
Promoting a Culture of Human Rights : The United Nations Commission on Human Rights and the Bahá'í community in the Islamic Republic of Iran

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Introduction

This paper examines one international organisation, the United Nations Commission on Human Rights and its actions in relation to the case study of the human rights situation of the Bahá'í community in Iran. In section one, the role of the CHR is discussed. I identify three main areas where it carries out its functions: direct collective action, direct diplomatic dialogue, and indirect action through influencing the international human rights regime and other regimes. Section two is a case study of the Commission in action. I analyse the nature of the persecution of the Bahá'ís in the Islamic Republic of Iran. There is a discernible pattern in the area of civil and political rights, in the area of economic, social and cultural rights, however, there seems to be no apparent difference. I argue that although there have been slight changes in the situation they do not signify a change in the situation as a whole.

In the final section, the Commission's actions are discussed in the three areas of direct diplomatic action, collective diplomatic action and indirect mobilisation of the human rights regime. I argue that the case study confirms that the Commission's actions have to some extent influenced the Islamic Republic of Iran, as demonstrated in the slight changes that have occurred in the nature of the persecution of the Bahá'ís. In addition, the indications of change are discernible in the statements that have been made by the government of Iran to the international community. My case study indicates that the Commission's actions have within a normative framework influenced Iran to some extent.

Section I:

The role of the United Nations Commission on Human Rights

Direct collective function

In its collective capacity, the CHR is currently representative of 53 member states.¹ As an inter-governmental body, its voting and decisions are restricted to these member states of the CHR. A consequence of this restriction of membership to governmental actors is a highly politicised climate in the sessions and discussions of the CHR. The annual recrudescence of deep geo-political fractures is a common feature of Commission sessions, resolutions and decisions.² The deliberations are divided according to political interests, and it has been argued that the threat of bias has dominated the work of the Commission, as demonstrated by an empirical study carried out by Donnelly,³ who refers to the inordinate amount of time spent on certain country cases and almost complete dismissal of other cases where the degree of human rights violations is similar, if not worse.⁴ Nevertheless, the CHR also seeks input from Non-Governmental Organisations, enabling it to incorporate issues and interests that are not wholly motivated by political self-interest. The presence of NGOs at the Commission's sessions and their consultative capacity enable a wider cross section of the international community to be represented, and their interests to be integrated into the human rights system. It may seem that enhancing the non-political actors' role in the Commission may be a possible response to the challenge of politicization. However, it has also been argued that this may detract from the pressure that governments can exert through their own relations with other states. Indeed Suter views the political aspect of the membership of the Commission as a positive as it places increased pressure on states.⁵

The force of the resolutions and declarations made by the Commission is evident in their standard setting repercussions. Such instruments have been criticised as being merely rhetoric lacking any enforcement mechanisms, but

1. United Nations High Commissioner for Human Rights, "United Nations Commission on Human Rights Membership," United Nations High Commissioner for Human Rights, "United Nations Commission on Human Rights Membership," <http://www.unhchr.ch/html/menu2/2/chrmem.htm#top> (25 September 1999).
2. These geo-political divisions mainly pertain to North/South and East/West. See Joe W. Pitts III and David Weissbrodt, "Major developments at the UN Commission on Human Rights in 1992", *Human Rights Quarterly*, Feb 1993 15 n1 pp. 122-196; also see, International Commission of Jurists, *The Review*, which publishes reports on the Commission's sessions on an annual basis.
3. Jack Donnelly, "Human Rights at the United Nations 1955-85: The Question of Bias", *International Studies Quarterly*, 1988, 32, pp. 275-303.
4. *Ibid.*, pp. 290-291. One example presented by Donnelly is the emphasis given to Israel's human rights record in the occupied territories and the disregard of Indonesia over East Timor. Donnelly states that "[w]hile genuine genocide in East Timor has been completely ignored, the brutal, the completely unjustifiable, but hardly genocidal massacre at the Sabra and Shantila camps has been labeled [sic] 'an act of genocide.'" He goes on to conclude that: "Palestinian Arabs have become a central concern of the United Nations. The people of East Timor have been abandoned. And politics is the only plausible explanation."
5. Keith D. Suter., "The UN Commission on Human Rights", *The Australian Outlook*, v.31, Aug. 1977, pp. 289-307.

in my view they are crucial moves in the process towards creating the status of international law. The collective aspiration of setting normative standards is a primary aspect of the CHR's mandate. Its first task was to establish an International Bill of Rights and then to formulate international declarations or conventions. These documents have provided the international community with an embryonic form of international law; Ramcharan notes that certain norms have so permeated the international community's concerns that they have attained the: "[s]tatus of imperative norms of international law, or known in technical parlance, as norms of *jus cogens*."⁶ As Burgenthal argues, one of the main powers proceeding from the normative foundations of human rights is its onus on states to confront their international obligations. He argues that this normative evolution is an irreversible process that sets in motion the: "[i]nternationalization of human rights and the humanization of international law."⁷

Direct diplomatic function

Another aspect of the promotional activities that the CHR carries out is through its direct mechanism that it enables it to interact and conduct dialogue with states. The direct diplomatic function of working with states to monitor their compliance was often initially taken by the Secretary-General. As the CHR's work has expanded and become more systematised it has appointed independent experts to take on the specific roles of direct diplomatic action. There are two different fields of work that these independent experts cover, thematic mechanisms and country mechanisms. The thematic mechanism presently covers 26 themes that includes a range of multifarious issues such as disappearances, executions, torture, mercenaries, religious intolerance, arbitrary detention, and children.⁸ In the country cases, a Special Representative is often appointed to carry out diplomatic dialogue with the state concerned. A distinction has been made in this aspect of the work of the Commission is that it is 'inquisitorial' rather than 'adversarial'.⁹ The distinction between these two approaches characterises the general nature of the Commission's work, that it is based on the long term prospects of building and strengthening a relationship between itself and a non-compliant state rather than short-sighted attempts to persuade compliance with a hope for immediate results. This reflects its emphasis on the normative standard-setting focus of its work.

