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SPECIAL REPORT

Iran's Violations of International Law: Defiance of Conventions, Treaties, Statutes, Resolutions and Safeguard Agreements 1948—2011



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The Pax Americana Institute (PAI) is a conservative think tank devoted to advancing the virtues and values of classical conservatism in Wisconsin, the Midwest, the United States and the world by offering policy solutions that promote liberty and personal initiative at home and abroad.

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IRAN'S VIOLATIONS OF INTERNATIONAL LAW

EXECUTIVE SUMMARY

Since the Iranian Revolution of 1979, the relationship between the United States and Iran has transformed from staunch allies to intractable opponents. Today, Iran's nuclear ambitions, support of terrorism and blatant violations of human rights constitute some of the most complex and pressing challenges facing the United States. This problem is exacerbated by growing pessimism about whether the international community's diplomatic efforts can compel Iran to comply with its obligations under international law.

This report draws on diverse branches of substantive international law and shows that Iran is in violation of over 50 international laws. While diplomacy has failed to gain traction, Iran continues to blatantly violate the rights of its citizens, support international terrorism, and advance its nuclear program to the point where it is now well within striking distance of having a nuclear weapon. Clearly, Iran's violations of international law pose a grave and pressing threat to the United States and the international community as a whole.

Nuclear Non-Proliferation

As a non-nuclear state party to the Nuclear Non-Proliferation Treaty (NPT), Iran owes a legal duty to the international community to refrain from manufacturing and acquiring nuclear weapons. These obligations are interpreted by the NPT's enforcement agency, the International Atomic Energy Agency (IAEA), to also require states to provide credible assurance regarding non-diversion of nuclear material and the absence of undeclared nuclear material and activities.

Iran's systematic violations of the NPT are well documented. Despite Iran's insistence that its nuclear program is exclusively for peaceful purposes, the evidence shows beyond a reasonable doubt that Iran's nuclear work is not consistent with any other application than the development of a nuclear weapon. Iran continues to conceal its nuclear program and conduct enrichment-related activities, in violation of the NPT, the IAEA Safeguards Agreement, all subsequent IAEA Safeguards Resolutions, and numerous United Nations Security Council Resolutions.

Crimes Against Humanity

Iran's incitements to commit genocide are not only preludes to tragedy, but are crimes in themselves under international law. Pursuant to the United Nations Charter, the Genocide

Convention, and the Rome Statute of the ICC, Iran has a legal duty to refrain from the threat of genocide or force against members of a group or the political integrity of any other state. Iran's public call for Israel to "wiped off the map" is a state-sanctioned call to genocide that threatens the territorial integrity of Israel and contravenes its obligations under international law.

Iran has also violated numerous United Nations Security Council Resolutions relating to the state-sponsorship of terrorism. At least thirteen Resolutions have reaffirmed the obligation of Member States to deny all forms of support to terrorists and those supporting terrorism. As this report will detail, there is compelling evidence that Iran provides training, financial support, and arms shipments to terrorist organizations in Iraq, Afghanistan and elsewhere. This is in clear violation of the Security Council resolutions and poses a serious threat to international security.

Human Rights

As a party to several human rights treaties and as a Member State of the United Nations, Iran is legally obligated to protect the civil, political and religious rights of its citizens. Since the Iranian Revolution in 1979, Iran has been involved in large-scale abuses of human rights, including systematic persecution of religious minorities and severe restrictions on the freedoms of expression and assembly. This report will detail the failure of Iran to comply with numerous international covenants to which it is a signatory.

Iran in Iraq

Iran's Qods Force, a wing of the Revolutionary Guard Corps, provides funding, training, weapons and other lethal support to Iraqi militant groups that target Coalition and Iraqi forces. Despite President Ahmadinejad's pledge to cut off such support, the United States Department of Defense continues to assert that there has been no identified decrease in Iranian training and funding of illegal militias in Iraq.

Iran's support of Iraqi militant groups is contrary to six United Nations General Assembly Declarations and thirteen United Nations Security Council Resolutions which prohibit all Member States from using force against the political independence of any other state and impose the duty upon all Member States to refrain from supporting terrorist activities. Iran's failure to comply with these obligations remains a significant impediment to stabilizing Iraq.

VIOLATIONS AT A GLANCE

This special report identifies 55 clear violations of international law by the Islamic Republic of Iran:

Nuclear Program/Proliferation Violations: 18

8 IAEA Resolutions,
6 UNSC Resolutions,
4 Treaties/Agreements;

Crimes Against Humanity: 30

21 UNSC Resolutions,
3 Treaties,
6 G.A. Resolutions;

Human Rights: 7

7 All Treaties/Agreements;

Each of the below cited conventions, treaties, resolutions, statutes, and agreements was examined individually, assuring reviewers that the sources and information are accurate and were not derived from corrupt or inaccurate online, print or television reports. It should be noted this report does not evidence every violation of the cited conventions, treaties, resolutions, statutes, and agreements between 1948 and 2011, as entire books have been written on the collusion between the Islamic Republic of Iran and its terrorist proxies Hezbollah and Hamas. This report is intended to provide reviewers with a comprehensive framework with which to judge the actions and declarations of the government of the Islamic Republic of Iran.

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 3. *A/RES/42/22: Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations (1987)*

4. *A/RES/43/51: Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (1988)*
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I. NUCLEAR NON-PROLIFERATION TREATIES AND RESOLUTIONS

A. NUCLEAR NON-PROLIFERATION TREATY (1957)

The Nuclear Nonproliferation Treaty (NPT) went into effect in 1970 after obtaining the signatures of ninety-seven countries, and ratification by forty-seven.¹ Currently, there are 187 members of the NPT. In 1968, Iran signed the NPT as a non-nuclear state and later ratified it in 1970.² The purpose of the NPT is to “prevent the spread of nuclear weapons technology, to promote co-operation in the peaceful uses of nuclear energy and to further the goal of achieving nuclear disarmament.”³ Article II of the NPT provides:

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices⁴ or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.⁵

Iran’s repeated violations of the NPT are evidenced by the multiple sanctions imposed by the United Nations Security Council and Iran’s failure to comply with the IAEA resolutions (see *infra*, I.C.1-8; I.F.1-6). The United States Central Intelligence Agency (CIA) has also reported Iranian violations of the NPT. In November 2004, the CIA released the 721 report, which stated that Tehran was “pursuing a clandestine nuclear weapons program” contrary to “its obligations as a party to the Nuclear Nonproliferation Treaty.”⁶ Not only has Iran disregarded various requirements of the NPT, but it has shown a lack of commitment to the NPT as a whole by threatening to withdraw from the NPT as a non-nuclear state.⁷

B. IAEA SAFEGUARDS AGREEMENT (1973)

The enforcement agency behind the NPT is the International Atomic Energy Agency (IAEA). In 1973, The IAEA implemented safeguards to provide credible assurance regarding the non-diversion of nuclear material and the absence of undeclared nuclear material and

¹ NPT, Brief Background, < <http://www.un.org/Depts/dda/WMT/treaty/>>.

² Federation of American Scientists, Signatories and Parties to the Treaty on the Non-proliferation of Nuclear Weapons, <http://www.fas.org/nuke/control/npt/text/npt3.htm>.

³ Treaty on the Non-proliferation of Nuclear Weapons, July 1, 1968, 729 U.N.T.S. 161, <<http://www.iaea.org/Publications/Documents/Infcircs/Infcircs/Infcirc140.pdf>>.

⁴ The NPT does not explicitly define “nuclear explosive devices.” It does state that the article applies to “all source or special fissionable material . . . carried out under its control anywhere.” It also states that each party undertakes not to provide “(a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear state.”

⁵ Treaty on the Non-Proliferation of Nuclear Weapons, art. II.

⁶ U.S. C.I.A. Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July through 31 December 2000, http://www.ciaonet.org/cbr/cbr00/video/cbr_ctd/cbr_ctd_10.html.

