

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/72/322 para 113

Full recommendation:

The Special Rapporteur reiterates her call on the Government to uphold the integrity of judges, prosecutors and lawyers, notably by ensuring that appointments of judges are transparent and based on merit and by protecting them, their families and their professional associates against all forms of violence, threats, retaliation, intimidation and harassment as a result of discharging their functions.

Assessment using Impact Iran human rights indicators ¹

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 and can be dismissed by him at any point in time.³ No other organ or institution is involved in the 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 judiciary is not independent from the government in the Islamic Republic of Iran.

The Law for the Selection of Judges of 1982 with its subsequent amendments, as well as the Guidelines for the Recruitment, Selection, and Apprenticeship of Applicants for Judgeship and Employment of Judges of 2013, 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 to 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 These discriminatory and vague criteria enable judges to be appointed based on their political loyalty, thus undermining the independence and impartiality of the judiciary.

¹ CCPR.14.1.S.2; CCPR.14.1.P.3; CCPR.14.1.O.5; CCPR.14.1.O.6; CCPR.14.1.O.8:

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>

There are reports of Iranian authorities having initiated formal investigations into individuals with judicial functions following accusations of corruption, bribery and abuse of power

The selection process of judges in Iran impacts the judicial process and undermines the due process of law. In 2014, a Judiciary’s circular listed the most common complaints against judges and the numerous violations of the principle of due process.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 the investigation and trial, 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 and not all of them were 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. Written follow-ups of local and provincial investigations amounted to 1,502.¹¹ Due process violations are particularly grave in Iran in light of the strikingly high numbers of executions conducted by the State. At least 5,079 executions have reportedly been carried out in Iran since the beginning of 2012 through to May 27, 2020.¹²

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 However, frequent reports of the violation of fair trial rights and due process standards suggest that the training received by the members of the judiciary in the Islamic Republic of Iran has not been appropriate.¹⁴

In 2014, President Rouhani reportedly stated that “a lawyer should be immune from any prosecution for carrying out its professional duty, and the investigative authority for the lawyers’

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 Abdorrahman Boroumand Center, <https://www.iranrights.org/memorial>

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

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

professional issues is the Bar Association”.¹⁵ However, lawyers have reportedly been prosecuted for representing prisoners of conscience or political and “security” prisoners.¹⁶ Human rights lawyers defending human rights defenders have reportedly been harassed, arrested and detained in the Islamic Republic of Iran.^{17 18 19 20}

The appointment of judges in Iran is not transparent nor based on merit. Judges, prosecutors, as well as lawyers, including their families and professional associates, have not been protected against all forms of violence, threat, retaliation, intimidation and harassment as a result of discharging their functions.

Recommendation Status:

This recommendation has **NOT** been implemented.

¹⁵Lawyers for lawyers, <https://lawyersforlawyers.org/wp-content/uploads/Oral-statement-Iran-L4L-LRWC-19-3-2015.pdf>; Meeting the members of the board of Directors of Bar Associations, February 2014) See:

http://www.rouhani.ir/event.php?event_id=310

¹⁶ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, May 2015,

¹⁷ OHCHR News, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24333&LangID=E>

¹⁸ Center for Human Rights in Iran, <https://iranhumanrights.org/2020/06/list-of-attorneys-imprisoned-in-iran-for-defending-human-rights/>

¹⁹ Human Rights Watch, <https://www.hrw.org/news/2018/12/13/iran-escalating-crackdown-lawyers>

²⁰ See more: Abdorrahman Boroumand Center, <https://www.iranrights.org/newsletter/issue/97>