

THE CONSTITUTION OF IRAN

Politics and the State
in the Islamic Republic

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price and thus lose a large proportion of its customers. In 1994 *Kiyan* reported another repressive measure which consists of stopping potential income for undesirable periodicals from advertisements by threatening the prospective clients with reprisals.⁶² Since 1994 the pressure on journals such as these has increased. At the time of writing *Gardun*, *Takapu*, *Payam-e Daneshju*, *Ayneb-e Andisheh*, *Bahar*, *Bahman*, *Rah-e Mojahed*, *Jahan-e Islam* and *Tus* had all been closed down. Most of these belonged to Islamic groups and *Bahman*, which managed to publish only a few issues, was under the direction of 'Eta'ollah Mohajer, the vice-president of Iran.

The lot of the other media of mass communication, as well as that of writers, artists and scientists in the Islamic Republic over the past 15 years has been the same as that of the press. A short-lived initial freedom gave way to long-term strangulation. For the last few years, thanks to a slackening of pressure, there has again been the possibility of producing something new, albeit in an atmosphere of insecurity and constant threat.⁶³

The Violation of other Fundamental and Human Rights

A body of literature on the Islamic Republic has described in some detail the violation of fundamental rights that are more or less clearly guaranteed in the constitution. International human rights organisations have regularly investigated the matter, presented their reports and condemned what is known to have occurred. Although it has not always been possible to be precise about the extent of the abuses in question, these reports nevertheless offer a qualitatively reliable picture of the situation.⁶⁴ For this reason it is not necessary to focus on this subject in greater detail.

In many cases the violation of human rights is written into the laws of the regime and justified by reference to the *shari'a*. The clearest example of this is the Islamicised penal code which, under certain conditions, imposes maximum penalties such as stoning for adulterers, or execution for apostasy.⁶⁵

Freedom of Movement and the Right to Choose a Profession

The violation of the right to freedom of movement is above all attested by the emigration of one to two million Iranians which began immediately after the revolution. Even if the majority of exiles have not been subjected to political persecution, they are obliged to live abroad as aliens because they cannot tolerate the cultural pressure imposed on them by the compulsory Islamicisation of daily life. A significant proportion of those who remain in the country are forced to lead a double life which can be described as a kind of internal exile. To avoid harassment and persecution by the regime's moral police agents they maintain an official life matched by a hidden life conducted within the relative safety of their homes where they take particular pleasure in the forbidden.

The freedom to choose one's profession has been especially violated by

massive purges at all levels of government service designed to eliminate employees suspected of not being loyal to the regime. During the months immediately after the revolution those connected, or thought to be connected, with the old regime were ousted from their jobs in a wave of dismissals; but the purges were soon directed at participants in the revolution and even, eventually, at people loyal to the regime but in the camp that had been pushed out of power. These purges were particularly aimed at high-ranking civil servants in leading positions and teachers. In 1984 Prime Minister Musavi reported that to date 10,000 leading posts had been made vacant in this manner.⁶⁶ The same year the minister for higher education and culture announced that 3,500 university teachers had been fired or had resigned during the period after the closing of the institutions of higher education in April 1980.⁶⁷

The Right of Equality

The most blatant violations of the right to equality take the form of legal discrimination against women and members of religious as well as ethnic minorities. In the case of religious minorities the violations take numerous forms. Firstly, the only religions that are recognised are the so-called religions of the Book (Zoroastrianism, Judaism and Christianity); members of other faiths are subjected to full-fledged discrimination or, as in the case of the Baha'is, active persecution. Although apostates do not form a particular closed group, they are threatened with the harshest of punishments, namely the death penalty, a threat which may be carried out suddenly at any moment that suits the interests of the hierarchy. In our discussion of political parties we saw how Khomeini threatened the opposition with the charge of apostasy and its consequences if they dared to demonstrate against the reintroduction of the law of retaliation (*qesas*). The case of Salman Rushdie is another example of the reality of this danger which is based on the *shari'a*. The fact that apostasy is currently a subject of discussion in religious circles attests to its present-day reality.⁶⁸

The Islamicisation of the state implies, by definition, discrimination against non-Muslim citizens in the most consistent possible manner. Non-Muslims are not only excluded from leading government posts, but are also deprived of the right to take an active part in decisions which determine the form of the prevailing order. Although the Constitution of the Islamic Republic accords members of the recognised religious minorities the right to send their own representatives to parliament (Art. 64), and although those representatives enjoy the same right as their Muslim colleagues to vote in parliament, none of this has any influence whatsoever on the character of the state. As far as framing legislation in parliament is concerned, minorities participate in a process whose results at the end of the day are imprinted with the stamp of Islam. As members of the nation, they are obliged to accept and assume responsibility for decisions which were passed in the

had applied for permission (*Kayhan*, on the same day). In February 1994, the ministry announced that 76 organisations had been given permission to operate under the law (*Salam*, 15/2/94). Three months later it stated that the number of 'active political organisations' was 31 (*Salam*, 10/5/94). But the public was told nothing about these 'activities', apart from a few sentences occasionally released for special reasons, mostly in connection with the condemnation of opponents of the regime or foreign powers.

41 The last two organisations announced their resumption of 'activities' at the beginning of January 1992 and in April 1989, respectively.

42 Hojjat al-Islam Mohtashami announced their cessation of activity in an interview with *Salam* (16/5/93).

43 The new chairman of this party is Ayatollah Emami Kashani.

44 *Resalat*, 3/7/93.

45 *Resalat*, 1/3/89

46 *Resalat*, 5/11/88.

47 *Resalat*, 24/2/88.