⁷ Alireza Jafarzadeh, *The Iran Threat: President Ahmadinejad and the Coming Nuclear Crisis*, 129-30 (2007).

activities.⁸ Because of Iran's failure to comply with the safeguards agreement, the IAEA has declared that "[t]he Islamic Republic of Iran . . . having been engaged in undeclared nuclear activities, were in breach of their obligations to comply with [its] safeguards agreement."⁹

C. IAEA SAFEGUARDS RESOLUTIONS

The IAEA Board of Governors adopted numerous safeguards resolutions to supplement the Safeguards Agreement and to address several Iranian violations of IAEA demands. Iran's failure to comply with the IAEA is evidenced by the following resolutions:

1. *GOV/2003/69 ("Additional Protocol")*

On September 12, 2003, expressing concern over Iran's failure to report nuclear material, facilities, and activities, the IAEA adopted an additional protocol to the Safeguards Agreement which called on Iran "to suspend all further uranium enrichment related activities, including the further introduction of nuclear material into Natanz, and . . . any reprocessing activities."¹⁰

2. *GOV/2003/81*

On November 26, 2003, the IAEA adopted resolution GOV/2003/81, which noted that "Iran enriched uranium and separated plutonium in undeclared facilities, in the absence of IAEA safeguards." The resolution also noted that "there has been in the past a pattern of concealment resulting in breaches of safeguard obligations and that the new information disclosed by Iran includes much more than is contradictory to information previously provided by Iran." The resolution demanded that Iran suspend all enrichment related and reprocessing activities in a verifiable manner.¹¹

3. *GOV/2004/21*

On March 13, 2004, the IAEA Board of Governors adopted resolution GOV/2004/21, which noted with concern "that the declarations made by Iran in 2003 did not amount to the complete and final picture of Iran's past and present nuclear programme considered essential by the Board's November 2003 resolution." The resolution called on Iran to extend the applications of its commitment on suspension to "all enrichment related and reprocessing activities throughout Iran, and request[ed] the Director General to verify the full implementation of these steps."¹²

Iran informed the IAEA that it intended to conduct hot tests of the UF₆ production line. The Agency determined that, given the amounts of nuclear material involved, the hot testing Iran referred to would amount to the production of feed material for enrichment processes. Iran defied the IAEA recommendations and argued that the production of UF₆ was not contrary to the additional protocol of the safeguards agreement.¹³

⁸ IAEA, The Safeguards Statement for 2003, <<http://www.iaea.org/OurWork/SV/Safeguards/es2003.pdf>>.

⁹ IAEA, The Safeguards Statement for 2003, <<http://www.iaea.org/OurWork/SV/Safeguards/es2003.pdf>>.

¹⁰ IAEA, GOV/2003/69, <<http://www.iaea.org/Publications/Documents/Board/2003/gov2003-69.pdf>>.

¹¹ IAEA, GOV/2003/81, <<http://www.iaea.org/Publications/Documents/Board/2004/gov2004-21.pdf>>.

¹² IAEA, GOV/2004/21, <<http://www.iaea.org/Publications/Documents/Board/2004/gov2004-21.pdf>>.

¹³ IAEA, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, Board of Governors, paragraphs 125-127, <<http://www.iaea.org/Publications/Documents/Board/2004/gov2004-83.pdf>>.

4. GOV/2004/49

On June 18, 2004, the IAEA Board of Governors called on Iran “immediately to correct all remaining shortcomings, and to remove the existing variance in relation to the Agency’s understanding of the scope of Iran’s decisions regarding suspension, including by refraining from the production of UF₆ and from all production of centrifuge components, as well as to enable the Agency to verify fully the suspension.”¹⁴ Iran responded to the resolution by stating that it “intend[ed] to resume . . . manufacturing of centrifuge components and assembly and testing of centrifuges as of 29 June 2004.”¹⁵

5. GOV/2004/79

On September 28, 2004, the IAEA Board of Governors demanded that Iran “immediately suspend all enrichment-related activities, including the manufacture or import of centrifuge components, the assembly and testing of centrifuges and the production of feed material, including through tests or production at the UCF, under Agency verification.”¹⁶

The IAEA reported that Iran had not provided adequate information about its nuclear program and were fabricating their nuclear weapons programme. Specifically, the IAEA reported that Iran was engaged in nuclear work that is “not consistent with any application other than the development of a nuclear weapon.”¹⁷

6. GOV/2005/64

On August 11, 2005, the IAEA adopted resolution GOV/2005/64 to stress its previous requirement that Iran immediately suspend all enrichment-related activities. The resolution expressed serious concern that “Iran had decided to resume the uranium conversion activities at the Uranium Conversion Facility in Esfahan, at the Director General’s report that on 8 August Iran started to feed uranium ore concentrate into the first part of the process line at this facility.”¹⁸

A subsequent report noted the failure of Iran to comply with resolution GOV/2005/64. The Board of Governors explained that “Iran failed to report to the Agency in a timely manner certain underground excavation activities that were already underway in December 2004 at the UCF at Esfahan. . . . Iran should have provided such information to the Agency at the time the decision was taken to authorize or carry out such construction, in accordance with the Safeguards Agreement and Subsidiary Arrangements.”¹⁹

7. GOV/2005/77

On September 24, 2005, the IAEA Board of Governors adopted resolution GOV/2005/77, noting that “Iran’s policy of concealment has resulted in many breaches of its obligations to comply with its Safeguards Agreement” and expressing concern by the “continuing gaps in the

¹⁴ IAEA, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, Board of Governors, paragraph 130, <<http://www.iaea.org/Publications/Documents/Board/2004/gov2004-83.pdf>>.

¹⁵ IAEA, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, Board of Governors, paragraph 135, <<http://www.iaea.org/Publications/Documents/Board/2004/gov2004-83.pdf>>.

¹⁶ IAEA, GOV/2004/79, <<http://www.iaea.org/Publications/Documents/Board/2004/gov2004-79.pdf>>.

¹⁷ William J. Broad and David E. Sanger, Meeting on Arms Data Reignites Iran Debate, *N.Y. Times*, Mar. 3, 2008, <http://www.nytimes.com/2008/03/03/world/middleeast/03nuke.html?_r=1&scp=1&sq=%20Meeting%20on%20Arms%20Data%20Reignites%20Iran%20Debate&st=cse>.

¹⁸ IAEA, GOV/2005/64, <<http://www.iaea.org/Publications/Documents/Board/2005/gov2005-64.pdf>>.

¹⁹ IAEA, Report by the Director General, September 2, 2005, <<http://www.iaea.org/Publications/Documents/Board/2005/gov2005-67.pdf>>.

Agency's understanding of proliferation sensitive aspects of Iran's nuclear programme." The resolution held that Iran's actions "constituted non-compliance" and urged Iran to "re-establish full and sustained suspension of all enrichment-related activity, as in GOV/2005/64, and reprocessing activity."²⁰

8. GOV/2006/14

On February 4, 2006, the IAEA Board of Governors adopted resolution GOV/2006/14. The resolution noted "Iran's many failures and breaches of its obligations to comply with its NPT Safeguards agreement and the absence of confidence that Iran's nuclear programme is exclusively for peaceful purposes resulting from the history of concealment of Iran's nuclear activities." The resolution re-established "full and sustained suspension of all enrichment-related and reprocessing activities."

Despite the numerous resolutions, the Board of Governors noted with deep regret that "Iran resumed uranium conversion activities at its Esfahan facility on 8 August 2005 and took steps to resume enrichment activities on 10 January 2006." The resolution called for "prompt cooperation to the Agency" to help clarify the activities which "could have a military nuclear dimension."²¹

a. Iran's Failure to Comply with the IAEA Resolutions

In 2008²², 2009²³, and 2010²⁴, the IAEA reported that Iran had neither complied with the IAEA resolutions nor the Security Council resolutions because it did not suspend its enrichment related activities and continued the operation of PFEP and FEP and the operation of new generation centrifuges.