6. B.G Ramcharan, *Keeping Faith with the United Nations*, Dordrecht: Martinus Nijhoff Publishers, 1987, p. 26.
7. Thomas Burgenthal, "The Normative and Institutional Evolution of International Human Rights," *Human Rights Quarterly*, 19 (1997), p. 705.
8. See United Nations High Commissioner for Human Rights, "Thematic Mandates," See United Nations High Commissioner for Human Rights, "Thematic Mandates," <http://www.unhcr.ch/html/menu2/7/b/tm.htm> (16 October 1999).
9. B.G. Ramcharan, (ed.), *International Law and Fact-Finding in the Field of Human Rights*, The Hague: Martinus Nijhoff Publishers, 1982, pp. 1-26.

Another facet of direct diplomacy is through the establishment of the office of the United Nations High Commissioner for Human Rights. The establishment of this office is again reflective of the dilatory work of the Commission; Humphries notes that he first suggested that such a post be established in 1963,¹⁰ but it was not until 1993 that its establishment was ratified.¹¹ This example demonstrates that though a proposal can be criticised and rejected initially, it does not signify that such a proposal is doomed to failure. The influence that this post exerts was evident at the most recent Commission session. The Office of the High Commissioner was able to form personal contacts with those suffering human rights abuse, bringing their voices and concerns closer to the attention of the Commission. During the 1999 session, Mary Robinson demonstrated the effectiveness of her post through her facilitation of a quick response from the Commission to the crisis in Kosovo.¹² A resolution was passed in the first few days of the CHR's session and weekly reports were provided, updating the developments in the situation. The High Commissioner has become the central diplomatic representative of the Commission's actions.

Indirect mobilisation of the International Human Rights Regime

My argument is that the work of the Commission is central both within the international human rights regime and also externally in mobilising other human rights regimes. According to Krasner, a regime can be defined as: "[p]rinciples, norms, rules and decision-making procedures around which actor expectations converge in a given issue area."¹³ Donnelly shifts the tone of this definition slightly by introducing the term "international actors".¹⁴ He applies regime theory in his analysis of the global organisation of human rights, and sees the CHR as the central component of the overall international human rights regime.¹⁵ The other agencies identified in this regime are: the General Assembly, the third committee, the ECOSOC, the Human Rights Committee, the Working Groups, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities. The first two strands of regime theory, the principles and norms, form a crucial aspect of the work of the Commission as I have discussed.

External to the international human rights regime, the CHR has been

10. John P. Humphrey, *Human Rights and the United Nations: A Great Adventure*, New York: Transnational Publishers, 1984, pp. 296-301.

11. *Ibid.*

12. Mr Peter Heyward of the Department of Foreign Affairs and Trade expressed this view. Mr Heyward was part of the Australian delegation at United Nations Commission on Human Rights in 1999. He gave a report of his personal insights and experiences from working at the Commission a meeting sponsored by the *National Council of Churches* in Sydney, "Report Back on the 1999 United Nations Commission on Human Rights," 8 July 1999.

13. Stephen Krasner, (ed.) *International Regimes*, Ithaca: Cornell University Press, 1983, p. 1.

14. Jack Donnelly, "International Human Rights: A Regime Analysis", *International Organization*, 40, 3, Summer 1986, p. 602.

15. *Ibid.*, pp. 599-642.

instrumental in strengthening other regimes. The regional commissions set up and modelled after the CHR have been a testimony to its impact. These commissions have been established in North America, Europe and Africa.¹⁶ In 1963, the CHR added an agenda item under the title of “Further promotion and encouragement of human rights.”¹⁷ The purpose of this agenda item was to encourage the creation of national and regional institutions. These institutions serve to strengthen the role of the CHR through reinforcement of the work that it has accomplished. They seek to interpret and translate the normative standards formulated by the CHR into domestic law. The advantage in this regard is that these regional commissions have been created in such a way that they are more approachable as they do not require a strict adherence to formal procedures.¹⁸ They are also not confined to particular restrictions such as only taking into consideration situations of ‘gross and systematic’ human rights abuses. The Inter-American Commission is able to hear individual grievances and is less strict than its European counterpart in its criteria for admitting a petition.¹⁹

I have argued that the scope of the Commission’s work has been strong in the creation and promotion of norms and weak in the area of implementation and enforcement. In the following section, I analyse the human rights situation of the Bahá’í community in Iran. This case study will then be used to reflect on the Commission’s actions. I argue that the Commission had a limited impact in responding to this specific situation.

Section II: The Persecution of the Bahá’ís

Historical Background of the persecution of the Bahá’ís

Since the origins of the Bahá’í Faith in Iran, its adherents have been continually persecuted for their beliefs, with the prophet-founder of the Bahá’í Faith, Bahá’u’lláh suffering numerous afflictions including imprisonment and exile.²⁰ The basis for these persecutions is embedded in Islamic theological interpretations of the concept of prophethood and finality in religious dispensation.²¹ As the motives for these persecutions changed over time, the continued persecution of the Bahá’ís can be explained in part from the prejudicial attitude that these early attacks incited, which became ingrained in the

16. For a good overview and comparative analysis on regional human rights arrangements see Burns H. Weston, Robin Ann Lukes, Kelly M. Hnatt, “Regional Human Rights Regimes: A Comparison and Appraisal,” *Vanderbilt Journal of Transnational Law*, Vol. 20, No. 4, 1997, p. 591.

