



The Law Society  
of England and Wales



LAWYERS FOR  
LAWYERS

## Stakeholder Submission to the UN Human Rights Council's Universal Periodic Review of the Islamic Republic of Iran

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**The Law Society of England and Wales (the Law Society)** is the professional body representing more than 200,000 solicitors in England and Wales. Its aims include upholding the independence of the legal profession, the rule of law and human rights around the world. Established by Royal Charter (the "Charter of the Society") in 1845, its activities are established by statute, and it was granted special consultative status with the Economic and Social Council of the United Nations in 2014.

Contact: Debra Long, International Policy Manager for Rule of Law and Human Rights, [debra.long@lawsociety.org.uk](mailto:debra.long@lawsociety.org.uk).

Website: <https://www.lawsociety.org.uk/>

**Lawyers for Lawyers (L4L)** is an independent, non-political and not-for-profit lawyers' organisation established in 1986. Its mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognised norms and standards by supporting lawyers who are at risk as a result of discharging their professional duties. Lawyers for Lawyers was granted special consultative status with the UN Economic and Social Council in July 2013.

Contact: Juliette Auffret, Junior Programme Officer, [J.Auffret@lawyersforlawyers.nl](mailto:J.Auffret@lawyersforlawyers.nl).

Website: <https://lawyersforlawyers.org/en/>

**Iran Human Rights Documentation Center (IHRDC)** is a non-profit organization dedicated to documenting human rights abuses in Iran. Founded in 2005 by Iranian lawyers and scholars, IHRDC has published dozens of in-depth reports on various human rights violations in Iran. Having obtained ECOSOC consultative status with the UN Social and Economic Council in 2018, IHRDC advocates for human rights in Iran at the Human Rights Council and engages with UN mechanisms for this purpose.

Contact: Shahin S. Milani, Executive Director, [shahin@iran.hrdc.org](mailto:shahin@iran.hrdc.org).

Website: <https://iranhrdc.org/>

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## Introduction

1. The Law Society of England and Wales, Lawyers for Lawyers, and the Iran Human Rights Documentation Center welcome the opportunity to submit written information to the 4<sup>th</sup> cycle Universal Periodic Review of the Islamic Republic of Iran (Iran) at the 48<sup>th</sup> session of the UPR Working Group. This report is based on interviews with lawyers and other research conducted by the three submitting organisations.
2. This report focuses on the following:
  1. Interference with the independence of the legal profession;
  2. Lack of independence of the judiciary;
  3. Lack of fair trial guarantees that prevent lawyers effectively representing their clients;
  4. Systematic persecution of lawyers; and,
  5. Recommendations.

### **Relevant 3rd cycle UPR recommendations not yet implemented include the following:**

3. Recommendations supported by Iran:
  - 26.167 Take steps to encourage freedom of expression, ensuring that human rights defenders, lawyers and journalists are not subjected to intimidation or arbitrary arrest in connection with their work (New Zealand)
  - 26.170 Guarantee the right to a fair trial, including the right to choose one's lawyer, including for those accused of offences related to national security (Switzerland)
  - 26.178 Ensure the independence of the judicial system, the rules of fair trial, the right to defence and access to a freely chosen lawyer (Germany)
4. Recommendations partially supported by Iran:
  - 26.157 Guarantee the rights to freedom of expression, association and assembly, and release political prisoners, including women's rights activists, labour rights activists, environmentalists, scholars, lawyers and journalists, detained for exercising these rights (Australia)
  - 26.161 Implement its international obligations to ensure the protection of human rights defenders, lawyers and others exercising their rights to freedom of opinion and expression, assembly and association in compliance with international human rights law, and to ensure that all investigations, prosecutions and trials against human rights defenders meet international standards (Finland)
  - 26.177 Guarantee the right to a fair trial and repeal article 48 of the Code of Criminal Procedure (France)
  - 26.180 Guarantee, in law and practice, fair trial standards, including access to legal representation from the time of arrest through all stages of trial and appeals, and abate torture, cruel and inhuman or degrading treatment (North Macedonia).

### **Normative and institutional framework of the state**

5. Iran has ratified international conventions pertaining to the protection of human rights and fundamental freedoms, including the International Covenant on Civil and Political Rights

(ICCPR).<sup>1</sup> Iran is bound to protect the right to fair trial (Article 14), the right to liberty and security of the person (Article 9), the right to life (Article 6), the right to be free from torture (Article 7), the right to freedom of expression (Article 19), the right to freedom of assembly (Article 21), and the right to freedom of association (Article 22).<sup>2</sup> The adequate protection of such rights requires that everyone has effective access to justice and legal assistance. Such assistance may only be provided effectively in a judicial system where lawyers are free to carry out their professional duties independently from political pressure and the executive.