D. IRANIAN-E3 AGREEMENT (2003)

On October 21, 2003, the E3 foreign ministers issued a joint declaration with Iran concerning nuclear issues in Iran.²⁵ Iran stated in the declaration that it would sign an Additional Protocol to its safeguards agreement and that it would voluntarily suspend all enrichment and reprocessing activities.²⁶ Iran subsequently insisted that the E3 suspension agreement permitted it to continue testing and manufacturing centrifuge components and announced that it intended to proceed with the production of uranium hexafluoride at its Esfahan conversion facility. Iran continued enrichment-related and reprocessing activities, in violation of the Iranian-E3 Agreement.²⁷

²⁰ IAEA, GOV/2005/77, <<http://www.iaea.org/Publications/Documents/Board/2005/gov2005-77.pdf>>.

²¹ IAEA, GOV/2006/14, <<http://www.iaea.org/Publications/Documents/Board/2006/gov2006-14.pdf>>.

²² IAEA, Report by the Director General, November 19, 2008, <<http://www.iaea.org/Publications/Documents/Board/2008/gov2008-59.pdf>>.

²³ IAEA, Report by the Director General, June 5, 2009, <<http://www.iaea.org/Publications/Documents/Board/2009/gov2009-35.pdf>>.

²⁴ IAEA, Report by the Director General, February 18, 2010 <<http://www.iaea.org/Publications/Documents/Board/2010/gov2010-10.pdf>>.

²⁵ BBC News, "Iran agrees to key nuclear demands," Oct. 22, 2003, <http://news.bbc.co.uk/1/hi/world/middle_east/3210574.stm>.

²⁶ IAEA, "Implementation of the NPT safeguards agreement in the Islamic Republic of Iran", Report to the Director General to the IAEA Board of Governors, GOV/2003/75, Nov. 10, 2003, p.9, <<http://www.iaea.org/Publications/Documents/Board/2003/gov2003-75.pdf>>.

²⁷ IAEA, Report by the Director General, February 18, 2010

E. THE PARIS AGREEMENT (2004)

On November 15, 2004, representatives from France, Germany, the UK and Iran signed a suspension agreement whereby Iran was required to suspend all enrichment-related and reprocessing activities.²⁸ The main objective of the agreement was to provide “objective guarantees” that Iran’s nuclear programme was exclusively for peaceful purposes.²⁹

The United States, through Secretary of State Condoleezza Rice, made it public that if Iran agreed to renounce its enrichment programme permanently, the USA would drop its objections to Iran applying to join the World Trade Organization.³⁰ Iran rejected the proposal and indicated that as a non-nuclear weapon state party to the NPT, Iran was legally entitled to develop nuclear fuel-cycle facilities. Iran also stated that the USA did not have a role to play in its negotiations with the E3.³¹ Iran continued enrichment-related and reprocessing activities, in violation of the Paris Agreement.³²

F. UNITED NATIONS SECURITY COUNCIL RESOLUTIONS

1. UN Security Council Resolution 1696 (2006)

On July 31, 2006, the UN Security Council adopted a resolution that reaffirmed its commitment to the NPT and for the states to comply fully with all of their obligations. The resolution noted serious concern with Iran’s nuclear program and stated that “after more than three years of Agency efforts to seek clarity about all aspects of Iran’s nuclear program, the existing gaps in knowledge continue to be a matter of concern, and that the IAEA is unable to make progress in its efforts to provide assurances about the absence of undeclared nuclear material and activities in Iran.” The resolution demanded “that Iran shall suspend all enrichment-related and reprocessing activities, including research and development.”³³ After the adoption of this resolution, the IAEA reported that Iran “continued the testing of P-1 centrifuges” and “has not suspended its enrichment related activities.”³⁴

<<http://www.iaea.org/Publications/Documents/Board/2010/gov2010-10.pdf>>.

²⁸ IAEA, “Communication dated 26 November 2004 received from the permanent representatives of France, Germany, the Islamic Republic of Iran and the United Kingdom concerning the agreement signed in Paris on 15 November 2004”, IAEA document INFCIRC/637, Nov. 26, 2004,

<<http://www.iaea.org/Publications/Documents/Infcircs/2004/infcirc637.pdf>>.

²⁹ IAEA, “Introductory statement by the IAEA Director General Dr. Mohamed ElBaradei”, IAEA Board of Governors, DG 25112004, Nov. 25, 2004,

<<http://www.iaea.org/NewsCenter/Statements/2004/ebsp2004n016.html>>.

³⁰ Sanger, D., “US and European allies agree on steps in Iran dispute”, *New York Times*, Mar. 11, 2005,

<<http://www.nytimes.com/2005/03/11/politics/11iran.html>>.

³¹ Islamic Republic News Agency (IRNA), “Asefi says incentives will not persuade Iran to forsake rights”, Mar. 12, 2005, <<http://www.irna.ir/en/news/view/line-22/0503120791143125.htm>>.

³² IAEA, Report by the Director General, February 18, 2010

<<http://www.iaea.org/Publications/Documents/Board/2010/gov2010-10.pdf>>.

³³ IAEA, UN Security Council Resolution 1696, July 31, 2006,

http://www.iaea.org/newscenter/focus/iaeairan/unsc_res1696-2006.pdf

³⁴ IAEA, Report by the Director General, August 31, 2006,

<<http://www.iaea.org/Publications/Documents/Board/2006/gov2006-53.pdf>>.

2. UN Security Council Resolution 1737 (2006)

On December 27, 2006, the UN Security Council adopted a resolution that reaffirmed its commitment to the NPT and required the states to comply fully with all of their obligations under the Treaty. The resolution noted with serious concern that Iran “has not established full and sustained suspension of all enrichment-related and reprocessing activities . . . nor resumed its cooperation with the IAEA . . . nor complied with the provisions of the Security Council resolution 1696.”³⁵ After the adoption of this resolution, the IAEA reported that “Iran has not suspended its enrichment related activities” and “continued with its heavy water related projects.”³⁶

3. UN Security Council Resolution 1747 (2007)

After Iran’s failure to comply with Resolution 1737, the Security Council imposed further sanctions by adopting Resolution 1747 on March 24, 2007. The resolution called upon Iran to take the necessary steps to “build confidence in the exclusively peaceful purpose of its nuclear program.” The Security Council called for the “banning . . . [of Iran’s] arms exports and freezing the assets and restricting the travel of additional individuals engaged in the country’s proliferation-sensitive nuclear activities.” The Resolution also required Iran to immediately “suspend all enrichment-related and reprocessing activities, including research and development.”³⁷

The IAEA reported that after the adoption of Resolution 1737, “contrary to the decisions of the Security Council, Iran has not suspended its enrichment related activities, having continued with the operation of PFEP, and with the construction and operation of FEP. Iran is also continuing with its construction of the IR-40 reactor and operation of the Heavy Water Production Plant.”³⁸

4. UN Security Council Resolution 1803 (2008)

On March 3, 2008, the UN Security Council adopted a resolution that reaffirmed its commitment to the NPT and for the states to comply fully with all of their obligations under the Treaty. The Security Council noted that “Iran has not established full and sustained suspension of all enrichment related and reprocessing activities and heavy water-related projects.”³⁹

On February 18, 2010, the IAEA held that “Iran is not implementing the requirements contained in the relevant resolutions of the Board of Governors and the Security Council.” The IAEA also noted that Iran “continued with the operations of PFEP and FEP at Natanz, the construction of a new enrichment plant at Fordow, the construction of the IR-40 reactor and heavy water activities.”⁴⁰

³⁵ IAEA, UN Security Council Resolution 1737, December 27, 2006, <http://www.iaea.org/newscenter/focus/iaeairan/unsc_res1737-2006.pdf>.

³⁶ IAEA, Report by the Director General, February 22, 2007, <<http://www.iaea.org/Publications/Documents/Board/2007/gov2007-08.pdf>>.

³⁷ IAEA, UN Security Council Resolution 1747, March 24, 2007, <http://www.iaea.org/newscenter/focus/iaeairan/unsc_res1747-2007.pdf>.

³⁸ IAEA, Report by the Director General, August 30, 2007, <<http://www.iaea.org/Publications/Documents/Board/2007/gov2007-48.pdf>>.