17. Howard Tolley, Jr, *The U.N. Commission on Human Rights*, Boulder: Westview Press, 1987, p. 96.

18. Dina L. Shelton, “The Inter-American Human Rights System,” Chapter 7 in Hurst Hanumm, ed., *Guide to International Human Rights Practice*, 2nd edition, Philadelphia: University of Pennsylvania Press, 1992, pp. 119-132.

19. *Ibid.*, p. 126.

20. Historical accounts of the life of Bahá’u’lláh can be found in many publications. For some notable works on this theme see, H.M.Balyuzi, *Bahá’u’lláh*, London: George Ronald, 1972; J.E.Esslemont, *Bahá’u’lláh and the New Era*, (fifth revised edition), Illinois: Bahá’í Publishing Trust, 1980; Bahá’í International Community, *Bahá’u’lláh*, Sydney: Bahá’í Publications Australia, 1991.

21. According to an interpretation of Islamic doctrine, Muhammad represented the last in the line of

national consciousness and were cultivated from generation to generation,²² with the Bahá'ís becoming a scapegoat to fulfil political motivations.²³ During the nineteenth century approximately 20, 000 Bahá'ís were killed.²⁴ It has been argued that another change in the motivations spurring attacks against the Bahá'ís was between 1921-1944, were the emphasis of the persecutions was to subjugate the Bahá'í institutions.²⁵

During the formulation of the 1906 constitution and its subsequent establishment as the political system for Iran, the Bahá'ís faced another series of hostile assaults. Not only were they omitted from the Constitution and thus not recognised as receiving civil rights, they were also specifically targeted as national apostates. A particular aspect of this non-recognition was an emphasis on not permitting Bahá'ís to participate in elections.²⁶ The upheavals against the Bahá'ís escalated during the 1950s. A specific campaign initiated by leading clerics in 1955 established an "Anti-Bahá'í Society" with the sole purpose of planning and carrying out attacks against the Bahá'ís.²⁷ The government permitted access to national radio for public vilification purposes, and there followed a wave of violent assaults including physical abuse, executions and confiscation of property.²⁸ Indeed as Cottam notes, the Shah persecuted the Bahá'ís throughout his regime for political advantage.²⁹

The "Justifications" of Iran's actions against the Bahá'ís

Often the social status of Bahá'ís has been the reason for fuelling enmity. The early Bahá'í community consisted of many individuals who belonged to the mercantile classes. The implications of this has been noted by Avery in

(footnote 21 continued) Prophethood, as he was recognised as the: "Seal of the Prophets". Any claims to Prophethood proceeding Muhammad according to this interpretation are a repudiation of the entire Muslim religion. See, Sandra Mackey, *The Iranians: Persia, Islam, and the Soul of the Nation*, New York: The Penguin Group, 1998. Mackey states that: "From its inception, Baháism enraged the Shia clergy. Its blasphemy denied Muhammad as the last prophet and the Koran as final revelation. A powerful corresponding issue for the clerics as well as the shah was that Baháism, like Manichaeism in its time, posed a threat to the existing order." (p. 130). For other interpretations of this verse from the Qu'rán see Shaykh Sadúq, *Kamál ad-Dín wa Tamám an-Níma* (also called *Ikmál ad-Dín wa Itmám an-Níma*) in 'Alí Akbar Ghaffari, ed., *Maktab as-Sadúq*, Tehran, 1390/1970, cited in Moojan Momen, *An Introduction to Shi'í Islam*, George Ronald, Oxford, 1985, p. 346.

22. Moojan Momen (ed.), *The Bábí and the Bahá'í Religions, 1844-1944 – Some Contemporary Western Accounts*, George Ronald, Oxford, 1981.

23. *Ibid.*, pp. 237, 257.

24. Bahá'í International Community, *The Bahá'ís in Iran – A Report on the Persecution of a Religious Minority*, New York: Bahá'í International Community - United Nations Office, 1982, p. 1.

25. Momen, *The Bábí and the Bahá'í Religions*, op.cit., "Introduction"

26. *Ibid.*, p. 368.

27. Mackey, op.cit, p.210.

28. Peter Avery, *Modern Iran*, New York: Frederick A. Praeger Publishers, 1967, pp 46-67, 76, 121, 469. Avery notes in particular: "In 1955 observers were surprised when the Government suddenly instituted moves against the religious minority of the Bahá'ís; although there is religious toleration in Iran, action against the Bahá'ís was condoned on the grounds that their faith is not recognised as a separate religion. No less a person than the Army Chief of Staff took charge of the sequestration of the Bahá'ís' main centre in Tehran. The dome of this building was destroyed and the building itself made the headquarters of the city's military government!" (p 469).

29. Richard W. Cottam, "Human Rights in Iran under the Shah", *Comment*, Vol. 12, No. 1, Winter 1980. p. 128.

terms of economic factors and their influence on political strains.³⁰ It has also been noted by other scholars that Bahá'ís often represented the educated social classes and were hence on this basis especially singled out for persecution. However, this argument is not necessarily accurate as Bahá'ís were representative of a diverse range of social classes and backgrounds.