6. In its task of promoting the proper role of lawyers, the Government of Iran should respect the UN Basic Principles on the Role of Lawyers (Basic Principles) whilst applying its national legislation and practice.<sup>3</sup> The Basic Principles provide a concise description of international standards relating to key aspects of the right to independent counsel and set out internationally recognised guarantees to protect lawyers and ensure that they can conduct their professional activities without interference. Adherence to the Basic Principles is considered a fundamental precondition to fulfilling the requirement that all persons have effective access to independent legal assistance.
7. During the third UPR cycle in 2019, Iran supported and partially supported recommendations pertaining to the protection of lawyers, the independence of the legal profession and the judiciary, and the right to fair trial for all.
8. Despite such commitments, reports gathered by the submitting organisations demonstrate that it has consistently failed to uphold the necessary guarantees for the proper functioning of the legal profession. Consequently, lawyers encounter serious difficulties in carrying out their professional duties. This undermines the proper functioning of the judicial system, including the right to fair trial and effective access to justice.

## Interference with the Independence of the Legal Profession

### Independence of the Iranian Bar Association

9. There are concerns regarding interference with the legal profession due to a lack of independence of the Iranian Bar Association (IBA), notably interference in appointments to the Council of Bar Associations and the operations of the IBA.<sup>4</sup>
10. Article 4 of the Law on the Qualities of Obtaining Legal License dictates that the Supreme Disciplinary Court of Judges is the supervisory authority to scrutinise, investigate and verify the competency of lawyers who intend to stand as a candidate for election to the IBA Board of Directors.<sup>5</sup>

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<sup>1</sup> The Pahlavi government (predecessor of the Islamic Republic of Iran) ratified the International Convention on Civil and Political Rights on 24 June 1975.

<sup>2</sup> 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. No. 95-20; 6 I.L.M. 368 (1967).

<sup>3</sup> UN Basic Principles on the Role of Lawyers, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers> [hereinafter Basic Principles].

<sup>4</sup> International Association of Lawyers, *Day of the Endangered Lawyer 24<sup>th</sup> January 2023, 14<sup>th</sup> edition – IRAN*, [https://dayoftheendangeredlawyer.eu/wp-content/uploads/2023/12/Iran\\_Final\\_Cu-Jb\\_Sy\\_03.09.23.pdf](https://dayoftheendangeredlawyer.eu/wp-content/uploads/2023/12/Iran_Final_Cu-Jb_Sy_03.09.23.pdf).

<sup>5</sup> Qanunu Kaifiyat Akhzi Parvaneh Vekaleti Dadgostari [Law on the Qualities of Obtaining Legal License], Theran 1376 [1997], art. 4, available at [www.ekhtebar.ir](http://www.ekhtebar.ir) (ekhtebar.ir).

11. Candidates must be subjected to background checks by the Ministry of Intelligence (MOI) and the Islamic Revolutionary Guard Corps' (IRGC) Intelligence, before being approved by the judiciary and intelligence bodies.<sup>6</sup> Reports indicate that, if a candidate has allegedly acted against the regime, including by criticising the state or its Supreme Leader, their application will be rejected, preventing lawyers who have been involved in human rights activity or defending political dissidents from being elected.<sup>7</sup> The Law does not provide an appeal mechanism for disqualified candidates.<sup>8</sup> Thus, lawyers are prevented from freely electing the IBA.
12. For example, in 2020, 26 out of 150 candidates were disqualified from running in the IBA's election without a reasoned and justified decision.<sup>9</sup>
13. Furthermore, in June 2023, the Iranian Parliament voted on a motion demanding the investigation of the operation of bar association and the National Union of Iranian Bar Associations (SCODA).<sup>10</sup> The head of the judiciary alongside the MOI and IRGC Intelligence were granted the power to scrutinise the IBA in Tehran and the legal guilds across the country, and to "evaluate the judicial credentials" of lawyers affiliated with the IBA, enabling them to designate which lawyers are entitled to practise.<sup>11</sup>
14. This request to investigate is contrary to the Iranian Parliament's internal regulations, which stipulate that the legislative branch can only investigate bodies receiving funding from the national budget, which the IBA does not receive.<sup>12</sup>
15. This inquiry will cover ten different areas, including:
  - Assessing how the bar association determines membership, accepts legal interns, conducts entrance exams, and carries out trainee assessments;
  - Collecting bar association membership lists to evaluate lawyers' legal competences;
  - Examining the budget, income, and spending of the bar association, SCODA, and its associated offices;
  - Examining the elections process of the bar associations' and SCODA's board of directors.<sup>13</sup>

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<sup>6</sup> *Id.*

<sup>7</sup> International Association of Lawyers, *supra* note 4.

<sup>8</sup> LinkedIn, Pourostad, *My Open Letter to International Bar Association (IBA) on Iran Central Bar Council's Election on February 27th, 2020*, (Feb. 7, 2020), <https://www.linkedin.com/pulse/my-open-letter-international-bar-association-iba-iran-majid-pourostad/>.

<sup>9</sup> *Id.*

<sup>10</sup> IRNA, *Tahqīg Va Tafāhus Az 'amalkardi Kānūn Hāyi Vūkalāi Dādgustarī Dar Majlis Kilīd Khūrd [The Investigation into the Operation of Bar Associations Was Initiated in the Parliament]*, (June 27, 2023), <https://www.irna.ir/news/85152642>.