³⁹ IAEA, UN Security Council Resolution 1803, March 3, 2008, http://www.iaea.org/newscenter/focus/iaeairan/unsc_res1803-2008.pdf

⁴⁰ IAEA, Report by the Director General, February 18, 2010 <<http://www.iaea.org/Publications/Documents/Board/2010/gov2010-10.pdf>>.

5. *UN Security Council Resolution 1835 (2008)*

Because of Iran's continued failure to comply with the IAEA Board of Governors resolutions and the UN Security Council Resolutions, the Security Council adopted resolution 1835, which called upon Iran "to comply fully and without delay with its obligations under the [previous] resolutions of the Security Council, and to meet the requirements of the IAEA Board of Governors."⁴¹

6. *UN Security Council Resolution 1929 (2010)*

On June 9, 2010, the Security Council adopted a resolution that, among other things, reaffirmed its commitment to the NPT and the need for all states to comply fully with all of their obligations under the Treaty. The Security Council affirmed that "Iran has so far failed to meet the requirements of the IAEA Board of Governors and to comply with resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008) and 1835 (2008)." The Security Council also noted "with serious concern that Iran has constructed an enrichment facility at Qom in breach of its obligations to suspend all enrichment-related activities, and that Iran failed to notify IAEA until September 2009, which is inconsistent with its obligations under the Subsidiary Arrangements to its Safeguards Agreement."⁴²

II. CRIMES AGAINST HUMANITY TREATIES AND RESOLUTIONS

A. THE UNITED NATIONS CHARTER

As a member of the United Nations, Iran is obligated under Chapter I, Article 2 of the United Nations Charter to "fulfill in good faith the obligations assumed by them in accordance with the present Charter." Pursuant to the Charter, all members of the United Nations "shall refrain in their international relations from the threat or use of force against the political integrity or political independence of any state, or in any manner inconsistent with the purposes of the United Nations."⁴³ As discussed in Part II.B and Part II.C infra, Iran's direct and public call for the destruction of Israel is clearly a threat of force against the political integrity of another state, which violates the United Nations Charter.

B. THE GENOCIDE CONVENTION (1948)

On December 9, 1948, the United Nations declared genocide a crime under international law.⁴⁴ Article II of the Genocide Convention defines genocide as a series of acts committed with the intent to destroy, in whole or in part, a national ethnic, racial or religious group. Article III(b) includes "direct and public incitement to commit genocide" as punishable under the

⁴¹ UN Security Council, Resolution 1835, September 27, 2008, <http://www.iaea.org/newscenter/focus/iaeairan/unsc_res1835-2008.pdf>.

⁴² IAEA, UN Security Council Resolution 1929, June 9, 2010, http://www.iaea.org/newscenter/focus/iaeairan/unsc_res1929-2010.pdf

⁴³ UN Charter, Ch. I, Art. II, Oct. 24, 1945, <<http://www.un.org/en/documents/charter/index.shtml>>.

⁴⁴ UN, Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, <<http://www.un.org/millennium/law/iv-1.htm>>.

Convention. Mahmoud Ahmadinejad has publicly called for Israel to “be wiped off the face of the map.”⁴⁵ This public call to annihilate the Jewish State, which is essentially a state-sanctioned call to genocide, has been recognized by multiple international law scholars as a clear violation of the Genocide Convention.⁴⁶ (See also Part II.C, *infra*.)

C. THE ROME STATUTE OF THE ICC (1998)

Iran signed the Rome Statute of the International Criminal Court (ICC) on December 31, 2000.⁴⁷ Although Iran has not ratified the Rome Statute, the Vienna Convention on the Law of Treaties requires a state that has signed but not ratified a treaty to refrain from “acts which would defeat the object and purpose” of the treaty.⁴⁸ The Rome Statute of the ICC criminalizes direct and public incitement to commit genocide.⁴⁹ The purpose of the Statute is to punish crimes that “so shock the conscience of humanity” and violate *jus cogens* norms.⁵⁰ Genocide is one of those crimes.⁵¹ Article 7 of the Rome Statute states that:

For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: . . . (h) Persecution against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious . . . or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court.⁵²

International tribunals have found that hate speech targeting a population on the discriminatory grounds identified in Article 7 constitutes crimes against humanity (persecution).⁵³ International Criminal Courts have previously held that countries violate Article 7 when they “infect people’s minds with ethnic hatred and persecution.”⁵⁴ Applying this precedent, Ahmadinejad could be prosecuted for crimes against humanity in connection with his advocating the destruction of Israel. In addition to Ahmadinejad’s public call for annihilation of Israel, he has stated that the “Zionist regime . . . cannot survive,”⁵⁵ and “cannot continue its

⁴⁵ See Nazila Fathi, *Iran's New President Says Israel Must Be ‘Wiped Off the Map,’* N.Y. Times, Oct. 27, 2005, at A8.

⁴⁶ J. Post, *Lawyers Lobby Against Iran’s Incitement*, Dec. 8, 2008.

<http://www.jpost.com/Home/Article.aspx?id=123779>.

⁴⁷ UN, Rome Statute of the International Criminal Court,

http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&lang=en.

⁴⁸ UN, Vienna Convention on the Law of Treaties, Part II §1, Art. 18,

http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

⁴⁹ Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90, arts. 6 & 25, available at

http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_English.pdf.

⁵⁰ Restatement (Third) of Foreign Relations Law of the United States § 404 (1987).

⁵¹ M. Cherif Bassiouni, *International Crimes: Jus Cogens and Obligatio Erga Omnes*, 59 *Law & Contemp. Probs.* 63 (1996).

⁵² Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90, art. 7., available at http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_English.pdf.

⁵³ See *Prosecutor v. Ruggiu*, Case No. ICTR 97-32-I, Judgment and Sentence, ¶¶ 22-23 (June 1, 2000).

⁵⁴ *Id.* at ¶ 19.

⁵⁵ Iran President’s Statements on Israel, *Eur. Jewish Press*, Dec. 10, 2006, <http://ejpress.org/article/news/12146>.

existence.”⁵⁶ In Ahmadinejad’s statements during Hezbollah’s summer 2006 war against Israel, he stated that Israel had “pushed the button of its own destruction” and advised the Jewish state “to pack up and move out of the region before being caught in the fire they have started in Lebanon.”⁵⁷ Further, in February of 2008, Ahmadinejad told a French newspaper that “these false people [the Israeli people], these fabricated people cannot continue to exist. . . .”⁵⁸

D. UNITED NATIONS SECURITY COUNCIL RESOLUTIONS

Under Article 25 of the Charter of the United Nations, “the Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the . . . ‘Charter.’” The following Security Council Resolutions are applicable to Iran’s state-sponsorship of terrorism:

1. UN Security Council Resolution 1368 (2001)

On September 12, 2001, the Security Council stated that it regarded “any act of international terrorism as a threat to the international peace and security.” In paragraph 2 of the resolution, the Council decided that Member States must “deny safe haven to those who finance, plan, support or commit terrorist acts” and “ensure that any person who participates in the financing, planning, or preparation of terrorist acts or in supporting terrorist acts is brought to justice.”⁵⁹

Iran was designated as a “State Sponsor of Terrorism” by the United States on January 19, 1984, and continues to be designated as such. “State Sponsors of Terrorism” are defined as countries which have repeatedly shown their inclination towards supporting terrorism.⁶⁰ Former Director of National Intelligence Michael McConnell stated that there is “overwhelming evidence” that Iran supports terrorists in Iraq and “compelling” evidence that it does the same in Afghanistan.⁶¹ The “overwhelming evidence” links state sponsors to Islamist groups such as Hezbollah and Hamas. The U.S. Department of Defense estimates Iranian support to Hezbollah at roughly \$100 million to \$200 million annually.⁶² Iran is also suspected of providing training and arms shipments to Taliban fighters in Afghanistan, including “small arms and associated ammunition, rocket propelled grenades, mortar rounds, 107mm rockets, and plastic explosives.”⁶³

⁵⁶ Israel’s Jews Should Go Home: Ahmadinejad, Expatia.com, Apr. 24, 2006, <<http://www.expatia.com/de/articles/news/israels-jews-should-go-home-ahmadinejad-29511.html>>.

