaries operating in Canada from exporting gasoline and other refined petroleum products to Iran or facilitating such export (i.e. the shipping and insurance industries);
- A ban on new investment in Iran or the introduction of incentives to prevent such investments, particularly with regards to Iran's energy infrastructure, by Canadian persons and companies (as well as foreign companies or their subsidiaries operating in Canada) and including related industries such as shipping, insurance and construction companies;
- A prohibition on the provision of financial services to and from Iran, particularly regarding any transactions with the Iranian Central Bank, by businesses or their subsidiaries operating in Canada;
- A prohibition on the export of any technologies to Iran, particularly those that enable the Iranian regime to violate the human rights of its own people (including but not limited to surveillance equipment);
- A prohibition on Canadian-registered ships from docking in Iran and on Iranian-registered ships from docking in Canada and passing through Canadian waters.

#### **RECOMMENDATION 16**

The Subcommittee recommends that the Government of Canada call upon United Nations Secretary General Ban Ki-Moon to refer the matter of Iran's genocidal incitement to the Security Council pursuant to Article 99 of the Charter of the United Nations, on the basis that Iran poses a threat to international peace and security.

#### **RECOMMENDATION 17**

The Subcommittee recommends that the Government of Canada include Iran's Islamic Revolutionary Guard Corps as a listed entity for its role in supporting international terrorist organizations in accordance with Canadian law.

#### **RECOMMENDATION 18**

The Subcommittee recommends that the Government of Canada assist with the enforcement of standing international arrest warrants that have been filed against Iranian government officials.

#### **RECOMMENDATION 19**

The Subcommittee recommends that the Government of Canada initiate an interstate complaint against the Government of Iran before the International Court of Justice, under Article 9 of the *Genocide Convention*, calling Iran to account for its violations of the Convention, including its failure to punish the incitement to genocide perpetrated by its officials.

#### **RECOMMENDATION 20**

The Subcommittee recommends that the Government of Canada, in accordance with Canada's responsibilities under Article 1 of the *Genocide Convention* and the prohibition against incitement to genocide in Article 3 of the Convention, invite the United Nations Security Council to consider referring to the Prosecutor of the International Criminal Court the case of President Mahmoud Ahmadinejad and those Iranian leaders participating with him in direct and public incitement to genocide, for investigation and prospective prosecution.

#### **RECOMMENDATION 21**

The Subcommittee recommends that the Government of Canada petition the United Nations Security Council, in accordance with Canada's responsibilities under Article 1 of the *Genocide Convention* and the prohibition against incitement to genocide in Article 3 of the Convention, to take appropriate action and to hold Iran to account.

#### **RECOMMENDATION 22**

The Subcommittee recommends that the Government of Canada encourage the governments of the P5 plus 1 (the United States, the United Kingdom, France, Germany, Russia, and China) to include a discussion of human rights issues in their negotiations with the Iranian government regarding that country's nuclear programs.

#### **RECOMMENDATION 23**

The Subcommittee recommends that the Government of Canada continue to fund the work of the Iran Human Rights Documentation Centre and encourage the Centre to open an office in Canada.

#### **RECOMMENDATION 24**

**The Subcommittee recommends that the Government of Canada ensure that when federal grants and other assistance are made to educational and other institutions that this assistance be contingent on these institutions not accepting money from Iranian sources.**



## APPENDIX A LIST OF WITNESSES WHO APPEARED BEFORE THE SUBCOMMITTEE ON INTERNATIONAL HUMAN RIGHTS

Organizations and Individuals	Date	Meeting
<b><u>40th Parliament, 3rd Session</u></b>		
<b>As an Individual</b> Shirin Ebadi, Iranian Lawyer	2010/04/27	10
<b><u>40th Parliament, 2nd Session</u></b>		
<b>Amnesty International</b> Keith Rimstad, Campaigner	2009/03/10	6
<b>Human Rights Watch</b> Joe Stork, Deputy Director, Middle East and North Africa		
<b>University of Pennsylvania Law School</b> Jared Genser, Lecturer in Law		
<b>Association for Defence of Azerbaijani Political Prisoners in Iran</b> Fakhteh Luna Zamani, President	2009/03/24	8
<b>Human Rights Activists in Iran</b> Ahmad Batebi, Spokesperson		
<b>University of North Dakota</b> Gregory Gordon, Director, Center for Human Rights and Genocide Studies	2009/03/31	10
<b>B'nai Brith Canada</b> David Matas, Senior Legal Counsel	2009/04/02	11
<b>Democratic Party of Iranian Kurdistan</b> Sharif Behruz, Member	2009/04/21	12
<b>Washington Institute for Near East Policy</b> Patrick Clawson, Deputy Director of Research	2009/04/23	14