<sup>11</sup> International Association of Lawyers, *supra* note 4.

<sup>12</sup> According to Article 76 of the Iranian Constitution, the Parliament is authorized to inquire into all matters concerning the country. However, under Note 7 of Article 212 of the Parliament's Internal Regulations, non-governmental organizations that operate independently of the country's executive bodies are exempt from this law. See Qanuni Assāsi Jumhuri Islami Iran [Constitution of the Islamic Republic of Iran] 1368 [1989], art.76, <https://iranhrdc.org/the-constitution-of-the-islamic-republic-of-iran/>. See also Qanuni Ayin Namih Dakhili Majlis Shurayi Islami [The Internal Regulations of the Islamic Consultative Assembly], Tehran 1378 [1999], art. 212, available at <https://www.shenasname.ir/majlis/1270-%D9%82%D8%A7%D9%86%D9%88%D9%86->.

<sup>13</sup> Center for Human Rights in Iran, *Iran: State's "Investigation" of Bar Association Aims to Crush Dissent*, (June 28, 2023), <https://iranhumanrights.org/2023/06/iran-states-investigation-of-bar-association-aims-to-crush-dissent/>.

16. This interference with the independence of the IBA is contrary to Article 22 of the ICCPR and Principle 24 of the Basic Principles, which states that “[l]awyers shall be entitled to form and join self-governing professional associations.... The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.”

### Legal Advisors of the Judiciary

17. Article 187 of the Law of the Third Economic, Social and Cultural Development Plan of 2000 established a separate body of representatives ‘authorised to present cases in court’; the Center of Legal Advisors and Experts of the Judiciary (Legal Advisors of the Judiciary).<sup>14</sup> Established to diminish the IBA’s independence and to operate in parallel with it, it functions under the direct supervision of the judiciary.<sup>15</sup>
18. The Legal Advisors of the Judiciary trains and examines its members and issues their licenses to practise.<sup>16</sup> The required legal qualifications for Legal Advisors are less stringent than those for members of the IBA and bypass the standard requirements to become a licensed lawyer.<sup>17</sup> Legal Advisors of the Judiciary must pass one qualifying examination and complete a six-month traineeship, whereas lawyers with a license from the IBA must pass two examinations and complete an 18-month traineeship under the supervision of a lawyer with more than 10 years of experience.<sup>18</sup> The licenses of Legal Advisors of the Judiciary are renewed every two years with the approval of the judiciary.<sup>19</sup> This renewal process further undermines their independence, as they are unlikely to take positions contrary to the judiciary out of concern for their licence to practice.<sup>20</sup>

### Lack of Independence of the Judiciary

19. Article 156 of the Iranian Constitution provides that the judiciary is an “independent power.”<sup>21</sup> However, the Iranian Constitution also dictates that the Supreme Leader is the highest State authority, institutionally above all governing branches, in violation of the separation of powers.<sup>22</sup> The Supreme Leader directly appoints and supervises the Head of the Judiciary, who also reports back to him.<sup>23</sup> The Head of the Judiciary is in charge of selecting high-ranking judicial officials, including the Head of the Iranian Supreme Court and the Prosecutor General.<sup>24</sup>

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<sup>14</sup> Matni Madeh 187 Qanuni Barname Sevoum Tose‘eh Va Ayin Name Ejraei An [Article 187 of the Law of Third Development Plan and Its Regulations], Tehran (1379) [2000], <https://www.ekhtebar.ir/%D9%85%D8%AA%D9%86-%D9%85%D8%A7%D8%AF%D9%87-187->.

<sup>15</sup> IHRDC, Practicing Law in Iran: Risks and Challenges (Nov. 3, 2018), <https://iranhrdc.org/practicing-law-in-iran-risks-and-challenges/>. See also Article 187 of the Law of Third Development Plan and Its Regulations, art. 2, 3, 4, and 15.

<sup>16</sup> Article 187 of the Law of Third Development Plan and Its Regulations, art. 2, 4, 15, and 20.

<sup>17</sup> Human Rights in Iran Unit University of Essex, Legal Research Series, *Rule of Law in Iran: Independence of the Judiciary, Bar Association, Lawyers and Iran’s Compliance with International Human Rights Obligations*, p35 (2014), <https://www.essex.ac.uk/-/media/documents/research/hriu/hriu-study-rule-of-law-march-2014.pdf>.

<sup>18</sup> International Association of Lawyers, *supra* note 4.

<sup>19</sup> Article 187 of the Law of Third Development Plan and Its Regulations, art. 16.

<sup>20</sup> International Association of Lawyers, *supra* note 4.

<sup>21</sup> Constitution of the Islamic Republic of Iran, art.156.

<sup>22</sup> *Id.* art. 57, and 110.

<sup>23</sup> *Id.* art. 110 (6) (2), and 157.

<sup>24</sup> *Id.* art. 158, and 162.

