



The Abdorrahman Boroumand Foundation

2016 State of Rights in Iran

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Abdorrahman Boroumand Foundation



3220 N St NW, Suite 357
Washington, DC 20007

Promoting human rights and democracy in Iran

در دفاع از حقوق بشر و دموکراسی در ایران

HUMAN RIGHTS IN IRAN IN 2016 – A CONTINUING NEED FOR INTERNATIONAL VIGILANCE

Recent developments in Iran such as the completion of the nuclear deal and the success of more moderate candidates in the February Parliamentary and Assembly of Experts elections have given many international observers hope that Iran may be turning a corner toward moderation and democratization. However, unless serious obstacles to sustainable change and democratization such as the abysmal human rights situation, the politicized and unaccountable judiciary, and the compromised electoral system are addressed, the prospects for real and lasting change remain slim.

The issues raised here are structural obstacles to serious reform. While it is important for the international community to acknowledge and encourage reforms and changes that are currently taking place in Iran, it is equally important not to lose track of the most fundamental obstacles to change in Iran. To remind Iranian officials of the need to tackle these obstacles seriously in any earnest and legitimate effort to open up Iran, it is essential to support regular human rights monitoring and reporting by the United Nations and to press Iran to allow visits by UN special rapporteurs, including the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran.

Executions

Nowhere is the horrific human rights situation in Iran more apparent than in the startling rate of capital punishment. Iran ranks first in the world in the rate of executions per capita. Many of the crimes for which people are commonly executed are incompatible with international human rights standards either because they do not reach the standard of “the most serious crimes” which justify the death penalty, such as in the case of possession of small amounts of drugs, or because they constitute the exercise of universal freedoms such as speech, religion and peaceful assembly. According to reports and documents collected by the Abdorrahman Boroumand Foundation (ABF), which due to the risks associated with the documentation of abuses inside the country are not comprehensive, the execution rate continued to soar in 2015:

- Executions – 1,052
- Juveniles Executed (under age 18 at time of offense) – 6
- Women – 17
- Minorities Executed – 54 Baluch, 33 Kurd, 2 Turk
- Public Executions – 58
- Executions for Drug Offenses – 682
- Executions for Sexual Offenses – 65
- Executions for Political Offenses – 12

Due Process Violations

Rule of law, including due process, are essential in any sustainable democratization process. Arrests and executions in Iran are the product of a judicial system rife with systemic violations of the due process of law. The following are among the common violations occurring every day:

- Detainees are routinely tortured. Examples of torture techniques include flogging, slapping, kicking, beating with hoses and pipes, use of stress positions, verbal humiliation, insults, threats against family members, denial of food and medicine, solitary confinement, binding of limbs and suspensions, shaving of head and facial hair, public humiliation and much more.
- Confessions extracted by use of torture during interrogation are used as evidence, including as sole evidence, in trial, even if the accused later retract these confessions.
- Accused are routinely denied adequate legal protection. In many cases, particularly in politically motivated prosecutions, they are denied the right to choose their own lawyers. They are frequently denied contact with lawyers until immediately before trial, in many cases meeting court appointed lawyers only minutes before their trial begins. Their lawyers, even those appointed by the court, may be denied access to files about their cases. A recent change in the Iranian penal code provides for access to lawyers during interrogation, but it remains to be seen how widely this is observed, and, in any case, the regulation provides a large loophole for cases involving national security.
- Lawyers can be persecuted for their defense of their clients, in some cases facing the loss of their license to practice law.
- The accused are frequently denied the right to speak in their defense at trials or to call in witnesses.
- Summary judgments are the norm rather than the exception. Many trials documented by human rights groups have lasted only a few minutes and were conducted by unqualified judges (for more about the qualifications of judges, see the section on the judiciary below).
- Evidence raised by the defense can be discounted or ignored. Judges can and do make decisions based on their “personal knowledge” of the case or impressions of the character of the accused without evidential support. (Article 160 in the New Penal Code)
- Defendants who do not speak Persian or understand it well are tried in Persian and do not necessarily benefit from the services of an interpreter.