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<p><b>As an individual</b></p> <p>François J. Larocque, Associate Professor and Director, National Program, Faculty of Law, Common Law Section, University of Ottawa</p> <p>Kurt A. Johnson, Lawyer, Irving Mitchell Kalichman</p> <p>Mark H. Arnold, Lawyer, Gardiner Miller Arnold</p> <p>Mathieu Bouchard, Lawyer, Irving Mitchell Kalichman</p> <p>Stephan Kazemi</p> <p><b>Canadian Centre for International Justice</b></p> <p>Jayne Stoyles, Executive Director</p>	2009/04/30	15
<p><b>Genocide Watch</b></p> <p>Gregory H. Stanton, President</p> <p><b>Transatlantic Institute</b></p> <p>Emanuele Ottolenghi, Executive Director</p>	2009/05/05	16
<p><b>As an individual</b></p> <p>Alan M. Dershowitz, Professor of Law</p>	2009/05/07	17
<p><b>Department of Public Safety and Emergency Preparedness</b></p> <p>Lynda Clairmont, Assistant Deputy Minister, Emergency Management and National Security</p> <p>Paul MacKinnon, Director General, National Security Policy</p>	2009/05/12	18
<p><b>Abdorrahman Boroumand Foundation</b></p> <p>Roya Boroumand, Executive Director</p>	2009/06/09	24
<p><b>As an individual</b></p> <p>Victor Comras, Attorney</p> <p><b>Royal Military College of Canada</b></p> <p>Houchang Hassan-Yari, Professor and Head, Politics and Economics Department</p>	2009/06/11	25
<p><b>House of Commons</b></p> <p>Hon. Irwin Cotler, P.C., M.P., Mount Royal</p> <p><b>University of Western Ontario</b></p> <p>Robert Ivan Martin, Professor</p>	2009/06/18	27

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Department of Foreign Affairs and International Trade</b> David J. Angell, Director General, International Organizations Bureau Shawn Caza, Deputy Director, Nuclear Cooperation and Compliance Jeffrey K. McLaren, Director, Gulf and Maghreb Relations <b>As an individual</b>	2009/10/20	31
Abbas Milani, Director of Iranian Studies, Stanford University <b>As an individual</b>	2009/10/22	32
Mojtaba Mahdavi, Assistant Professor, Department of Political Science, University of Alberta <b>Iran Human Rights Documentation Center</b> Renee C. Redman, Executive Director <b>As an individual</b>	2009/10/27	33
Payam Akhavan, Professor of International Law at McGill University, and Former Member of the Board of Directors at Rights & Democracy <b>39th Parliament, 2nd Session</b> <b>As an individual</b>	2009/10/29	34
Shirin Ebadi, Iranian Lawyer	2008/03/06	02



**APPENDIX B  
LIST OF BRIEFS SUBMITTED  
TO THE SUBCOMMITTEE ON  
INTERNATIONAL HUMAN RIGHTS**

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**Organizations and Individuals**

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**40th Parliament, 2nd Session**

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**Abdorrahman Boroumand Foundation**

**Amnesty International**

**Association for Defence of Azerbaijani Political Prisoners in Iran**

**B'nai Brith Canada**

**Canadian Centre for International Justice**

**Cotler, Irwin**

**Human Rights Activists in Iran**

**Human Rights Watch**

**University of Pennsylvania Law School**

**Washington Institute for Near East Policy**



## MINUTES OF PROCEEDINGS

A copy of the relevant Minutes of Proceedings of the Committee ([\*Meetings Nos. 29, 36 and 38\*](#)) is tabled and a copy of the relevant Minutes of Proceedings of the Subcommittee on International Human Rights (40<sup>th</sup> Parliament, 3<sup>rd</sup> Session: [\*Meetings Nos. 2, 3, 6, 7, 10 and 24\*](#)), (40<sup>th</sup> Parliament, 2<sup>nd</sup> Session: [\*Meetings Nos. 6, 8, 10 to 12, 14 to 18, 24, 25, 27, 31 to 34, 37 to 44\*](#)) and (39<sup>th</sup> Parliament, 2<sup>nd</sup> Session: [\*Meeting No. 2\*](#)) is tabled.

Respectfully submitted,

Dean Allison, MP  
Chair



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 29, 36 and 38](#)) is tabled.

Respectfully submitted,

Dean Allison, MP  
Chair

