

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/72/322 para 112

Full recommendation

In order to improve the human rights record in the Islamic Republic of Iran, the Government will have to reform the judicial system with a view to ensuring its independence. Appropriate training for the members of the judiciary is also necessary to ensure that guarantees of a fair trial and due process are effectively respected.

Assessment using Impact Iran human rights indicators¹

A. The Government will have to reform the judicial system with a view to ensuring its independence

According to the Constitution of the Islamic Republic of Iran, the head of the judicial system in Iran (the Chief Justice) is directly appointed by the Supreme Leader² who can dismiss him at any point in time.³ No other organ or institution is involved in this process.⁴ The Chief Justice is in charge of selecting high-ranking judicial officials including the Head of the Supreme Court and the country's Prosecutor General.⁵ As a result, the judicial system is not independent from the Iranian government.

The 1982 Law for the Selection of Judges with its subsequent amendments, as well as the 2013 Guidelines for the Recruitment, Selection, and Apprenticeship of Applicants for Judgeship and Employment of Judges, are the main norms regulating the selection of judges. Mandatory criteria for selecting judges in Iran include the following: the appointed judge has to be a Muslim man, who is "bound by faith" and is "loyal to the principle of the primary of the Supreme Leader".⁶ Field investigations and ideological and political interviews are part of the selection process.^{7 8}

¹ CCPR.14.1.S.2; CCPR.9.3.S.2; CCPR.9.1.S.3; CCPR.14.1.P.3; CCPR.9.5.P.2; CCPR.14.1.O.5; CCPR.14.1.O.6; CCPR.14.1.O.8; CCPR.9.2.O.4

² Article 157 Constitution of the Islamic Republic of Iran http://www.iranchamber.com/government/laws/constitution_ch11.php

³ Article 110 Constitution of the Islamic Republic of Iran http://www.iranchamber.com/government/laws/constitution_ch08.php

⁴ Joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran, Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42313_E.pdf

⁵ See Articles 158 to 162 of the Constitution of the Islamic Republic of Iran http://www.iranchamber.com/government/laws/constitution_ch11.php

⁶ Article 13 Guidelines for the Recruitment, Selection, and Apprenticeship of Applicants for Judgeship and Employment of Judges (2013).

⁷ Article 14 Guidelines for the Recruitment, Selection, and Apprenticeship of Applicants for Judgeship and Employment of Judges (2013)

⁸ <http://rc.majlis.ir/fa/law/show/90547> ; <http://rc.majlis.ir/fa/law/show/91044>

These discriminatory and vague criteria enable the appointment of judges based on their political loyalty and undermine the independence and impartiality of the judiciary.

The Government of the Islamic Republic of Iran did not reform the judicial system with a view of ensuring its independence.

B. Appropriate training for the members of the judiciary is also necessary to ensure that guarantees of a fair trial and due process are effectively respected

The selection process of judges in Iran, as described above, impacts the judicial process and undermines the legal principle of due process. In 2014, a Judiciary’s circular listed the most common complaints against judges, including numerous due process violations.⁹ These included unlawful arrests, failure to renew temporary detention orders within the prescribed time, failure to render decisions within the prescribed time, ruling prior to the conclusion of investigation and trial phase, issuing decisions in courts of original jurisdiction without convening a trial session, issuance of “unfounded and undocumented” rulings, issuing rulings outside the scope of the complaint, and unpleasant, inappropriate, and insulting conduct.¹⁰ There is little transparency regarding these complaints and their outcome, additionally there is no readily available information to indicate that they are considered. During the Iranian year 1395 (March 20, 2016 – March 19, 2017), Iran’s General Inspection office received 30,315 complaints. The office sent 3,464 emails to those who had filed complaints and wrote follow-ups of local and provincial investigations, which amounted to 1,502.¹¹

Fair trial and due process violations are particularly grave in Iran in light of the strikingly high numbers of executions conducted by the State. At least 6,566 executions have been reportedly conducted in Iran between the beginning of 2008 and the end of 2019.¹²

For its Universal Periodic Review in 2019, the government of the Islamic Republic of Iran reported that it held “Human rights training for judges, judicial officers and administrative staff on the rights of the child, the rights of persons with disabilities, the prohibition of torture and ill-treatment and the confronting against domestic violence”, as well as “training courses on citizenship rights for judges, staff and judicial officers”.¹³

⁹ Joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Document Center, Impact Iran and Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42313_E.pdf

¹⁰ Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/2994>

¹¹ Ministry of Justice 2017 report on the accomplishments of the Judiciary in the year 1395. <https://www.justice.ir/FileSystem/View/File.aspx?FileId=5282d9cd-913e-4c78-b3d8-b39475070de2>

¹² ECPM, Iran Human Rights, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

¹³ National Report, Islamic Republic of Iran, UPR, 2019, <https://undocs.org/A/HRC/WG.6/34/IRN/1>

However, frequent reports of violations of fair trial rights and due process standards suggest that training received by members of the judiciary in the Islamic Republic of Iran are insufficient and/or inefficient.¹⁴

Recommendation Status:

This recommendation has **NOT** been implemented.

¹⁴ See more: Joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Document Center, Impact Iran and Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42313_E.pdf