The charges of espionage, Zionist activities and corruption have been used as other justifications by the Iranian government against the Bahá'ís. It is often claimed that the Bahá'ís work on behalf of the state of Israel to collate confidential information. The basis for these accusations is unfounded and is a sign of the confusion that exists regarding the administrative centre of the Bahá'í Faith. The Bahá'í World Centre is located in Haifa, and the resting place of the founder of the Faith is in Akká; both were proclaimed as sites of holy significance to the Bahá'ís prior to the formation of the state of Israel.

Civil and Political Rights

The following analysis of the human rights situation of the Bahá'ís in post-revolutionary Iran is divided into specific time periods in the area of civil and political rights. The main reasoning behind the division into the three time periods is that each period is representative of where there has been a decisive decrease in the right to life. This can be accounted as one indication of change in the nature of the human rights abuse. I should make it clear that the break in the time-periods does not represent a change in the betterment of the overall situation for the Bahá'ís but rather is demonstrative of a change in the nature of the governments dealing with the Bahá'ís. In the area of economic, social and cultural rights no time periods are chosen as I argue that no real change has occurred, indeed in some cases it appears to have worsened.

1979-1985

The most visible atrocities against the Bahá'ís in the area of civil and political human rights abuse occurred during the period of 1979-1985. The administrative aspect of the Bahá'í community was wholly undermined.³¹ Many local sites of administration were burnt and destroyed. The national office was confiscated and replaced by an Islamic University.³² A total ban on the administration of the Bahá'í Faith was announced in 1983, and since that time has not been lifted.³³ Sites of holy significance to the Bahá'ís were

30. Avery, *op.cit.*, p. 76, Avery notes for instance that: "The Bábí movement had itself sprung from among the mercantile classes, a fact which recalls us to the realisation that, as political strains can be symptoms of economic ills, so in a country like Iran can religious movements reflect the anxieties of classes engaged in commerce. In terms of a new religious hope, the Bábí movement was part of a syndrome indicating the stress of mounting economic and social tension."

31. This was particularly critical for the Bahá'ís in terms of the maintenance of their religious community life. The Bahá'ís do not have any clergy and priesthood and depend on the institutions of their administration to conduct their community affairs.

32. This was reported by Reuters World Press News Release 12 July 1979.

seized, burnt and destroyed.³⁴ Arrests were not only carried out by revolutionary guards, but also Muslims were invited to submit Bahá'ís to the authorities. *Le Monde* reported that: “[A]yatollah [Sadoughi] invited the mass of the faithful to ‘hunt out the Bahá'ís throughout the public services and deliver them to the revolutionary prosecution department.’” This was advertised in the daily newspaper.³⁵ This and similar calls to subjugate the Bahá'ís led to arbitrary and frequent arrests and imprisonment. There were reports of torture and abuse in prison.³⁶ Executions numbered 184 during this time, the highest number in such a concentrated time throughout the twenty year period.³⁷ It was discovered that the revolutionary police were in possession of a list of names of 20,000 Bahá'ís.³⁸ Most of the attacks against the Bahá'ís in this first phase, such as the banning of administration and the demolition of sites of holy significance, had widespread ramifications. The unfortunate legacy of these attacks remained as a constant source of suffering for the Bahá'ís.

1986-1991

An apparent lessening in the persecution of the Bahá'ís took place during this time. Compared to the previous seven year period when 184 Bahá'ís were executed, there was a dramatic decline to 14 executions in this six year period, which suggests that Iran recognised some form of pressure. Apart from this visible evidence of persecution the remainder of offences against the Bahá'ís were much the same.

1992-1998

Persecutions within this period continued to occur and again there was a decline in executions, with only 6 executions taking place. The most recent was the hanging of Mr Ruhollah Rowhani in July 1998; Rowhani was charged in relation to apostasy, but no public trial was held and no sentence was announced prior to his hanging.³⁹ Two court cases demonstrate that the persecutions against the Bahá'ís had the same motives. An Islamic

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33. 29 August 1983, The Attorney-General of Iran issued a statement announcing a ban on Bahá'í administration. It was a criminal act to engage in teaching and inviting others to join the Bahá'í Faith, forming assemblies or have anything else to do with administration. However, Bahá'ís were allowed to practise their beliefs privately.
34. Universal House of Justice, “Demolition of the House of Bahá'u'lláh in Tákur; Seizure of Cemetery in Tehran.”, 10 December 1981, pp. 510-511 in *Messages from The Universal House of Justice*, Bahá'í Publishing Trust, Wilmette, 1996. The Universal House of Justice is the governing institution of the Bahá'í Faith and consists of nine members who are elected in quinquennial terms.
35. *Le Monde*, No. 11009, Tuesday 24 June 1980, pp. 1 and 6. The quote from Ayatollah Sadoughi was taken from a daily paper in Iran entitled *Inguilab Islami* (this newspaper was an organ of President Bani-Sadr)
36. See Amnesty International, *Iran: Violations of Human Rights – Documents sent by Amnesty International to the Government of the Islamic Republic of Iran*, London, 1987.
37. Roger Cooper, *The Bahá'ís of Iran*, Minority Rights Group, London, 1985.
38. Voice of America Report on Campaign of Arrests against Iranian Bahá'ís, see, Universal House of Justice, *Messages from The Universal House of Justice*, op.cit., p. 507.