⁵⁷ Iran Leader’s Warning to Israel, BBC News, July 23, 2006, http://news.bbc.co.uk/2/hi/middle_east/5208052.stm.

⁵⁸ Une heure avec le president iranien, Mahmoud Ahmadinejad, Le Monde, Feb. 5, 2008, <http://www.lemonde.fr/proche-orient/article/2008/02/05/une-heure-avec-mahmoud-ahmadinejad_1007469_3218.html> (author’s translation).

⁵⁹ UN Security Council Resolution 1368 (2001), September 12, 2001, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N01/533/82/PDF/N0153382.pdf?OpenElement>>.

⁶⁰ U.S. Department of State, State Sponsors of Terrorism, <<http://www.state.gov/s/ct/c14151.htm>>.

⁶¹ Council on Foreign Relations, State Sponsors: Iran, Oct. 7, 2010, <<http://www.cfr.org/iran/state-sponsors-iran/p9362#p2>>.

⁶² Unclassified Report on Military Power of Iran, April 2010, <<http://www.foxnews.com/projects/pdf/IranReportUnclassified.pdf>>.

⁶³ Council on Foreign Relations, State Sponsors: Iran, Oct. 7, 2010, <<http://www.cfr.org/iran/state-sponsors-iran/p9362#p2>>.

2. UN Security Council Resolution 1373 (2001)

On September 28, 2001, the Security Council declared that all Member States should “take the necessary steps to prevent the commission of terrorist acts” and that “acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations.”⁶⁴ As discussed in Part II.D.1, *supra*, Iran’s support of terrorism clearly constitutes a violation of resolution 1373.

3. UN Security Council Resolution 1377 (2001)

On November 12, 2001, the United Nations Security Council adopted resolution 1377, which declared “that acts of international terrorism constitute one of the most serious threats to international peace and security in the twenty-first century.” The resolution called upon all states to implement fully resolution 1373 (2001), and underlined the obligation of states to deny financial and all other forms of support to terrorists and those supporting terrorism.⁶⁵ As discussed in Part II.D.1, *supra*, Iran’s support of terrorism clearly constitutes a violation of resolution 1377.

4. UN Security Council Resolution 1526 (2004)

On January 30, 2004, the United Nations Security Council adopted resolution 1526 to reiterate its “unequivocal condemnation of all forms of terrorism and terrorist acts.” The resolution “call[ed] upon States to move vigorously and decisively to cut the flows of funds and other financial assets and economic resources to individuals and entities” associated with terrorism.⁶⁶ As discussed in Part II.D.1, *supra*, Iran’s support of terrorism clearly constitutes a violation of resolution 1526.

5. UN Security Council Resolution 1535 (2004)

On March 26, 2004, the United Nations Security Council adopted resolution 1535 to reaffirm resolution 1373 (2001) and remind states that they must ensure that all necessary steps are taken to combat terrorism, consistent with their obligations under international law.⁶⁷ As discussed in Part II.D.1, *supra*, Iran’s support of terrorism clearly constitutes a violation of resolution 1535.

6. UN Security Council Resolution 1566 (2004)

On October 8, 2004, the United Nations Security Council adopted resolution 1566 to call upon states “to cooperate fully in the fight against terrorism” and to “deny safe haven and bring to justice . . . any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts.”⁶⁸ As discussed in Part II.D.1, *supra*, Iran’s actions support of terrorism clearly constitutes a violation of resolution 1566.

⁶⁴ UN Security Council Resolution 1373 (2001), September 28, 2001, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N01/557/43/PDF/N0155743.pdf?OpenElement>>.

⁶⁵ UN Security Council Resolution 1377 (2001), November 12, 2001, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N01/633/01/PDF/N0163301.pdf?OpenElement>>.

⁶⁶ UN Security Council Resolution 1526 (2004), January 30, 2004, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/226/69/PDF/N0422669.pdf?OpenElement>>.

⁶⁷ UN Security Council Resolution 1535 (2004), March 26, 2004, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/286/41/PDF/N0428641.pdf?OpenElement>>.

⁶⁸ UN Security Council Resolution 1566 (2004), October 8, 2004,

7. UN Security Council Resolutions (2005-2010)

From 2005 to 2010, the UN Security Council reiterated the previous resolutions as they pertain to international terrorism and reminded states that they must “must cooperate fully in the fight against terrorism, in accordance with their obligations under international law” and consistent with the previous resolutions.” The resolutions that reaffirmed these obligations are:

- a. UN Security Council Resolution 1624 (2005)⁶⁹
- b. UN Security Council Resolution 1735 (2006)⁷⁰
- c. UN Security Council Resolution 1787 (2007)⁷¹
- d. UN Security Council Resolution 1805 (2008)⁷²
- e. UN Security Council Resolution 1904 (2009)⁷³
- f. UN Security Council Resolution 1963 (2010)⁷⁴

As discussed in Part II.D.1, *supra*, Iran’s support of terrorism clearly constitutes a violation of resolutions 1624 (2005), 1735 (2006), 1787 (2007), 1805 (2008), 1904 (2009), and 1963 (2010).

III. HUMAN RIGHTS TREATIES

A. UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948)

On December 10, 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights (UDHR) to establish universal norms relating to fundamental human rights and to “cause it to be displayed and read principally in schools and other educational institutions, without distinction based on the political status of countries or territories.”⁷⁵

1. Right to Education

Article 26 of the UDHR requires technical and professional education to be made generally available and higher education to be equally accessible to all on the basis of merit.⁷⁶

<<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/542/82/PDF/N0454282.pdf?OpenElement>>.

⁶⁹ UN Security Council Resolution 1624, September 14, 2005,

<<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/510/52/PDF/N0551052.pdf?OpenElement>>.

⁷⁰ UN Security Council Resolution 1735 (2006), December 22, 2006

<<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/680/14/PDF/N0668014.pdf?OpenElement>>.

⁷¹ UN Security Council Resolution 1787 (2007), December 10, 2007,

<<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/634/39/PDF/N0763439.pdf?OpenElement>>.

⁷² UN Security Council Resolution 1805 (2008), March 20, 2008,

<<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/279/25/PDF/N0827925.pdf?OpenElement>>.

⁷³ UN Security Council Resolution 1904 (2009), December 17, 2009,

<<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/656/62/PDF/N0965662.pdf?OpenElement>>.

⁷⁴ UN Security Council Resolution 1963 (2010), December 20, 2010,

<<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/702/23/PDF/N1070223.pdf?OpenElement>>.

⁷⁵ UN, The Universal Declaration of Human Rights, Dec. 10, 1948,

<<http://www.un.org/en/documents/udhr/index.shtml>>.

⁷⁶ UN, The Universal Declaration of Human Rights, Art. 26, Dec. 10, 1948,

<<http://www.un.org/en/documents/udhr/index.shtml>>.

The Commission on Human Rights has expressed imminent concern over Iran's failure to give Baha'is access to higher education. In 2003, Special Representative Maurice Copithorne noted that:

The Baha'i community continues to experience discrimination in the areas of, inter alia, education, employment, travel, housing and the enjoyment of cultural activities. Baha'is are still, in effect, prevented from participating in religious gatherings or educational activities.⁷⁷

Iran's failure to provide equal access to higher education was also recently noted by the General Assembly. In a report dated February 10, 2011, the General Assembly stated that there were increased incidents of discrimination against the Baha'is, including preventing members of the Baha'i faith from attending universities.⁷⁸

2. *Freedom of Religion*

Article 2 of the UDHR states that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."⁷⁹ In 2003, Professor Abdelfattah Amor, the Special Rapporteur on Religious Intolerance, concluded:

The Special Rapporteur is of the view that the measures taken by the Iranian authorities to end the persecution of Baha'is, including by non-state entities, and to guarantee them the same right as any other Iranian citizen are still inadequate. He again reminds the Iranian authorities of the need to ensure respect for the relevant provisions of international law, including Article 18 of the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. In addition, as a religious minority, Baha'is are entitled to the respect due to all other religious minorities.⁸⁰

The General Assembly has also recently noted Iran's failure to provide Baha'is with sufficient religious rights. In a report dated February 10, 2011, the General Assembly noted that Iran continues to discriminate against Baha'is by denying them equal access to higher education and that there are "increased incidents of persecution against unrecognized religious minorities, particularly members of the Baha'i faith."⁸¹ (See also Part III.D.1, *supra*.)

