

CONCLUSIONS

During the adoption of its UPR report at the 28th Regular Session Human Rights Council in March 2015, the Islamic Republic declared its willingness to constructively engage with the UPR mechanism. Iranian officials present at the review emphasized Iran's extensive cooperation and engagement with other UN human rights mechanisms, citing its submissions to treaty bodies, such as the Committee on the Elimination of All Forms of Racial Discrimination (CERD), the Committee on the Rights of the Child, and most recent the Committee on the Rights of Persons with Disabilities.²⁸ Iran also expressed its interest in expanding its cooperation with the Office of the High Commissioner of Human Rights. However, despite Iran's verbal commitments, its actions and consistent non-cooperation with other UN human rights mechanisms—particularly the Special Procedures—contradict its public position.

As we have passed the midterm point of its second UPR cycle, and over one year before its next review, the Islamic Republic of Iran is well postured to illustrate to the international community that it is committed to its human rights obligations, including the implementation of its accepted UPR recommendations. If the Islamic Republic of Iran is so committed to the UPR mechanism, it should not further undermine but rather take immediate and necessary actions to implement its accepted recommendations and promptly address the human rights concerns outlined by the international community.

“Iran’s seeming embrace of the UPR process stands in stark contrast to the absence of concrete or meaningful efforts by its government to implement many recommendations it accepted during the first and second cycles.”

Impact Iran welcomes Iran's engagement with the UPR process, its acceptance of a good portion of the recommendations made and steps taken by the government to implement these recommendations. However, based on our review, the overall assessment of Iran's responses to the UPR recommendations it received following its

first and second UPR reviews is unsatisfactory. From the ambiguous response to recommendations, to the ambiguous resort to “partial acceptance”, lack of support for recommendations on civil and political rights, and disproportionate rejection of specific and action-oriented recommendations, Iran should do more to demonstrate its commitment to the UPR. In short, Iran's seeming embrace of the UPR process stands in stark contrast to the absence of concrete or meaningful efforts by its government to implement many recommendations it accepted during the first and second cycles.

Iran should work to implement all of its UPR commitments, including voluntary pledges, accepted and noted recommendations. In addition, Iran should be open to collaboration with national and international partners to implement UPR recommendations. It would also be worthwhile for Iran to increase its level of participation in UN Treaty Body reviews as well as to cooperate with the Special Procedures and live up to its standing invitation extended in 2002 through positive replies to the many outstanding visit requests received from the UN Special Procedures, and in particular to the UN Special Rapporteur on human rights in Iran.

RECOMMENDATIONS

TO THE IRANIAN GOVERNMENT

- ▶ Take the necessary legislative, administrative, and other measures to implement recommendations accepted in full, or “in part,” during UPR cycles.
- ▶ Reduce, or wholly abandon, the practice of accepting recommendations “in part.” In the alternative, publish detailed explanations specifically indicating which parts of a recommendation have been accepted “in part” in line with the promise made by the Secretary-General of the High Council for Human Rights.
- ▶ Make a good faith effort to accept most recommendations issued, including those that concern civil and political rights issues, and refrain from rejecting recommendations substantively similar to ones accepted during previous UPR cycles.
- ▶ Demonstrate an openness to transparency, access, and independent monitoring by cooperating fully with the UN Office of the High Commissioner for Human Rights, the UN Special Procedures (including by allowing the UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran to visit the country), and civil society/human rights organizations based both inside and outside the country.
- ▶ Translate into Persian (Farsi), and widely disseminate, including online, the final UPR report adopted by the UN Human Rights Council for each relevant UPR cycle.
- ▶ Hold a transparent process of consultation and open debates involving governmental and civil society actors as well as the press and the population at large, to prepare its third universal periodic review.

TO RECOMMENDING STATES

- ▶ Submit recommendations to Iran that avoid weak, vague, or general language such as “continue efforts” and instead use specific action-oriented language that provides clear benchmarks for measuring and assessing implementation efforts.
- ▶ Follow up directly with the Iranian authorities on recommendations that have been accepted or partially accepted, including on their own recommendations to Iran, and encourage Iran to implement accepted or partially accepted recommendations prior to its third cycle review in 2019.
- ▶ For States who have issued recommendations that have received partial acceptances by Iran, seek further clarification in line with the promise made by Iran’s Secretary-General of the High Council for Human Rights that officials will publish detailed explanations in writing specifically indicating which parts of a recommendation have been accepted “in part,” and invite Iran to share publicly and make available these explanations.