Revolutionary Court in Tehran prosecuted a Bahá'í in 1996, Mr Musa Talibi,⁴⁰ on charges of leading two Muslims astray, apostasy, and activities disrupting law and order. The court mentioned in its verdict only matters pertaining to his membership of the Bahá'í community and described these as “misguided”; it also quoted from a Muslim authority that; “it may be decreed that such infidels be murdered.” The court sentenced Mr. Talibi to death. Also in 1996, Mr. Dhabihu'llah Mahrami was charged at the Islamic Court of Yazd for: “denouncing the religion of Islam and the beliefs of the wayward Bahá'í sect; national apostasy,”⁴¹ and was sentenced to death for apostasy. These three cases are the most striking in this period and demonstrate little change. The fact that Bahá'ís are continually harassed and live under precarious conditions means that their standard of life is subversive and fraught with incalculable obstacles and perils. Bahá'í marriages continue to go unrecognised, and they are not allowed to bury their dead in accordance with their religious tradition. In October 1998 three Bahá'ís were arrested in the city of Damavand on charges of burying their dead without authorisation from the government.⁴² Thus, in the area of civil and political rights the periods that have been outlined indicate a change in the lessening of the executions and imprisonment.

Economic, Social and Cultural Rights

1979-1999

In the sphere of economic, social and cultural rights there were attacks against the Bahá'ís. Within the first year of the establishment of the Islamic Republic of Iran, the Umana company owned by Bahá'ís was closed, a large company in which 15,000 Bahá'ís had invested their savings and assets.⁴³ Many bank accounts of Bahá'ís were frozen; specifically in 1981 Iran had asked for account details of all Bahá'ís to be submitted to the government authorities. As houses were seized, so too were furnishings and other property such as crops and livestock. Thousands of jobs were threatened and lost; for instance one circular letter sent to all Bahá'í employees of the Iranian National Oil Company notified them of their dismissal and the termination of their pensions.⁴⁴ Retirement allowances were also denied, trade and business licences were cancelled. Bahá'í marriages were not recognised under Iranian

39. U.S Department of State, “Iran Country Report on Human Rights Practises for 1998”, released by the Bureau of Democracy, Human Rights and Labor, February 26, 1999.

40. Islamic Revolutionary Court of Tehran, Court Verdict 40790, File Number D/6412/75, 11 Murdad 1375 (2 August 1996).

41. Islamic Revolutionary Courts of the Province of Yazd, Court Classification Number: 74/2288/D, Appeal Number: 74/2312/D-R, 12 Day 1374 (2 January 1996). See also, Amnesty International, *Iran – Dhabihullah Mahrami: Prisoner of Conscience*, AI Index: MDE 13/34/96, London, October 1996.

42. U.S Department of State Annual Report on International Religious Freedom for 1999: Iran, released by the Bureau for Democracy, Human Rights and Labor, Washington D.C, September 9, 1999, p. 5.

43. International Commission of Jurists, “Persecution of the Bahá'ís in Iran”, *The Review*, No.34, June, 1985, p. 9.

44. Letter dated 13 September 1980 from the National Iranian Oil Company. The letter stated that the

law.

The consistency of the violations of rights can be demonstrated in reference to two incidents. Firstly, in 1993 a secret Government memorandum was uncovered concerning the “Bahá'í Question”.⁴⁵ This document stipulates a calculated plan with the aim of gradually destroying the life of the community. The memorandum states: “The Government’s dealings with them must be in such a way that their progress and development are blocked.” The nature of approaching this task, as is apparent in the document is to cause far-reaching impact in as subtle a way as possible. Another incident, relating to the right to education demonstrates the uncertainty of the Iranian government’s actions. In 1998, the Bahá'í Institute of Higher Education was attacked through a series of raids, 36 faculty members were arrested and 532 homes raided and looted of property.⁴⁶ Such attacks against the Bahá'í community seem to confirm the statement of the Special Representative that the situation in some cases appears to have worsened.⁴⁷ One change that has taken place in regard to education has been the admittance to Bahá'í students to the pre-university level.⁴⁸ However, this in itself may be a form of persecution as there is no chance for these students to advance from this level into University.

Section III: The Action of the United Nations Commission on Human Rights

The action of the United Nations Commission on Human Rights can be categorised into three areas. These areas particularly signify the different ways in which the Commission has carried out its work. First, the collective action of the Commission has been effective in generating momentum. Second, through direct communication with the government of Iran, it has carried out some key steps that have been effective in certain ways. Third, I

(footnote 44 continued) reason for the termination of employment was: “illegal employment and affiliation with Bahá'í Religion.” It further stated that: “If you ever deny your affiliation with the above-mentioned religious sect, acknowledge and report the case in written [sic] so that the above decision may be reviewed after study and consideration.” A copy of this letter has been published in Bahá'í International Community, *The Bahá'is in Iran – A Report on the Persecution of a Religious Minority*, op.cit., p. 78. Thousands of similar letters were sent to Bahá'í government employees terminating their employment.