⁷⁷ University of Georgia, *UN General Assembly Expresses Concern over Treatment of Baha'is in Iran*, December 6, 2000, <<http://www.uga.edu/bahai/News/120600-1.html>>.

⁷⁸ UN General Assembly, Res. 65/226, Situation of human rights in the Islamic Republic of Iran, Feb. 10, 2011, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/526/10/PDF/N1052610.pdf?OpenElement>>.

⁷⁹ UN, The Universal Declaration of Human Rights, Art. 2, Dec. 10, 1948, <<http://www.un.org/en/documents/udhr/index.shtml>>.

⁸⁰ Office of the United Nations High Commissioner for Human Rights, Vulnerable Groups, <<http://www2.ohchr.org/english/issues/religion/III5.htm>>.

⁸¹ UN General Assembly, Res. 65/226, Situation of human rights in the Islamic Republic of Iran, Feb. 10, 2011,

B. REFUGEE CONVENTION (1954)

In 1951, the United Nations General Assembly adopted the Convention Relating to the Status of Refugees (Refugee Convention), which went into force on April 22, 1954.⁸² The Refugee Convention is underpinned by the fundamental principle of non-discrimination and non-penalization to refugees. Iran became a party to the Refugee Convention on July 28, 1976.⁸³ In 2002, Afghan refugees living in Iran were told that they must leave the country or they would be “forced to leave.” Afghan children living in Iran were also not allowed to register for school in the fall, and a large number of Afghan refugees were found to be subjects of “ongoing deprivation of basic needs.”⁸⁴

1. *The Tripartite Agreement (2002)*

The preceding discussion in Part III.B relating to Iran forcing Afghan refugees to leave the country also violates the Tripartite Agreement, which was signed in Geneva in April 2002 by the governments of Iran, Afghanistan and the United Nations refugee agency. Article 5 of the Agreement states: “The Parties hereby reaffirm that the repatriation of Afghan refugees and displaced persons in Iran shall take place at their freely expressed wish based on their knowledge of the conditions relating to the voluntary repatriation and the situation in intended places to return. The voluntary character of the repatriation shall be fully respected.”⁸⁵

C. CONVENTION AGAINST DISCRIMINATION IN EDUCATION (1960)

On December 14, 1960, the United Nations General Assembly adopted,⁸⁶ and Iran ratified,⁸⁷ the Convention Against Discrimination in Education with the “purpose of instituting collaboration among the nations with a view to furthering for all universal respect for human rights and equality of educational opportunity.” Article I of the Convention prohibits states from “depriving any person or group of persons of access to education of any type” and “of limiting any person or group of persons to education of an inferior standard.” Iran has consistently violated Article I of the Convention by discriminating against Baha’is in its educational institutions. (See *supra*, Part III.A.1.)

<<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/526/10/PDF/N1052610.pdf?OpenElement>>.

⁸² UN, Refugee Convention, April 22, 1954,

<<http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>>.

⁸³ AVH Geneva, International Treaty Adherence,

<http://www.adh-geneva.ch/RULAC/international_treaties.php?id_state=109>.

⁸⁴ Physicians for Human Rights, *Iran Coerces Refugees to Return to Afghanistan*, Aug. 8, 2002,

<<http://physiciansforhumanrights.org/library/2002-08-08.html>>

⁸⁵ Physicians for Human Rights, *Iran Coerces Refugees to Return to Afghanistan*, Aug. 8, 2002,

<<http://physiciansforhumanrights.org/library/2002-08-08.html>>

⁸⁶ UN, Convention Against Discrimination in Education, Dec. 14, 1960,

<http://www.unesco.org/education/information/nfsunesco/pdf/DISCRI_E.PDF>.

⁸⁷ University of Minnesota, Human Rights Library, Ratification of Human Rights Treaties,

<<http://www1.umn.edu/humanrts/research/ratification-iran.html>>.

D. THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966)

On December 16, 1966, the General Assembly adopted the International Covenant on Civil and Political Rights (ICCPR). The Covenant evidenced the efforts of the international community to promote human rights.⁸⁸ Iran adhered to the ICCPR on June 24, 1975.⁸⁹

1. Freedom of Religion

Article 2 of the ICCPR states that “each State party to the Covenant will respect and ensure the various rights in the Covenant, through legislative and/or judicial means, to all individuals within its territory without distinction of any kind “such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁹⁰ Article 18 of the ICCPR states, in pertinent part:

- (1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
- (2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.⁹¹

Article 2 of the Constitution of the Islamic Republic of Iran emphasizes the importance of the Qur’an as the word of God in the creation of legislation and in its interpretation.⁹² Likewise, Article 4 requires that “all civil, penal, financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria.”⁹³ Although Zoroastrians, Jews, and Christians are “legally recognized religious minorities” in Article 13 of Iran’s Constitution, this only protects them “within the limits of the law.”⁹⁴ This limitation violates Article 18, Clause 1 of the ICCPR, which provides absolute protection of the freedom to adopt, to change, or to renounce a religion.

The ICCPR is not only violated through the literal language of Iran’s constitution, but it is also violated by its application. For example, in 1993, Reverend Mehdi Dibaj was sentenced to death by a Revolutionary Court for apostasy and insulting Islam.⁹⁵ Further, in 1995, the Special Rapporteur Abdelfattah Amor visited Iran and gave a report on its compliance with the

⁸⁸ UN, The International Covenant on Civil and Political Rights, December 16, 1966, <<http://www.un.org/millennium/law/iv-4.htm>>.

⁸⁹ AVH Geneva, International Treaty Adherence, <http://www.adh-geneva.ch/RULAC/international_treaties.php?id_state=109>.

⁹⁰ UN, The International Covenant on Civil and Political Rights, Art. 2, December 16, 1966, <<http://www.un.org/millennium/law/iv-4.htm>>.

⁹¹ UN, The International Covenant on Civil and Political Rights, Art. 18, December 16, 1966, <<http://www.un.org/millennium/law/iv-4.htm>>.

⁹² Iran Const., art 2, <<http://www.iranchamber.com/government/laws/constitution.php>>

⁹³ Iran Const., art. 4, <<http://www.iranchamber.com/government/laws/constitution.php>>.

⁹⁴ Iran Const., art 13, <<http://www.iranchamber.com/government/laws/constitution.php>>

⁹⁵ Human Rights Watch, Iran: Religious and Ethnic Minorities: Discrimination in Law and Practice, <http://www.hrw.org/reports/1997/iran/Iran-05.htm>.

Declaration. Amor reported that according to the Iranian Constitution, “Zoroastrian, Jewish and Christian Iranians are the only 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.” Amor also reported that “the Baha’i community was subjected to a policy of repression” because, among other things, the practice of the Baha’i faith is consistently denied and “the Baha’i cemeteries had been bulldozed and their tombs ransacked.” Amor concluded that “the Baha’is cannot enjoy rights such as political representation and application of their religious law in their personal affairs and in those of their community.”⁹⁶ The religious-based discrimination of the Baha’is clearly violates the ICCPR.

Article 18, Clause 2 of the ICCPR, which prohibits coercion that impairs freedom of religion, is also violated by the Iranian government. For example, Shi’a seminary students are exempt from military service, while Sunni seminary students are not.⁹⁷ This privilege to Shi’a students is coercive by nature and violates Clause 2 of the ICCPR. Further, Baha’is are forced to deny, hide or lie about their religion in order to gain access to universities.⁹⁸ This limitation on admission to educational institutions to members of only the official and recognized religions is a form of “coercion” explicitly prohibited by Article 18, Clause 2 the ICCPR.