## Appointment of Judges

20. Law and practice regarding the selection of judges in Iran impacts the independence of the judiciary, undermining the rule of law. This selection, called *guzinesh*, is a process involving extensive background investigations into candidates' beliefs and political leanings, rather than professional qualifications.<sup>25</sup> Judges are required to demonstrate ideological and practical commitment to Islamic Shi'a principles, the Islamic Republic of Iran's regime, and the Islamic Shi'a doctrine of *Velayat-e Faqih* (Guardianship of the Jurist), which is the foundational principle of the Islamic Republic, and should never have been a member of a politically opposed group.<sup>26</sup>
21. To ensure their commitment, conducting field investigations at the candidate's residence or workplace, gathering information from their neighbours and acquaintances, and performing ideological and political interviews with the candidates are essential components of the judges' selection process. Investigators inquire about different aspects of the candidate's and his family members' private lives and their adherence to the principles of the Islamic Republic, which includes, but is not limited to, their compliance with the mandatory *hijab* (dress code for women).<sup>27</sup>
22. Only Muslim men can be judges.<sup>28</sup> Entry of women into judicial positions where they do not have the authority to render a decision is permitted, including a limited number of positions as advisory judges in family courts and as assistant prosecutors.<sup>29</sup> Iranian officials have denied claims of gender discrimination in appointing judges, claiming that there are more than 1,000 women judges. Despite this, no reports indicate that Iran has made any meaningful progress in allowing women to hold positions other than advisory judges, investigators in the prosecutor's office, assistant prosecutors, and executors of civil judgments. Additionally, the Head of the Judiciary and other judges can only be Shi'a Muslims, preventing members of other religious faiths from becoming judges.<sup>30</sup>

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<sup>25</sup> Human Rights in Iran Unit, University of Essex, *supra* note 17, at p. 26.

<sup>26</sup> Qanuni Sharayit Entikhab-e Qazat Dadgustari [The Law on the Conditions for the Selection of Judges of the Judiciary], Tehran (1361) [1982], art. 1, <https://www.ekhtebar.ir/%D9%82%D8%A7%D9%86%D9%88%D9%86%D8%B4%D8%B1%D8%A7%DB%8C%D8%B7->. See also Qanuni Guzinesh Mu'aleman va Karkinane Amuzesh va Parvaresh [The Law on the Selection of Teachers and Education Staff], Tehran (1374) [1995], art. 2, available at <https://www.shenasname.ir/estekhdam/233-%D9%82%D8%A7%D9%86%D9%88%D9%86%DA%AF%D8%B2%DB%8C%D9%86%D8%B4>. (This law was later extended to encompass all public servants, including judges. See Qanuni Tasari Guzinesh Mu'aleman Bi Karkunan Sayir Dastgah Hay Ejraee [The Law Extending the Selection Law for Teachers to Employees of Other Executive Agencies], Tehran (1375) [1996], available at <https://www.shenasname.ir/estekhdam/232-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D9%82%D8%A7%D9%86%D9%88%D9%86->); See also Ayin Name Nahve Jazb, Guzinesh va Kar Amuzi Davtalabn Tasadi Amri Qaza va Estekhdam Quzat [Regulations on the Recruitment, Selection, and Internship of Candidates for Judiciary Positions and the Appointment of Judges], Tehran (1392) [2013], art. 13, available at <https://www.ekhtebar.ir/%D8%A2%D9%8A%D9%8A%D9%86%E2%80%8C-%D9%86%D8%A7%D9%85%D9%87->.

<sup>27</sup> Regulations on the Recruitment, Selection, and Internship of Candidates for Judiciary Positions and the Appointment of Judges, art. 13; See also The Law on the Selection of Teachers and Education Staff, art. 2.

<sup>28</sup> The Law on the Conditions for the Selection of Judges of the Judiciary, art. 1.

<sup>29</sup> IHRDC, *supra* note 15. See also Sharayit Qazi Shudani Zanān/Ānhā Dādyār, Bāzpūrs va Mu'avin Dādsitān Mishavand [Conditions for Women to Become Judges / They Can Become Assistant Prosecutors, Investigators, and Deputy Prosecutors], KHABARONLINE (Sept. 28, 2014), available at <https://www.khabaronline.ir/news/377818/%D8%B4%D8%B1%D8%A7%DB%8C%D8%B7-%D9%82%D8%A7%D8%B6%DB%8C->.

<sup>30</sup> Constitution of the Islamic Republic of Iran, art.163; See also The Law on the Conditions for the Selection of Judges of the Judiciary, art. 1.