45. The United Nations Special Representative on the human rights situation in the Islamic Republic of Iran discovered this memorandum in 1993, see Appendix III for a translated copy of this document.
46. The Bahá'í Institute of Higher Education (BIHE) was established in Iran in response to the denial of University entry to Bahá'is since 1980. The BIHE has operated since 1987 and its qualifications have been recognised by leading University's in North America. It is not known why the attacks were suddenly carried out in 1998 as the establishment of the University had been known by government authorities ever since its inception. See Bahá'í International Community, *The Bahá'í Institute for Higher Education: A Creative and Peaceful Response to Religious Persecution in Iran*, UN Doc. E/CN.4/1999/NGO/14, 29 January 1999.
47. Mr. Maurice Copithorne, *Report on the Situation of the Human Rights in the Islamic Republic of Iran, submitted by the Special Representative of the Commission on Human Rights, pursuant to Commission resolution 1998/80*, UN. Doc. E/CN.4/1999/32 (28 December 1998).
48. Mr Maurice Copithorne, *Report on the Situation of Human Rights in the Islamic Republic of Iran, pursuant to Commission Resolution 1998/80*, E/CN.4/1999/32, 28 December 1998, paragraph 44.

argue that the Commission's activities in mobilising the international human rights regime have been significant in creating a slight difference. Lastly, I will focus on the larger measures of success that seem to be indications from Iran that some form of change is taking place.

Collective Diplomatic Action

The joint action in the form of annual sessions where the issues are deliberated and resolutions are ratified fortifies the work of the international community to focus collectively on the specific issues at hand. The annual deliberations at the sessions have yielded yearly inclusion of the Bahá'í situation in the resolutions calling for the Iranian government to respect human rights. These resolutions are for the most part weakly worded, repetitive and in many cases almost identical renditions of previous years' resolutions. For many years the Iranian government was "encouraged" or "called" to take action on their human rights issues and only rarely has the wording changed to "urge".⁴⁹ However, the resolutions are highly significant in one sense, in that their ratification allows for the continuation of the mandate of the Special Representative, whose work is of primary importance. The other indication of the importance of these resolutions is exemplified in Iran's permanent mission in Geneva. Human Rights Watch has reported that the work of the permanent mission demonstrates Iran's sensitivity toward international public opinion. This NGO noted that the permanent mission was working hard "to ensure that there would not be an embarrassing debate at the General Assembly over the resolution."⁵⁰ These are positive reinforcements of the promotional activities of the Commission. As Ruggie argues: "[c]ertain governments accused of violations have gone to considerable lengths to deny or excuse their behaviour, thereby implicitly accepting the legitimacy of the very rights they have been abusing."⁵¹

Apart from state participation, the Commission provides NGOs with a significant opportunity to participate in its deliberations. As NGOs represent a wider cross section of the international community, they are in a position to contribute decisively to the process of norm creation and promotion of these normative standards. This has been particularly so with the human rights situation of the Bahá'ís in Iran. The role of the NGOs in this situation has been particularly significant in creating a platform for organisations to speak on behalf of the victims. In this case, the Bahá'í International Community has also been able to represent the concerns of the Bahá'ís in the country of Iran. Often, this NGO has access to information that no other agency has, and in bringing specific issues to the fore of the international community's

49. For instance see CHR Resolution 1990/79 as compared to CHR Resolution 1996/84.

50. Human Rights Watch, *Human Rights Watch World Report 1990*, New York: Human Rights Watch, January 1991, p. 443.

51. John Gerard Ruggie, "Human Rights and the Future of the International Community," *Daedulus*, 1983, 112, 4, Fall, p. 100.

agenda it plays a vital role in the promotion of human rights issues. Such a cognitive contribution from non-state actors has greatly influenced the characteristics of the regime.

Direct Diplomatic Action

The role of the Special Representative of the human rights situation in Iran is the central mechanism of the CHR that can be utilized for direct diplomatic action.⁵² Initially, the Secretary-General was mandated by the Sub-Commission to forge direct links with the government of Iran.⁵³ No substantive response and improvement in the situation occurred and a specific position was necessary to focus on this country case. The responses that emerged initially were in a demeaning tone towards the institution of the CHR. For instance, the Iranian representative was noted as stating that because the United Nations was a secular body, it did not have the authority to deal with religious matters.⁵⁴

Since the appointment of the Special Representative in 1984, there have been some areas of action indicating a slight change in the situation or at least in the response from Iran. In the field of promotion, the Special Representative has uncovered sources of information hitherto unknown and has raised the awareness of the international community about specific violations of rights. A watershed in the fact-finding activities in relation to the Bahá'í situation was the discovery of a secret memorandum of the Iranian government in 1991, which dealt with the ways in which the Iranian government could resolve the "Bahá'í Question" particularly in reference to the cultural life of the community. The document was tacit proof that the persecution of the Bahá'ís was part of a systematic campaign to slowly strangle the life of the community. As I have discussed in section II of this paper this document confirmed the curtailment of the rights of the Bahá'í community.

The relationship between the UN Special Representative and the government of Iran reflects serious challenges facing the CHR. Far from implementation and enforcement of the CHR's decisions, the Special Representative has only reached a stage of weak diplomatic dialogue with this government. Only on a few occasions has the Iranian government permitted access to the Special Representative to visit the country; most often

52. Commission Resolution 1984/54 (14 March 1984). The mandate of the Special Representative is to establish contact with the government, to carry out a study of the situation and to submit recommendations from the conclusions reached through the investigative procedures.

53. The Sub-Commission attention to the situation on 10 September 1980 was in the Resolution on Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities. It "[e]xpressed profound concern for the safety of recently arrested and all other members of the National Administrative Council of the Bahá'í Religious Community of Iran and requested the Secretary-General to transmit this concern to the Iranian Government, inviting it to express its commitment to the guarantees provided in the International Covenant on Civil and Political Rights, ratified by that state." This was reported in the *United Nations Year Book*, 1980, p. 829

54. This comment was made at the 37th session of the Commission in 1981, reported in *United Nations Year Book*, 1981, p. 881.

the reports indicate the repeated denials of the Iranian government to such requests.⁵⁵ Even when a visit is permitted, there are serious challenges facing the Representative within the country. In one case it was reported that two Bahá'ís who had conducted an interview with a Special Representative were beaten and reprimanded for their cooperation. This is a serious setback for the Commission as it threatens the scope of work that it can cover without the threat of the state. The reports were criticised for being excessively mild in tone, which is in all respects a good indication of the limited capabilities of the Commission.