- ▶ Support the regular renewal of the mandate of the UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran whose regular and authoritative updates on the human rights situation in the country informs the UPR process, encourages follow-up, and can encourage Iran to adopt key human rights reforms.
- ▶ Actively participate in the third cycle review (2019) of Iran and provide specific action-oriented recommendations that provide clear benchmarks for measuring and assessing implementation efforts by Iran.
- ▶ Use the third cycle review as an opportunity to take stock of Iran's overall performance during its UPR reviews by raising serious concerns about accepted recommendations from the two previous cycles that have not yet been implemented, and about key issues of concern (particularly with respect to civil and political rights) that have been insufficiently addressed due to rejected recommendations.

METHODOLOGY

IMPLEMENTATION ASSESSMENT

As part of its assessment of Iran's performance during the 2014 UPR cycle, Impact Iran has engaged in a reevaluation of how it assesses the country's implementation of recommendations submitted by states. The approach taken by Impact Iran for Iran's 2010 UPR cycle focused primarily on whether Iran had met its international legal obligations as they related to particular recommendations submitted by states. In other words, Impact Iran's implementation assessment focused less on the specific wording of each recommendation, and more on whether Iran had met its duty to respect, protect and fulfill the rights at play. The research team in charge of the 2014 UPR evaluation, on the other hand, has shifted the focus of the implementation assessment to the specific wording of each recommendation to determine what it actually calls on Iran to do.

To the extent that a large number of recommendations submitted by states (and accepted by States Under Review) tend to be weak, vague, or general in nature (i.e. "continue efforts..."), this approach will naturally lead to a higher "implementation score" for Iran. This is because Iran can argue, in good faith, that it has met the objective criteria of the recommendation's call to action to improve the situation of human rights with minimal effort. While the drafters of this report believes that this evaluation approach is more reflective of the realities and shortcomings of the UPR as a human rights mechanism, it also believes that any assessment of a country's performance at the UPR should be contextualized so that it a) provides a more comprehensive picture of the human rights situation vis-a-vis the country's international legal obligations; b) highlights the deficiencies of the UPR as a mechanism for accountability at the international level.

- Period of Review: September 2014 to June 2018 (but Iran only covers 2015-16)
- Baseline for Assessment: Positive/affirmative action taken since September 2014 (and not before)
- Basis for Assessment: the recommendation by the Member State 'as is' and not the (full) realization of the human right per international standards.
 - o It is important to note, therefore, that implementation statistics are not an accurate reflection of the state of human rights with regard to a particular right, issue or thematic area. There is a need to contextualize the implementation scores with Impact Iran's own qualitative narrative regarding the extent to which Iran has realized the particular right in question.
- Primary Source: Great reliance on Iran's own midterm assessment report for proof of positive/affirmative action (especially on ESC rights issues that are not as thoroughly covered by Impact Iran coalition members and other human rights organization)
 - o Impact Iran also relies on reports by its coalition members and other human rights organizations, particularly with regard to civil and political rights;

- o Impact Iran is not in a position, or does not have the capacity, to fact-check many of the assertions made in Iran’s midterm assessment report, especially with regard to ESC rights;
- o This means that the vast majority of recommendations that call on Iran to meet a bare minimum standard of continuing a particular policy or making efforts especially with regard to ESC rights recommendations.
- Use of “Partially Implemented”: This score is primarily used when the recommendation by the Member State:
 - o combines several recommendations and there is a good faith argument that Iran has satisfied at least one of the them;
 - o allows the international community to make a good faith argument that there have been some substantial actions or improvements in the area with respect to an identifiable part of the recommendation;
 - o allows the international community to make a good faith argument that there have been some substantial actions or improvements in some areas but it is counterbalanced by some substantial deterioration in other areas.
- Use of “Insufficient Information”: This score is primarily used when the recommendation by the Member State:
 - o is not one for which Impact Iran has enough information to make an assessment either way;
 - o calls on Iran to act with respect to a specific national plan or program that Impact Iran does not have access to or has not been able to assess;
 - o calls on Iran to increase, intensify or otherwise improve a certain action and there is not enough information to suggest that this has happened overall (despite some evidence that it has happened on some level);
 - o includes unclear or difficult to understand language.

SOURCES

Impact Iran intentionally limited its sources to the universe of documents that are generally considered part of the review. First we looked at information from United Nations agencies, such as reports and statements by Special Rapporteurs; concluding observations from UN treaty bodies; and reports by the United Nations Development Program. In a few cases, we also looked at the Iranian government’s responses to UN reports. Great reliance on Iran’s own midterm assessment report for proof of positive/affirmative action (especially on ESC rights issues that are not as thoroughly covered by Impact Iran coalition members and other human rights organization).²⁹ Impact Iran also relied on reports by its coalition members and other human rights organizations, particularly with regard to civil and political rights. Impact Iran is not in a position, or does not have the capacity, to fact-check

many of the assertions made in Iran's midterm assessment report, especially with regard to ESC rights. This means that the vast majority of recommendations that call on Iran to meet a bare minimum standard of continuing a particular policy or making efforts especially with regard to ESC rights recommendations.