23. If appointed, judges do not enjoy security of tenure because their employment is at the discretion of the Head of the Judiciary, diminishing their independence and impartiality.<sup>31</sup>

### Revolutionary Courts

24. The establishment and mandate of the Revolutionary Courts is not grounded in the Iranian Constitution; rather, these courts were institutionalised following the 1979 revolution. Judges in the Revolutionary Courts reportedly have close connections with security forces to the extent that defendants and their lawyers have consistently reported that what detainees were told by their interrogators was then repeated verbatim by the judge.<sup>32</sup> Reports indicate that the Revolutionary Courts, which are generally responsible for hearing the cases of political prisoners, routinely held grossly unfair trials without due process, handing down predetermined rulings and rubberstamping executions for political purposes.<sup>33</sup> Trials were extremely brief and relied on confessions obtained under duress.<sup>34</sup> A copy of the formal judgment is often not issued to the defendant in political and national security-related cases.<sup>35</sup>
25. Reports indicate that cases before the Revolutionary Courts “follow a predetermined path into specific branches of the Appeals Court that generally uphold preliminary rulings issued by the Revolutionary Court. If a case does reach the Supreme Court for a final review, it also gets referred to specific branches that rarely overturn sentences issued by lower courts.”<sup>36</sup>

### Judge’s “Knowledge”

26. The lack of independence is particularly concerning because the concept of judge’s “knowledge,” which is called *‘Im-e qazi*, can be a substitute for evidentiary proof in some circumstances.<sup>37</sup> Article 211 of the Islamic Penal Code provides that, “[k]nowledge of the judge is defined as a certainty resulting from manifest evidence in a matter brought before him. In cases where a judgment is based on the knowledge of the judge [as the proof of the offense], he is obliged to stipulate in the judgment the manifest circumstantial and hearsay evidence that has been the source of his knowledge.”<sup>38</sup> Due to this, judges often rule differently in cases with identical questions of law and fact.<sup>39</sup>

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<sup>31</sup> Abdorraman Boromaud Foundation, Mousa Berzin Khalifeloo, *Iran Judges: A Selection Process that Paves the Way for Injustice*, (Dec. 10, 2015), <https://www.iranrights.org/library/document/2877>.

<sup>32</sup> Human Rights in Iran Unit University of Essex, *supra* note 17; Center for Human Rights in Iran, *The Death Penalty in the Islamic Republic of Iran* (Dec. 2023), <https://iranhumanrights.org/wp-content/uploads/The-Death-Penalty-in-the-Islamic-Republic-of-Iran-December-2023-2.pdf>.

<sup>33</sup> U.S. Department of State, *2023 Country Reports on Human Rights Practices, Iran*, <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/iran/>.

<sup>34</sup> Human Rights Council, Fifty-Fifth Session, Detailed Findings of the Independent International Fact-Finding Mission on the Islamic Republic of Iran, 19 March 2024, A/HRC/55/CRP.1.

<sup>35</sup> *Id.*

<sup>36</sup> Center for Human Rights in Iran, *supra* note 33.

<sup>37</sup> IHRDC, *supra* note 15.

<sup>38</sup> Qanuni Mujazati Islami [Islamic Penal Code] Tehran 1392 [2013], art. 211, available at <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>.

<sup>39</sup> IHRDC, *supra* note 15.

## Lack of Fair Trial Guarantees

### Access to a Lawyer

27. The right to a fair trial is undermined through denying the defendant the services of a lawyer, or a lawyer of their own choosing.
28. Article 35 of the Constitution stipulates that, “[i]n all courts, both parties to the claim are entitled to appoint a lawyer for themselves. If they do not have the capacity to do it, the means for appointing a lawyer must be made available to them.”<sup>40</sup> Likewise, Article 48 of the Criminal Code of Procedure (CCP) states that the accused can “demand the presence of a lawyer from the start of detention.”<sup>41</sup> However, this Article places certain restrictions and conditions on access to a lawyer, specifying that lawyers’ meetings with clients cannot exceed one hour and lawyers must turn over handwritten notes taken during the meeting for inclusion in the case file.<sup>42</sup>
29. In practice, detainees continue to be denied even this limited and restricted access to a lawyer during interrogation. Reports indicate that most police officers, investigators, and judges operate with the understanding that confessions should be obtained before evidence is collected. In most cases, the confession is obtained in the initial phases, without the presence of a lawyer, and before any other evidence is gathered.<sup>43</sup>

### Right to a lawyer of one’s choosing

30. Although Article 48 of the CCP recognises that all people have the right to meet with a lawyer as soon as they are detained, the Note to Article 48 states that: “In cases of crimes against internal or external security, and in cases involving organized crime (...), during the investigation phase, the parties to the dispute are to select their lawyers from a list approved by the head of the judiciary.”<sup>44</sup> Thus, the accused cannot access a lawyer of their choosing during the investigation phase, contrary to Article 14 of the ICCPR and Principle 1 of the Basic Principles. This restriction also occurs during the investigation stage when individuals are most at risk of torture and coerced confessions.<sup>45</sup> These security-related offenses include those punishable by death, life in prison, or amputation, as well as political, national security and media-related offences, which are typically used against activists, human rights defenders, and political opponents.<sup>46</sup>

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<sup>40</sup> Constitution of the Islamic Republic of Iran, art. 35.