Some positive trends correlated with the work of the Special Representative can be made. In 1984 when the Special Representative was appointed, there was a dramatic decline in the number of executions carried out against the Bahá'ís. The representative made a reference to this by stating that the “[n]umber of alleged violations to the right to life had diminished over the last two years, and although allegations of executions continued, there were fewer than during the years 1979 to 1984.”⁵⁶ Although no causal relationship can be made, these correlations are noteworthy. A positive indication of the impact of the work of the representative came from a comment made by the Foreign Minister Ali Akbar Velayati: “International monitoring of the human rights situation in the Islamic Republic of Iran should not continue indefinitely. The country could not tolerate such monitoring for long.”⁵⁷

The other direct diplomatic mechanism relevant in this case is the Special Rapporteur on the Elimination of Religious Discrimination and Intolerance. This Rapporteur has investigated allegations against Iran and in carrying out his mandate has visited Iran,⁵⁸ and has also been significant in drawing attention to the situation of the Bahá'í community in Iran and in providing recommendations based on these findings. As a thematic mechanism of the CHR, it has been able to report more critically than the country representative. When considered in combination with the Special Representative it can be argued that together both these posts are important in promoting international standards.

Indirect Action – a catalyst for the international human rights regime

The actions of the CHR become mirrored in other institutions of the human rights regime. These are often a confirmation of the pivotal role of the CHR. As a functional agency of the ECOSOC, the CHR carries out its work in the prospect of approval by the ECOSOC. In every resolution and decision that

55. See for instance, Maurice Copthorne, *Report of human rights in the Islamic Republic of Iran*, E/CN.4/1997/63, 11 February 1997, paragraph 9.

56. United Nations, *United Nations Yearbook*, 1987, p. 804

57. Human Rights Watch, *Human Rights Watch World Report 1990*, New York, January 1991, p. 446.

58. Abdelfattah Amor, “The mandate of the UN Special Rapporteur,” *Emory International Law Review*, Spring 1998, v 12, n 2, p. 947.

it has made regarding the situation of the Bahá'ís in Iran, the ECOSOC has expressed its approval. In this sense, other agencies of the International human rights regime such as the treaty-based bodies are empowered by the attention given to the issue by other agencies. For instance, the third committee has been successful in relating its work to the Commission's resolutions and in increasing the pressure on Iran to submit reports on time.⁵⁹

The General Assembly, though not usually concerning itself with human rights issues, addressed the issue of human rights in Iran. This was a momentous step in the internationalisation of response for human rights issues as it was the third time in the General Assembly's history that a resolution was adopted on a human rights issue with specific references in one of the clauses to the situation of the Bahá'ís.⁶⁰ The decision of the General Assembly to continue revisiting the issue attests to the gravity of the situation. As the highest institution of the United Nations was concerning itself with this matter it was more in a position to exert influence on the international community. In its subsequent resolutions the General Assembly referred to the work of the Commission and the resolutions it had adopted.⁶¹ The agenda item has remained on the General Assembly's agenda until the present.⁶²

Measures of success?

There have been some indications that changes are taking place in Iran since the time the CHR took action on the situation. The Special Representative, Mr Maurice Copithorne, has referred to these changes as "straws in the wind", implying that "improvement could be on the way."⁶³ Although there is no evidence to attribute these changes to the actions of the CHR, it is evidence that there is a slow and limited move in Iran to meet some of the international norms and standards.

The changing nature of the Iranian rhetoric is a sign that international norms have made an impact and that Iran seeks to portray a reputable international image. The first concern that needs to be distilled in arguing this point is that the discussion of these changes, in no way implies that it is a praiseworthy achievement. It is in my view simply a measurement of the affect of international institutions. Afshari argues that when attention has been given to the positive developments within Iran, it is common that no

59. United Nations, "Consideration of human rights issues produces 30 decisions in Third Committee," *UN Chronicle*, February 1986, v23, pp. 82-92

60. General Assembly Resolution 40/141 (1985).

61. It is customary for each resolution of the General Assembly to cite the Commission's relevant resolution. This is to confirm the contents of the Commission's resolution and to add a further appeal.

62. The most recent resolution made by the General Assembly on this agenda item was A/RES/53/158, 9 February 1999.

63. Interim Report on the situation of human rights in the Islamic Republic of Iran, prepared by the Special Representative of the Commission on Human Rights in accordance with General Assembly Resolution 51/107 and Economic and Social Council Decision 1997/264, A/52/472 (15 October 1997), paragraph 67.

mention is made regarding the gravity of the human rights abuses taking place.⁶⁴ He notes that Western scholars partake in conferences and scholarly initiatives with Iran and in most cases completely neglect their responsibilities. He argues that the 'recognised' scholars participating in these initiatives have taken a "yes...but" approach, meaning that they accept that Iran has an appalling human rights records "but" that there are "positive political-institutional developments" on which they place an overriding emphasis. Afshari states that such an accommodationist approach: "[l]eads to the acceptance of the public pronouncements of the actors within the system at face value" and that "such studies offer a fig leaf of respectability to the Islamist regime by constructing the political discourse in terms of system building."⁶⁵ I accept the concerns that Afshari raises and have noted them in an effort to dissociate my focus on the Iranian statements with other similar studies that have been carried out that ignore human rights. My motive for analysing Iranian public statements is that they demonstrate (admittedly at face value) that Iran has altered its rhetoric to adopt an international human rights language. Focusing on this change in no way diminishes the gravity of the human rights situation. Rather, I view this as an important indication that the CHR has been successful in the diffusion of normative standards and this has begun to impact on Iran at a basic level.