48 The Central Council of the Union of Militant Clergy wrote to Khomeini stating 'this split' should not give the people the impression 'of opposition and factionalism' and offer certain unaware individuals the pretext 'for churning out propaganda against unity'. In his reply, Khomeini wrote: 'Organisational splits which have taken place for the purpose of independent expression of opinions and the founding of organisations do not constitute opposition. Opposition is when an individual fights with other people in order to impose his opinion - God preserve us from such behaviour!' (*Resalat*, 16/4/88). The intensification of the conflict during the months that followed forced Khomeini to draw up his so-called 'Charter of Brotherhood'. Afterwards, the opposing parties fraternised in a common session (*Resalat*, 5/1/89), but this state of affairs did not last for long.

49 *Kayhan*, 16/11/87.

50 *Salam* repeatedly published articles on this subject. See for instance the issues for 26/12/91, 19/3/92, 14/1/93 and 10/6/93. The process of conformity which has been observable in the newspaper has gone so far that in the issue of 9/2/94, in response to a reader's protest against the lack of permission for parties, one reads: 'Freedom to found parties has been granted, but the people themselves are not interested in founding a party.'

51 Yet on 5/3/79 (*Ettela'at*), Khomeini had forbidden his supporters in the city of Qom to insult the press or to storm the offices of the newspapers and to damage their publications.

52 *Iran Yearbook* 1989/90, Part 21, p. 4 f.

53 *Vezerat-e Farhang va Ershad-e Eslami*: 1983, vol. I, p. 11 f.

54 LB: 1979/80, pp. 58 and 96 ff.; LB: 1986/87, p. 665 ff.

55 MM 17/1/86, pp. 30-2.

56 These figures come from the officials dealing with the press in the above mentioned ministry. *Ettela'at*, 26/2/91 and *Salam*, 24/11/92.

57 See Asghar Schirazi, 'Gegenkultur als Ausdruck der Zivilgesellschaft in der Islamischen Republik Iran,' in F. Ibrahim and H. Wedel (eds) *Probleme der Zivilgesellschaft im Vorderen Orient*, Oplanden 1995, pp. 135-64.

58 The next day *Salam* criticised this appeal to the population as disregard for the law (24/9/91).

59 *Kayhan*, 21/4/92.

60 The court and jury, consisting at this time primarily of advocates of the new policy, found the editor-in-chief not guilty.

61 *Salam*, 25/12/93, as well as 3, 6, 8 and 12/1/94.

62 *Kiyân*, No. 18 (1994), on the cover page.

63 A report published by *Middle East Watch* in 1993 gives a detailed account of 'the

limit on freedom of expression in Iran'.

64 See for example Liga: 1988 and 1991.

65 A German translation of the 1982 Islamic penal code was published by Dara Ilzad in 1984.

66 *Kayhan*, 23/5/84.

67 *Kayhan*, 10/7/84. In 1986, Rafsanjani cited the number as 5,000 (*ibid.*, 4/10/86). This figure may be compared with the 9,474 employed university teachers in 1990 (*op. cit.*, 2.3.90).

68 See the treatment of this subject in *Howzeh*, No. 41 (1990) and No. 42 (1991). Despite the authors noticeable effort to adopt a lenient attitude, he concludes with the remark that: 'Only those apostates deserve the standard punishment who have consciously and out of political or sensual motives behaved or expressed themselves in some way that amounts to a denial of religion' (No. 42, p. 59). On this subject see also Shakuri: 1982, vol. I, p. 209 ff.

69 According to the figures released by Hojjat al-Islam Mostafa Mohaqeq Damad, 15 Jews, 330 Christian Assyrians, 200 Christian Armenians and 13 Zoroastrians died in this war. (Based on an unpublished paper entitled 'Religious Minorities in the Islamic Republic of Iran'.)

70 Markaz-e Amar-e Iran: 1990, p. 41.

71 See the objections raised by an MP from Kurdistan concerning this form of discrimination in *Resalat*, 13/1/92.

72 *Salam* 26/5/93.

73 According to *Salam*, at this time the restriction was lifted on the occasion of Women's Week.

74 *Zan-e Ruz*, 30/4/88 (quoted from Liga: 1988, p. III/24)

75 *Resalat*, 19/9/92.

76 *Ettela'at*, 8 and 28/3/83 (quoted from Liga: 1988, p. III/10 f.).

77 *Salam*, which reported on this situation on 29/9/92, at the same time pointed out that the rate of suicide in Iran is three times as high as in the United States.

78 Khomeini at the beginning of the 1960s, along with the quietist clergy, condemned votes for women as anti-Islamic.

79 See Chapter 11.

80 'Amid Zanjani: 1988-89, vol. I, p. 537.

81 *Ibid.*

82 Tabataba'i: 1969, p. 104.

83 'Amid Zanjani: 1988-89, vol. I, p. 553 ff.

84 Zarshenas: 1992, p. 43 ff.

85 Zarshenas: 1992a (*Kayhan*, 15/4/92).

86 Zarshenas in an interview with *Sureh*, No. 3 (1992); quoted here from *Safheh-e Avval*, No. 11 (1992), p. 18.

87 *Howzeh*, Nos. 40 and 41.

88 *Howzeh*, No. 40, p. 68 f.

89 We are quoting here from Motahhari: 1985, which includes these speeches (pp. 113-36).

90 This reasoning is also found in the writings of 'Amid Zanjani: 1988-89, vol. I, p. 555.

91 Khomeini, here quoted from T. Dezhkam: 1991.

92 M. H. Tabataba'i: 1969, p. 100 ff. See also Ayatollah Beheshti's speech on the subject of liberalism and Islamic freedom in *Resalat*, 26/6/91.

93 Beheshti, *ibid.*

94 *Ibid.*