<sup>41</sup> Qanuni Ayine Dadrisii Kiyfari [Code of Criminal Procedure] Tehran 1392 [2013], amended 1394 [2015]. For English translations of key provisions see <https://iranhrdc.org/amendments-to-the-islamic-republic-of-irans-code-of-criminal-procedure-part-1/> and <https://iranhrdc.org/amendments-to-theislamic-republic-of-irans-code-of-criminal-procedure-part-2/>.

<sup>42</sup> *Id.*

<sup>43</sup> “*If You Are Arrested for Murder and You Don’t Have Money*,” ISNA (1 Feb. 2018), <https://www.isna.ir/news/96111106756>.

<sup>44</sup> Code of Criminal Procedure, art. 48, note.

<sup>45</sup> The Foreign Policy Centre, *Iran Human Rights Review: Due Process*, eds. Tahirih Danesh and Mahmood Amiry-Moghaddam (The Foreign Policy Centre, 2017), 22, <https://fpc.org.uk/wp-content/uploads/2017/02/IHRR-Due-Process.pdf>.

<sup>46</sup> Center for Human Rights in Iran, *supra* note 33.

31. Lawyers on the list of the Note to Article 48 are selected by the head of the judiciary and there are no professional criteria for being included.<sup>47</sup> To be placed on the list, one needs to be a “desirable lawyer for the regime” and likely refrain from acts such as speaking with the media.<sup>48</sup> Most on the list are retired judges, lawyers from the families of “martyrs” (those who died in defence of the Islamic Republic) and IRGC-backed Basij militia, or other lawyers loyal to the Islamic Republic with no interest in defending clients against the state.<sup>49</sup> This process also erodes the IBA’s independence by weakening the importance of adhering to its regulations, rather the head of the judiciary decides on the required qualifications of lawyers handling the most sensitive cases.<sup>50</sup>
32. In June 2018, it was reported that only 20 out of 2,000 lawyers who were members of Tehran’s Bar Association were included in the list issued by the head of the judiciary, with an additional 43 added later.<sup>51</sup> Reports at the time indicated that lawyers had been solicited for payments to have their names placed on the list, raising grave concerns as to the independence of the selection procedure.<sup>52</sup>
33. In practice, the application of this provision by revolutionary and criminal courts goes beyond its scope, having been extended beyond the investigation phase to all procedural stages, preventing independent lawyers from representing political and security-related defendants. Lawyers interviewed by the submitting organisations have stressed the strain that the Note to Article 48 has placed on the exercise of their legal functions, notably, their inability to get access to their clients and represent their rights in court.
34. Since the start of the Woman, Life, Freedom Protests in September 2022, independent lawyers have largely not been permitted to defend their clients during trials before the Revolutionary Courts.<sup>53</sup> The cases concerning protestors that involved the death penalty were marked by the following: “1) None of the cases were defended by independent lawyers in the investigation stage; 2) In the trial stage, only a few had their chosen lawyer defending them in the Revolutionary Courts and in front of the Supreme Court during the appeal process; 3) None of the protestors sentenced to death were tried in civil courts for political crimes in front of a jury; and 4) These cases were based on coerced confessions and self-incriminating statements obtained under torture while held in solitary confinement”.<sup>54</sup>
35. For example, Mohammad Mehdi Karami was executed on 7 January 2023, two months after being arrested for the alleged killing of a Basij member in November 2022. Karami was deprived of a lawyer of his choosing at the investigations stage, and the trial. His father reported that the lawyer appointed by the judiciary did not mount an effective defence and solely asked the court for forgiveness. His father also reported that the appointed lawyer did not answer his phone calls or provide him with an office address, and refused to meet with Karami’s father for the latter to share material for the case file.<sup>55</sup> Branch One of the Karaj

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<sup>47</sup> IHRDC, *supra* note 15.

<sup>48</sup> *Id.*

<sup>49</sup> Center for Human Rights in Iran, *supra* note 33.

<sup>50</sup> IHRDC, *supra* note 15.

<sup>51</sup> IRNA, *43 Vakīl Jadīd Bi Vūkālāy Mūrīd E’timād Ra’īs Qūvih Qazāyīyih Eẓāfīh Shud [43 New Lawyers Have Been Added to the [List of] Lawyers Trusted by the Head of the Judiciary]* (Oct. 15, 2018) [in Persian].

<sup>52</sup> HRANA, *Iranian Lawyers Criticize Proposal to Deprive Defendants of Right to Choose Counsel*, trans. by ABC Abdorrahman Boroumand Center (June 6, 2018), <https://www.iranrights.org/library/document/3443>.

<sup>53</sup> Center for Human Rights in Iran, *supra* note 33.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

Revolutionary Court prohibited his chosen lawyer from submitting his retainer agreement and entering the case. Karami's chosen lawyer reported that Karami had stated to him that he had been tortured and beaten in detention.<sup>56</sup>

36. The UN Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran has shared concerns as to the consequences of the Note to Article 48 on the independence of the legal profession but also the right to a fair trial of defendants.<sup>57</sup> Since the 2019 UPR of Iran, numerous human rights defenders, including lawyers, have been denied access to a lawyer of their own choosing.