CONCLUSIONS/ASSESSMENTS

We reached our conclusions based on what a preponderance of information in these sources indicated. When weighing the information we took into account how recent and detailed the information was. In cases where both positive and negative conclusions could be drawn, we considered the full picture of the issue and the great trend. All recommendations were read to be consistent with international human rights law. Both the overall human rights aim of each recommendation and the exact wording were taken into account and balanced against each other.

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This report has been produced by the Secretariat of Impact Iran and may draw from research conducted by members of the Coalition. As such, the content of the report may not necessarily reflect the views and analysis of each and every member of the Coalition.

ANNEX A: IRAN'S EXPLANATIONS AND OBSERVATIONS FOR SPECIFIC NOT-ACCEPTED RECOMMENDATIONS (A/HRC/28/12/ADD.1)

RECOMMENDATION	EXPLANATION
138.89: Adopt a general law against discrimination (Benin)	This recommendation is ambiguous and should be noted that the Constitution and other laws of the Country emphasize insistently on rejection of discrimination and there is no need for new comprehensive legislation in this connection.
“Situation of women in Iran and relevant recommendations”	Situation of women in Iran and relevant recommendations: From its very inception, the Islamic Republic of Iran has paid special attention to advancement and promotion of woman's rights and status. Proceeding from this goal, Iran has carried out extensive reforms in improving health and education situation of women, combating poverty, and generating employment, providing safer environment for women, fighting violence against them and increasing economic, social and political participation of women in society. In addition to laws governing violence against women in public places, Iran has also taken measures against domestic violence. According to the Note to Article 1130 of the Civil Code of Iran, battering or any form of abusive behavior of women can serve as a reason for demanding divorce by the wife, in addition to punishment sanctioned by law. In line with its overall policy to support women's right, Iran will support many of the recommendations proposed in this cycle of the UPR.
138.18: Reconsider the general reservation on the Convention on the Rights of the Child with the aim of lifting it and fully accede to the three Optional Protocols to CRC (Burkina Faso)	The Islamic Republic of Iran attaches great importance to promotion of the rights of the child. For this reason, beside numerous national initiatives, Iran has also joined the Convention of the Rights of the Child and its second Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. In keeping with its intention to implement the Convention, Iran established its National Committee on the Rights of the Child, and in line with the provisions of this convention, it has submitted three periodic reports to the relevant monitoring body. Iran, like a number of other countries, acceded to this convention by placing a general reservation in light of its religious principles and culture. For this reason, Iran cannot support recommendations that are contrary to this reservation. In the laws of Iran, in light of Islamic teachings, a person that has reached the age of maturity and is of sound mind has the possibility of marrying freely and forming a family with due regard to his/her legal obligations and personal interests. In addition, forced marriage is forbidden in accordance with Article 1062 of the Civil Code of Iran and is totally irrelevant. Marriage with a person that has not reached the age of maturity is forbidden and punishable according to Article 646 of the Penal Code.
138.143: Pay attention to cases of violence and discrimination based upon sexual orientation, in particular against LGBT persons, both in law and in practice. (Chile)	According to the Islamic norms and the laws of Iran as well as cultural principles advocated by the people on the importance of the family, sexual relations between individuals is only allowed in the framework of wedlock. Moreover, the law forbids any form of persecution and maltreatment of an Iranian citizen regardless of their physical and psychological status, and offenders are dealt with in accordance with the law. In addition, according to Islamic laws, meddling in private affairs of individuals without any discrimination is forbidden. Sex change surgery is operated in Iran, only on the basis of people request. There are considerable requests even from foreign nationals to these operations in Iranian hospitals due to advance medicine and low cost of operation, in order to have the possibility of a better life. It is worth noting that, due to wording limitation (President statement 9/2), more explanations concerning recommendations 129, 231 and 285, as well as, on the death penalty, cooperation with Special procedures and OHCHR, have not been possible to be mentioned in the current addendum.