Judges

One of the backbones of a just and democratic society is a free and independent judiciary. However the Islamic Republic's judicial system fails to meet these goals. A few of the structural deficiencies in the Iranian judiciary are as follows:

- The process and criteria for selecting judges is not completely codified in law. The result is that those in charge of selection have considerable discretion based on personal preference and political or ideological persuasion. In practice, this has led to investigations of judicial candidates that focus not on their academic or judicial qualifications but on their own religious beliefs and practices and those of their families and close associates as well as their loyalty to the Islamic Republic.
- When criteria are specified in law, they are vague and ambiguous. For instance, "being bound to faith" is a general requirement for candidates. However, what exactly constitutes faith and the extent and manner in which candidates should observe it is not specified.
- One criteria which is clear is that candidates must subscribe to the Islamic Republic's political ideology.
- Legal education or expertise are not a requirement for judgeship. Pursuant to Paragraph 5 of the Law for the Selection of Judges, the rule is to select judges from among experts in religious jurisprudence ["Mojtahed"], and in the event that there are not a sufficient number of such experts, then selection can proceed to other candidates, such as those with only a legal education. Also, according to the Iranian Constitution, it is not necessary to have studied law to be selected as Head of the Judiciary Branch, Prosecutor, or Head of the Supreme Court. Many people who have only had a religious education have entered the judicial profession on that basis, and currently, the overwhelming majority of high-ranking judges have been selected from among these individuals
- Under post-revolutionary Iranian laws, judges must be selected from among men, and women are not allowed to become judges. Women are appointed to only a limited number of positions as assistant prosecutors and as advisory judges in family courts.
- Under Iranian laws, including Article 13 of the Guidelines for the Recruitment, Selection, and Apprenticeship of Applicants for Judgeship and Employment of Judges of 2013, non-Moslem citizens are not permitted to occupy judgeships.
- The Head of the Judiciary, who is the highest judicial authority of the land, is appointed by the Supreme Leader, and the Supreme Leader can replace the Head of Judiciary at any time and for any reason. The Head of Judiciary, in turn, has the ultimate authority over the selection of the judges beneath him as well as their transfer or removal. This lays the groundwork for the exertion of influence on the judiciary by the Leader and his affiliated bodies and institutions.

Elections

The recent elections in Iran and the success of the more moderate candidates who ran in them, have received wide praise. However, the Iranian election system is neither free nor fair. Iranians promoting democracy and universal rights cannot form political groups and run for office. Many Iranians participate in elections to choose “bad over worse,” but this by no means makes elections representative of the will of the Iranian people. Further, Iran has never allowed international independent election monitoring. The following aspects of Iranian election law all constitute violations of international legal and human rights standards:

- Iran’s election regulations are not codified by law. Rather, elections are conducted under the supervision of the Guardian Council, which consists of six clerics appointed by the Supreme Leader and six jurists approved by the Majlis from a list provided by the Head of the Judiciary who, himself, is appointed by and accountable only to the Supreme Leader.
- All candidates for office must be approved by the Guardian Council, which vets them to ensure their “full belief and commitment to Islam and the sacred system of the Islamic Republic of Iran” as well as their allegiance to the government of Iran as it is currently constituted. The stated reasons for the rejection of candidates have been as simple as insufficient attendance at Friday prayers.
- Election law includes a number of other arbitrary and vaguely defined criteria for rejecting candidates such as having an “ill reputation,” having connections with the past government, owning large tracts of uncultivated land, being “convicted of apostasy” (which has been used as a pretext for political persecution), and having physical disabilities.
- The law on political parties provides a basis for the authorities to regulate organized groups so that they may not challenge the activities of the government, its Islamic roots, or the nature of Islam itself. While small political associations that are explicitly Islamic in nature and that do not challenge the fundamental tenets of the Islamic Republic are narrowly tolerated, attempts to form independent political parties have been violently suppressed.
- The Iranian constitution allots five seats in the Parliament for religious minorities (one each for Zoroastrians and Jews, and three divided among Christian communities). While this ensures these communities have some representation, it effectively ghettoizes them by barring them from other seats and ensuring the majority does not face an electoral backlash for its actions affecting these communities.
- While it is not codified in law, authorities promote voting as a duty and a religious obligation. All citizens must have their ID cards stamped when voting, which creates fear of discrimination for those who cannot provide proof of voting.
- Media in the Islamic Republic is tightly controlled so that “radio and television must serve the diffusion of Islamic cultures in pursuit of the evolutionary course of the Islamic revolution” and media “must strictly refrain from diffusion and propagation of destructive and anti-Islamic practices.” Iran tightly controls and filters Internet access and has jailed web commentators who have broached sensitive topics. Without the free exchange of information, genuinely fair elections are not possible.



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