### **In-Person Hearings without the Defendants and Lawyers Present**

37. Article 450(C) of the Islamic Penal Code obliged, for the first time, appeals courts to hold trial sessions with defendants and their lawyers present in person for a wide variety of cases, including capital cases.<sup>58</sup> However, in 2019, the head of the judiciary suspended that provision to allegedly expedite criminal cases. Thus, appeal courts can yet again undertake hearings and issue rulings in the absence of defendants and their lawyers, violating Article 14 of the ICCPR and Principle 19 of the Basic Principles.<sup>59</sup>

### **Access to Case Files & Meeting with Clients in Detention**

38. Article 191 of the CCP grants investigating judges the discretionary power to prohibit a lawyer from accessing their client's case files where they deem such access "contrary to the necessity of discovering the truth" or in cases involving national security charges.<sup>60</sup> 'National security reasons' are loosely defined and applied. Article 351 strips lawyers of the right to obtain copies of all documents pertaining to the case.<sup>61</sup>
39. Meanwhile, the Note 1 to Article 216 of the Executive By-law of the Prisons Organization and the Preventive and Corrective Measures of the Country of 2021 requires lawyers to seek the approval of a judicial authority to meet with a client sentenced to imprisonment or for a security offense, as well as any client in custody who is still on charge.<sup>62</sup> In addition, directives are sometimes issued *ad hoc* by judicial and prison officials that force lawyers to face further administrative hurdles to meet with their clients.
40. These provisions violate Principle 21 of the Basic Principles which stipulates that lawyers must be given access to "appropriate information, files and documents [...] to enable [them] to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time."

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<sup>56</sup> *Id.*

<sup>57</sup> OHCHR, On the International Day of the Endangered Lawyer (2024), <https://www.ohchr.org/sites/default/files/documents/issues/ijudiciary/statements/20240122-statement-sr-ijl-day-endangered-lawyer.pdf> (last visited July 5, 2024).

<sup>58</sup> Islamic Penal Code, 450 (C).

<sup>59</sup> Center for Human Rights in Iran, *supra* note 33. See also Center for Human Rights in Iran, *Rule Allowing Appeals Hearings without Defendants Present is Blatant Violation of Law* (Nov. 8, 2019), available at <https://iranhumanrights.org/2019/11/rule-allowing-appeals-hearings-without-defendants-present-is-blatant-violation-of-law/>.

<sup>60</sup> Code of Criminal Procedure, art. 191.

<sup>61</sup> *Id.* art. 351.

<sup>62</sup> Ayin Nameh Ejraeei Sazman Zendan Ha va Eqdamati Tamini va Tarbiyati keshvar [Executive By-law of the Prisons Organization and the Preventive and Corrective Measures of the Country], Tehran (1400) [2021], 1400 (ekhtebar.ir), 1400 آیین نامه اجرایی سازمان زندان ها و اقدامات تامینی و تربیتی کشور مصوب (ekhtebar.ir).

## Discontinued Presence of Legal Representation

41. Lawyers' representation of clients in court is reportedly often severely restricted, with lawyers being denied entry to court rooms, and access to case documents, witnesses, and their clients. For example, lawyers have reported that certain court branches, particularly the Revolutionary Courts, have previously put a sign: "We do not accept attorneys at law" on their doors.<sup>63</sup>
42. Notably when trying cases before the Revolutionary Courts, lawyers have reported being expelled from the court room, being denied the right to represent clients arrested in connection with nationwide protests in recent years, or denied entry to the buildings where the hearings were being held.
43. Lawyers have further shared accounts of being denied access to their clients immediately after their arrests, in violation of Article 48 CCP, recalling events where their clients were arrested and pressured into signing plea bargains and reportedly falsified admissions before being granted access to a lawyer of their choosing. Lawyers have further recalled instances of being denied communication with their clients during their detentions for security concerns.
44. Amir Mahdi Mahdipour, a human rights lawyer, was arrested on 16 October 2023, by the East Azerbaijan Judiciary's Intelligence Protection services for his work defending protestors since the 2019 protests. Following his arrest, he was denied access to his lawyer for 12 days and only allowed to meet with them following his temporary release from prison. His right to legal representation was further impeded during his trial, as his lawyer was not allowed to attend the hearings.<sup>64</sup>
45. These examples demonstrate an ongoing attempt to deprive defendants of the right to a lawyer, violating Article 14 ICCPR and Principles 8, 19 and 21 of the Basic Principles.

## Persecution of lawyers

### Harassment and Arbitrary Prosecution

46. Iranian authorities have systematically targeted lawyers working on sensitive cases, who have faced harassment, improper interference, illegitimate prosecutions, unfair trials, and arbitrary deprivation of liberty. Such practices are in clear violation of the Basic Principles, particularly Principle 16 which protects legal professionals from harassment or improper interference with their professional functions, such as suffering or being threatened with prosecution or other sanctions, and Principle 18 which prohibits lawyers from being identified with their clients or their clients' causes.
47. The primary means of harassment against lawyers is that of arbitrary prosecution. Whilst concerns were raised by States during the 2019 UPR, this pattern has only intensified. In June 2023, the UN Deputy High Commissioner for Human Rights reiterated the dire situation of lawyers in Iran who remain imprisoned because of their work and the authorities

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<sup>63</sup> IHRDC, *Iranian Bar Associations: Struggle for Independence* (Nov. 27, 2012), <https://iranhrdc.org/iranian-bar-associations-struggle-for-independence/#3>.