ENDNOTES

- ¹ “A Guide for Recommending States at the UPR.” *UPR-Info*. 7 September 2015. www.upr-info.org/en/news/upr-info-publishes-first-guide-for-recommending-states-at-the-upr
- ² United Nations Office of the High Commissioner of Human Rights (OHCHR), *UPR*. www.ohchr.org/EN/HRBodies/UPR
- ³ United Nations Human Rights Council, *Addendum, Report of the Working Group on the Universal Periodic Review : Islamic Republic of Iran* (A/HRC/28/12/Add.1). 2 March 2015.
- ⁴ *Ibid.* Paragraph #1, p.2.
- ⁵ Impact Iran, Universal Periodic Review: <http://impactiran.org/hr-un/human-rights-council/universal-periodic-review/>
- ⁶ Mohammad Javad Larijani, United Nations Press Conference, “Press Conference: Human Rights and Regional Development.” 16 November 2011. www.unmultimedia.org/tv/webcast/2011/11/press-conference-human-rights-and-regional-development.html.
- ⁷ “Country and other visits by Special Procedures Mandate Holders since 1998 F-M.” *UN Office of the High Commissioner for Human Rights*. <http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsF-M.aspx>
- ⁸ United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review : Islamic Republic of Iran*, (A/HRC/28/12/Add.1). 22 December 2014
- ⁹ UN Human Rights Council, Institution-building of the United Nations Human Rights Council, (A/HRC/RES/5, #32). 18 June 2007. www.upr-info.org/sites/default/files/general-document/pdf/a_hrc_res_5_1_e.pdf
- ¹⁰ UN Human Rights Council, Institution-building of the United Nations Human Rights Council, (A/HRC/RES/5, #32). 18 June 2007. www.upr-info.org/sites/default/files/general-document/pdf/a_hrc_res_5_1_e.pdf
- ¹¹ UN Human Rights Council, Institution-building of the United Nations Human Rights Council, (A/HRC/RES/5, #32). 18 June 2007. www.upr-info.org/sites/default/files/general-document/pdf/a_hrc_res_5_1_e.pdf
- ¹² United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review : Islamic Republic of Iran* (A/HRC/28/12/Add.1). 22 December 2014
- ¹³ Addendum of the Report of the Working Group on the Universal Periodic Review. 2 March 2015.
- ¹⁴ Larijani, Mohammad Javad Ardeshir. “Iran - 20th Session of Universal Periodic Review.” *United Nations Human Rights Council*. 31 October 2014. webtv.un.org/search/iran-20th-session-of-universal-periodic-review/3868635227001?term=Iran&languages=&sort=date.
- ¹⁵ See “Factors Shaping Iran’s Reply to Recommendations.”
- ¹⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the 2nd periodic report of the Islamic Republic of Iran, adopted by the Committee at its 50th session, 29 April-17 May 2013 : Committee on Economic, Social and Cultural Rights, 10 June 2013, E/C.12/IRN/CO/2, available at: <http://www.refworld.org/docid/52d547e54.html>
- ¹⁷ “UPR Info’s Database - Action category.” *UPR Info*. October 2014. www.upr-info.org/database/files/Database_Action_Category.pdf
- ¹⁸ United Nations Human Rights Council, *Addendum, Report of the Working Group on the Universal Periodic Review : Islamic Republic of Iran* (A/HRC/28/12/Add.1). 2 March 2015.
- ¹⁹ See generally Annex B: Implementation Assessment Scores for 2014 UPR Cycle.
- ²⁰ See Annex B: Implementation Assessment Scores for 2014 UPR Cycle for the implementation score for women's rights recommendations that were accepted by Iran and Impact Iran’s explanations for why the government received a particular a score.
- ²¹ See Annex B: Implementation Assessment Scores for 2014 UPR Cycle for the implementation score for ethnic minorities recommendations that were accepted by Iran and Impact Iran’s explanations for why the government received a particular a score.
- ²² See Annex B: Implementation Assessment Scores for 2014 UPR Cycle for the implementation score for death penalty recommendations that were accepted by Iran and Impact Iran’s explanations for why the government received a particular a score.

²³ Ibid.

²⁴ See Iran Human Rights, Annual Report on the Death Penalty in Iran- 2017, at: <https://iranhr.net/en/reports/19/>.

²⁵ Shaheed, Ahmed, and Rose Parris Richter. "Coping Mechanisms for State Non-cooperation." *The United Nations Special Procedures System*. Ed. Aoife Nolan, Rosa Freedman, and Thérèse Murphy. Vol. 6. Leiden: Brill Nijhoff, 2017. 153-87. Print. Nottingham Studies on Human Rights.

²⁶ "Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran." (A/71/418). *United Nations General Assembly*. 30 September 2016. refworld.org/docid/5829cf1f4.html

²⁷ See Annex B: Implementation Assessment Scores for 2014 UPR Cycle for the implementation score for cooperation with Special Procedures that were accepted by Iran and Impact Iran's explanations for why the government received a particular a score.

²⁸ Iran, UPR Report Consideration - 39th Meeting, 28th Regular Session Human Rights Council. *United Nations Webcast*. 19 Mar 2015. <http://webtv.un.org/watch/iran-upr-report-consideration-39th-meeting-28th-regular-session-human-rights-council/4121201968001#full-text>

²⁹ High Council for Human Rights of the Judiciary of the Islamic Republic of Iran, UPR Mid-Term Report (2015-16): http://impactiran.org/wp-content/uploads/2018/04/Iran_UPR_midtermreport_pt1.pdf (Part I); http://impactiran.org/wp-content/uploads/2018/04/Iran_UPR_midtermreport_pt2.pdf (Part II).