The General Assembly recently affirmed that Iran continues to discriminate among its citizens on the basis of religion. In a report dated February 10, 2011, the General Assembly of the United Nations adopted Resolution 65/226 to address the situation of human rights in Iran. The Resolution expressed “deep concern at serious ongoing and recurring human rights violations” in Iran, including:

- Continuing discrimination and other human rights violations, at times amounting to persecution, against persons belonging to ethnic, linguistic, recognized religious or other minorities, including Arabs, Azeris, Baluchis, Kurds, Christians, Jews, Sufis and Sunni Muslims and their defenders;
- Increased incidents of persecution against unrecognized religious minorities, particularly members of the Baha’i faith; and
- Severe limitations on the freedom of religion, including arbitrary arrest, indefinite detention and lengthy jail sentences, for those exercising this right, and the arbitrary demolition of places of worship.⁹⁹

2. Freedom of Opinion and Expression

Article 19 of the ICCPR states that “everyone shall have the right to hold opinions without interference.” Article 19 also requires that “everyone shall have the right to freedom of expression; this right shall include freedom to . . . impart information and ideas . . . either orally,

⁹⁶ UN, Visit by the Special Rapporteur to the Islamic Republic of Iran, Feb. 6, 1996,

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G96/106/30/PDF/G9610630.pdf?OpenElement>

⁹⁷ Human Rights Watch, Iran: Religious and Ethnic Minorities: Discrimination in Law and Practice,

<http://www.hrw.org/reports/1997/iran/Iran-05.htm>.

⁹⁸ Iran Human Rights, Violations of International Law,

<http://www.iranhumanrights.org/2010/12/intl-law-student-report/>.

⁹⁹ UN General Assembly, Res. 65/226, Situation of human rights in the Islamic Republic of Iran, Feb. 10, 2011,

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/526/10/PDF/N1052610.pdf?OpenElement>.

in writing or in print, in the form of art, or through any other media of his choice.”¹⁰⁰ Iran has consistently barred or expelled students on the basis of their expressions of critical views of the government or their university.¹⁰¹ Further, in a report dated February 10, 2011, the General Assembly found that there were “ongoing, systematic and serious restrictions of . . . freedom of opinion and expression” in Iran.¹⁰² These restrictions completely ignore the students’ Article 19 rights.

3. Freedom of Association and Assembly

Article 21 of the ICCPR requires governments to recognize “the right of peaceful assembly.”¹⁰³ Article 22 further requires states to ensure that everyone “shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.” Iran has ignored Articles 21 and 22 of the ICCPR by expelling students for membership in student groups critical of official policy, and expelling students that organize or participate in public forums or peaceful protests.¹⁰⁴ Iran’s continued violations of the freedom of association and assembly was also recently recognized by the General Assembly. In a report dated February 10, 2011, the General Assembly stated that there were “ongoing, systemic and serious restrictions of freedom of peaceful assembly and association” in Iran.¹⁰⁵

E. THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS (1976)

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) went into effect on March 23, 1976.¹⁰⁶ Iran ratified the ICESCR on January 3, 1976.¹⁰⁷ Article 13 of the ICESCR states that “[h]igher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education.”¹⁰⁸ Iran has consistently violated Article 13 of the ICESCR by discriminating against Baha’is in its educational institutions. (See Parts II.A.1, II.D.1, supra.)

¹⁰⁰ UN, The International Covenant on Civil and Political Rights, December 16, 1966, <<http://www.un.org/millennium/law/iv-4.htm>>.

¹⁰¹ Iran Human Rights, Violations of International Law, <<http://www.iranhumanrights.org/2010/12/intl-law-student-report/>>.

¹⁰² UN General Assembly, Res. 65/226, Situation of human rights in the Islamic Republic of Iran, Feb. 10, 2011, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/526/10/PDF/N1052610.pdf?OpenElement>>.

¹⁰³ UN, The International Covenant on Civil and Political Rights, December 16, 1966, <<http://www.un.org/millennium/law/iv-4.htm>>.

¹⁰⁴ Iran Human Rights, Violations of International Law, <<http://www.iranhumanrights.org/2010/12/intl-law-student-report/>>.

¹⁰⁵ UN General Assembly, Res. 65/226, Situation of human rights in the Islamic Republic of Iran, Feb. 10, 2011, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/526/10/PDF/N1052610.pdf?OpenElement>>.

¹⁰⁶ UN Treaty, International Covenant on Economic, Social, and Cultural Rights, <http://untreaty.un.org/cod/avl/pdf/ha/iccpr/iccpr_ph_e.pdf>.

¹⁰⁷ AVH Geneva, International Treaty Adherence, <http://www.adh-geneva.ch/RULAC/international_treaties.php?id_state=109>.

¹⁰⁸ UN, International Covenant on Economic, Social, and Cultural Rights, <http://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_3p.pdf>.

F. CONVENTION ON THE RIGHTS OF THE CHILD (1989)

On December 20, 1989, the General Assembly of the United Nations adopted the Convention on the Rights of the Child. The Convention was adopted because of the General Assembly's concern with, among other things, the international problem of military use of children.¹⁰⁹ Iran adhered to the Convention in September 1991, and ratified it on July 13, 1994.¹¹⁰ Article 38 of the Convention requires states to "refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavor to give priority to those who are older."¹¹¹

In the course of Iran's war with Iraq, the Basij emerged to support Iran's military. A majority of the Basij members are children from both urban and rural areas, essentially serving as Iran's military human shield and security force. During Iran's war with Iraq, 550,000 students participated as members of the Basij and 36,000 were killed. Incentives were used to entice children to join the Basij.¹¹² The UN Human Rights Commission stated child soldiers were used "based on the notion of martyrdom" and that "every Muslim had a religious duty to defend human honor and dignity against aggression."¹¹³

IV. IRAN'S INVOLVEMENT IN IRAQ

A. APPLICABLE FACTS

Iran's Qods Force, a wing of the Revolutionary Guard Corps, has been accused by U.S. officials of tactically and financially supporting militant groups in Iraq. According to the U.S. Department of State, Iran is engaged in supporting Iraqi militant groups in the following ways:

- The Qods Force provides aid in the form of weapons, training, and funding to Iraq-based militants;
- Iranian authorities continue to provide lethal support to Iraqi militant groups that target Coalition and Iraqi forces and have killed innocent Iraqi civilians;
- Iran's Qods Force continues to provide Iraqi militants with Iranian-produced advanced rockets, sniper rifles, automatic weapons, and mortars that have killed Iraqi and Coalition Forces as well as civilians;

¹⁰⁹ UN, Convention on the Rights of the Child, Dec. 20, 1989, <<http://www.un.org/documents/ga/res/44/a44r025.htm>>.

¹¹⁰ Office of the United Nations High Commissioner for Human Rights, List of countries ratifying the Convention on the Rights of the Child, <<http://www.ohchr.org/english/countries/ratification/11.htm>>.

¹¹¹ UN, Convention on the Rights of the Child, Art. 38, Nov. 20, 1989, <<http://www.un.org/documents/ga/res/44/a44r025.htm>>.

¹¹² Islamic Republic News Agency (IRNA), Oct. 14, 1997, <<http://www.irna.ir>>.

¹¹³ Coalition to Stop the Use of Child Soldiers, The Use of Children as Soldiers in the Middle East and North Africa Region, August 2001, <http://web.archive.org/web/20040813025712/http://www.id.gov.jo/human/activities2000/middleeast_report.html#IRAN>.

- Tehran was responsible for some of the lethality of anti-Coalition attacks by providing militants with the capability to assemble improvised explosive devices (IEDs) with explosively formed projectiles (EFPs) that were specifically designed to defeat armored vehicles;
- The Qods Force provided training both inside and outside of Iraq for Iraqi militants in the construction and use of sophisticated IED technology and other advanced weaponry;
- In late September, 2007, Ahmadinejad pledged to Prime Minister Maliki to help cut off weapons, funding and other militia and insurgent support that crosses the Iranian border. According to the Department of Defense, “there has been no identified decrease in Iranian training and funding of illegal Shi’a militias in Iraq,” and Iranian support to these militant groups “remains a significant impediment to progress towards stabilization.”¹¹⁴

B. GENERAL ASSEMBLY RESOLUTIONS AND DECLARATIONS

1. *A/RES/2734 (XXV): Declaration on the Strengthening of International Security (1970)*

On December 16, 1970, the General Assembly adopted A/RES/2734 which called upon all states to “settle their international disputes by peaceful means” and imposed the duty upon all states to “refrain from the threat or use of force against the territorial integrity and political independence of any other State.”¹¹⁵ Iran’s direct use of force against the territorial integrity and political independence of Iraq clearly violates A/RES/2734.