The Iranian government's position on human rights issues demonstrates a distinct change in tone, particularly during the early 1990s. During the 1980s Iranian statements denigrated the CHR and the United Nations. One starkly denigrating statement against the United Nations in 1982 was the statement of an Iranian spokesperson that Iran: "rejected expressions of concerns for human rights, declaring that "[o]ur people have decided to remain free and independent and Islamic and not be fooled by the imperialist myth of human rights."⁶⁶ In 1986 Iran wrote to the Chairman of the Commission on Human Rights stating that the Commission's decisions lacked credibility as it was politically driven organisation, commenting that: "[s]uch politicization of humanitarian matters was totally unacceptable."⁶⁷ After the ratification of the Declaration against religious intolerance, Iran commented in what seemed to be a patronising tone that the CHR was a secular organisation and was not in a position to make decisions on religious matters. A stunning change of tone occurs in the 1990s, when it describes the Commission on Human Rights as an "august body".⁶⁸ In 1994, Iran makes a complete turnaround on its view of human rights, stating that: "[Human Rights] are thus universal, independent of conditions, transcend all boundaries, be they temporal or

64. Reza Afshari, "An Essay on Scholarship, Human Rights, and State Legitimacy: The Case of the Islamic Republic of Iran," *Human Rights Quarterly*, 18, 1996, pp. 544-593.

65. *Ibid.*, p. 581.

66. Martin Wright, ed., *Iran: The Khomeini Revolution*, London: Longman, 1989, p. 35.

67. United Nations. *Yearbook for 1986*, New York: United Nations, 1987, p. 757.

geographical, and do not lend themselves to distinctions of race, sex or other superficial attributes and barriers.”⁶⁹ This recognition and rhetorical acceptance of human rights standards continued. For instance in 1998 stating that: “The government of Iran is fully committed to the promotion of human rights.” These statements at least are an indication of the adoption of the ‘language of human rights’ and this in my opinion demonstrates that the CHR can be considered as a variable in the normative influence that it has had on Iran.

Another sign that could be considered as part of the development towards the recognition of human rights standards is the government sponsored Human Rights Commission within Iran. As has been discussed, the CHR has passed resolutions encouraging governments to set up human rights national and regional institutions to more directly monitor the implementation of international human rights within states. It could be argued that the Islamic Human Rights Commission cannot be administered without the strict control of government, giving it somewhat of a farcical puppet role. Yet, despite this paramount concern I would argue that at least there is a skeletal institution that can over time develop its capability. On the same note, the international community should not be satisfied with this development as such appraisal could give the message to Iran that a limited response such as forming the Iranian Commission will satisfy its commitments to the regime. It is a difficult line to tread but the wrong message could create a hazardous approval of Iran’s neglect in responding to concerns of human rights abuse.

The gradual integration of human rights rhetoric by the Iranian government is indicative of the normative influence of human rights. I argue that the conference on human rights, the articles published in its leading international journal regarding human rights,⁷⁰ the changing nature of its international rhetoric through its statements, the establishment of the Iranian Commission on Human Rights are all signs that the work of the Commission has had some sort of normative affect. As Mayer notes: “[t]he impact of human rights ideals is proving so potent that governments are increasingly trying to co-opt human rights, offering concessions, albeit only cosmetic ones. To demands that they show respect for rights.”⁷¹ Again, I want to stress that these signs are by no means congratulatory, lest we neglect the continuing suffering experienced daily by the Bahá'í community and other persecuted

68. Mr Mostafa Alaee, Member of the Delegation of the Islamic Republic of Iran before the Third Committee on Agenda Item: 112 (c) Human rights situations and report of Special Rapporteurs and Representatives, New York, November 19, 1997. This document can be found on the internet: found on the internet: <http://www.un.international/iran/statements/3ga/3ga52007.htm>

69. Iranian government statement of 15 August 1994 to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. This was cited in the report of the Special Representative in 1995, E/CN.4/1995/55, paragraph 76.

70. See, for instance, Hossein Mehrpour, “Islam and Human Rights,” *The Iranian Journal of International Affairs*, Vol. VIII, No.4, Winter 1996-97, pp. 729-760.

sections of the population. They are merely a means of accounting for the minimal impact that the Commission and the human rights regime has had in diffusing international human rights norms.

Conclusion

The U.N Special Representative suggested that a change could be on the way within Iran towards a recognition of human rights standards. I argue that there are indications, albeit at face value, that Iran is altering its international image. The internal conditions, however, continue to represent an unmistakably contradictory picture. The Commission generates an international climate through promoting and elevating human rights standards. Through direct and collective diplomatic action, the Commission on Human Rights has led the pressure in the field of norm promotion on the situation of the human rights of the Bahá'ís in Iran. Although at the stage of weak interaction, the Commission has been successful in receiving slightly improved responses from the government. In terms of the pattern of the persecution of the Bahá'í community there has been a clear decline in the number of executions, however the overall situation has been maintained and in some cases has worsened. I have argued that the CHR, through promoting a culture of human rights, should be considered as a variable in influencing Iran towards change.