2. *A/RES/2625 (XXV): Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (1970)*

On October 24, 1970, the General Assembly adopted A/RES/2625 which proclaimed that “a war of aggression constitutes a crime against the peace, for which there is responsibility under international law.”¹¹⁶ According to a subsequent resolution, “aggression” is committed by “the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State. . . .”¹¹⁷ Iran’s financial and lethal support to Iraqi militant groups constitutes a “war of aggression” because it contributes to the acts of armed force against another state in violation of its obligations under international law. Therefore, Iran’s involvement in Iraq violates A/RES/2625.

3. *A/RES/42/22: Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations (1987)*

On November 18, 1987, the General Assembly adopted A/RES/42/22 which imposes a duty upon all states to “refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent

¹¹⁴ U.S. Department of State, State Sponsors of Terrorism, April 30, 2009, <<http://www.state.gov/s/ct/rls/crt/2008/122436.htm>>.

¹¹⁵ UN General Assembly, Declaration on the Strengthening of International Security (XXV), Dec. 16, 1970, <<http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/349/99/IMG/NR034999.pdf?OpenElement>>.

¹¹⁶ United Nations, G.A. Res. 2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, Oct. 24, 1970, <<http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/348/90/IMG/NR034890.pdf?OpenElement>>.

¹¹⁷ United Nations, G.A. Res. 3314, Art. 3(g), The Definition of Aggression, Dec. 14, 1974, <<http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/739/16/IMG/NR073916.pdf?OpenElement>>.

with the purposes of the United Nations.¹¹⁸ Iran's direct use of force against the territorial integrity and political independence of Iraq clearly violates A/RES/42/22.

4. A/RES/43/51: Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (1988)

On December 5, 1988, the General Assembly adopted A/RES/43/51 which imposes a duty upon all states to "act so as to prevent in their international relations the emergence or aggravation of disputes or situations, in particular by fulfilling in good faith their obligations under international law."¹¹⁹ Iran's financial and lethal support to Iraqi militant groups threatens international peace and aggravates international disputes, contrary to A/RES/43/51.

5. A/RES/49/60: Declaration on Measures to Eliminate International Terrorism (1994)

On December 9, 1994, the General Assembly adopted A/RES/46/60 which stated that "acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations." The resolution imposed a duty upon all states to "refrain from organizing, instigating, assisting or participating in terrorist acts in territories of other States, or from acquiescing in or encouraging activities within their territories directed towards the commission of such acts."¹²⁰ Because Iran's Qods Force provides training, weapons and financial support to Iraqi militant groups, Iran assists in international terrorism, contrary to A/RES/49-60.

6. A/RES/60/1: The World Summit Outcome (2005)

On October 24, 2005, the General Assembly adopted A/RES/60/1 which, among other things, called upon states to "refrain from organizing, financing, encouraging, providing training for or otherwise supporting terrorist activities and to take appropriate measures to ensure that their territories are not used for such activities."¹²¹ Iran's Qods Force organizes, finances, encourages and provides training for terrorist activities in Iraq, which clearly violates A/RES/60/1.

C. UNITED NATIONS SECURITY COUNCIL RESOLUTIONS

The United Nations Security Council adopted numerous resolutions to reaffirm the obligations of member states to prevent the transit of terrorists to and from Iraq, the sale of arms to terrorists, and financing that would support terrorists. The resolutions emphasize "the importance of strengthening the cooperation of the countries in the region, particularly neighbors of Iraq" and urge the states to "cooperate actively in efforts to find and bring to justice the

¹¹⁸ United Nations, G.A. Res. 42/22, Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field, Nov. 18, 1987, <<http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/512/54/IMG/NR051254.pdf?OpenElement>>.

¹¹⁹ United Nations, G.A. Res. 43/51, Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field, Dec. 5, 1988, <<http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/530/30/IMG/NR053030.pdf?OpenElement>>.

¹²⁰ United Nations, G.A. Res. 49/60, Declaration on Measures to Eliminate International Terrorism, Dec. 9, 1994, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N95/768/19/PDF/N9576819.pdf?OpenElement>>.

¹²¹ United Nations, G.A. Res. 60/1, 2005 World Summit Outcome, Oct. 24, 2005, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>>.

perpetrators, organizers and sponsors” of terrorists acts in Iraq.” The following resolutions reaffirm and impose the foregoing obligations on all member states:

1. ***Resolution 1267 (1999)***¹²²
2. ***Resolution 1333 (2000)***¹²³
3. ***Resolution 1373 (2001)***¹²⁴
4. ***Resolution 1390 (2002)***¹²⁵
5. ***Resolution 1455 (2003)***¹²⁶
6. ***Resolution 1526 (2004)***¹²⁷
7. ***Resolution 1617 (2005)***¹²⁸
8. ***Resolution 1637 (2005)***¹²⁹
9. ***Resolution 1723 (2006)***¹³⁰
10. ***Resolution 1790 (2007)***¹³¹
11. ***Resolution 1859 (2008)***¹³²
12. ***Resolution 1904 (2009)***¹³³
13. ***Resolution 1963 (2010)***¹³⁴

Because Iran continues to provide tactical and financial support to Iraqi militant groups, which contributes to the lethality of anti-Coalition attacks in Iraq, Iran has clearly disregarded its obligations to refrain from financing and selling arms to terrorists. This is in direct violation of Resolutions 1267 (1999), 1333 (2000), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1637 (2005), 1723 (2006), 1790 (2007), 1859 (2008), 1904 (2009), and 1963 (2010).

¹²² UN Security Council, Resolution 1267 (1999), Oct. 15, 1999, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/300/44/PDF/N9930044.pdf?OpenElement>>.

¹²³ UN Security Council, Resolution 1333 (2000), Dec. 19, 2000, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/806/62/PDF/N0080662.pdf?OpenElement>>.

¹²⁴ UN Security Council, Resolution 1373 (2001), Sep. 28, 2001, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N01/557/43/PDF/N0155743.pdf?OpenElement>>.

¹²⁵ UN Security Council Resolution 1390 (2002), Jan. 16, 2002, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/216/02/PDF/N0221602.pdf?OpenElement>>.

¹²⁶ UN Security Council Resolution 1455 (2003), Jan. 17, 2003, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N03/214/07/PDF/N0321407.pdf?OpenElement>>.

¹²⁷ UN Security Council Resolution 1526 (2004), Jan. 30, 2004, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/226/69/PDF/N0422669.pdf?OpenElement>>.

¹²⁸ UN Security Council Resolution 1617 (2005), July 29, 2005, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/446/60/PDF/N0544660.pdf?OpenElement>>.

¹²⁹ UN Security Council Resolution 1637 (2005), Nov. 8, 2005, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/592/77/PDF/N0559277.pdf?OpenElement>>.

¹³⁰ UN Security Council, Resolution 1723 (2006), Nov. 28, 2006, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/632/35/PDF/N0663235.pdf?OpenElement>>.

¹³¹ UN Security Council, Resolution 1790 (2007), Dec. 18, 2007, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/650/72/PDF/N0765072.pdf?OpenElement>>.

¹³² UN Security Council, Resolution 1859 (2008), Dec. 22, 2008, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/666/05/PDF/N0866605.pdf?OpenElement>>.

¹³³ UN Security Council Resolution 1904 (2009), Dec. 21, 2009, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/661/91/PDF/N0966191.pdf?OpenElement>>.

¹³⁴ UN Security Council Resolution 1963 (2010), Dec. 20, 2010, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/702/23/PDF/N1070223.pdf?OpenElement>>.

- ❖ The Pax Americana Institute will continue to monitor violations, breaches and other infringements of international conventions, treaties, statutes, laws and resolutions by the Islamic Republic of Iran.

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