<sup>64</sup> IranWire, *Iranian Human Rights Lawyer Summoned by Disciplinary Court* (Aug. 25, 2023), [Iranian Human Rights Lawyer Summoned by Disciplinary Court \(iranwire.com\)](https://iranwire.com/iranian-human-rights-lawyer-summoned-by-disciplinary-court)

continuous targeting and harassment of such individuals.<sup>65</sup> Numerous lawyers continue to be tried before the Revolutionary Courts, notably under Article 500 (disseminating propaganda against the Islamic Republic), Article 498 (acting against national security), Article 698 (agitation of public opinion by spreading false information against the Islamic Republic) and Article 638 (encouraging corruption and indecency) of the Islamic Penal Code (IPC), because of their work representing their clients. There have also been reports of the Iranian authorities having recourse to acts not defined under the IPC to hold lawyers criminally liable.

48. Nasrin Sotoudeh, a human rights lawyer, was sentenced to 38 years in prison and 148 lashes in March 2019. UN experts have reflected on her case, stating that it is “sadly not isolated, and the severe sentences she has received appear to be intended to silence her work and to intimidate other human rights defenders.”<sup>66</sup>
49. Hoda Amid, a human rights lawyer, was arrested at her home by security forces in September 2018 and detained for more than two months in Evin Prison, Tehran. Her arrest was reportedly linked to the educational workshops she and another human rights defender organised since 2015. On 31 October 2020, she was sentenced to 8 years in prison, a two-year ban on practicing law, and a two-year membership ban on participating in political parties and groups and activities in cyberspace, media, on the charge of “collaborating with the hostile American government against the Islamic Republic on women and family issues.” Amid’s sentence was not communicated to herself or her lawyer until 12 December 2020. Whilst she appealed the decision, Branch 36 of the Tehran Court of Appeals upheld the ruling on 2 February 2021.<sup>67</sup>
50. Payam Derafshan, a human rights lawyer, was arrested on 8 June 2020, and sentenced to 2.5 years in prison by Branch 26 of the Revolutionary Court on 8 July 2020 for “propaganda against the state,” “spreading falsehoods” and “unauthorized disclosure.” The sentence was upheld by the Appeals Court on 23 July 2020. In May 2020, Derafshan had been sentenced to two years imprisonment and suspended from practicing law for a period of two additional years. On appeal, the prison sentence was reduced to one year and two months, and then suspended.<sup>68</sup>
51. Amirshah Davoudi, a human rights lawyer, was sentenced on 1 June 2019 by Branch 15 of the Revolutionary Court to 30 years and three months in prison, 111 lashes, and monetary fines. He is also deprived of his social rights (as enshrined in Article 26 IPC) for two years. On 18 July 2021, Branch 28 of Tehran’s Revolutionary Court upheld the ruling of Branch 15 of the Revolutionary Court. Davoudi’s charges included “insulting the Supreme Leader,” “spreading propaganda against the system,” and “forming a group with the purpose of disrupting national security.” They relate to interviews he had given and a post he had

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<sup>65</sup> OHCHR, *Human Rights Council Hears of a Worsening Human Rights Landscape in Iran, a Steady Deterioration of the Human Rights Situation in Nicaragua, and that the Economic Crisis in Sri Lanka Continues to Have a Severe Impact on Rights* (June 21, 2023), <https://www.ohchr.org/en/news/2023/06/human-rights-council-hears-worsening-human-rights-landscape-iran-steady-deterioration>.

<sup>66</sup> OHCHR, *Iran: Jailed for defending women who opposed compulsory veiling, Nasrin Sotoudeh must be freed, say UN experts* (June 21, 2021), <https://www.ohchr.org/en/press-releases/2021/06/iran-jailed-defending-women-who-opposed-compulsory-veiling-nasrin-sotoudeh>.

<sup>67</sup> Lawyers for lawyers, *Joint letter on the imprisonment of Hoda Amid* (Mar. 17, 2021), <https://lawyersforlawyers.org/en/joint-letter-on-the-imprisonment-of-hoda-amid/>. See also HRANA, *Rouhani 8 Years On: The Situation of Women’s Rights in the Islamic Republic of Iran* (Mar. 5, 2021), <https://www.en-hrana.org/tag/hoda-amid/>.

<sup>68</sup> Iran Human Rights, Payam Derafshan, (June 1, 2023), <https://www.iranhr.net/en/people/5532/>.

uploaded to a channel he ran on Telegram, in which he raised concerns about the human rights situation in Iran and the treatment of lawyers.<sup>69</sup>

52. Following the 2022 Woman, Life, Freedom protests, restrictions on lawyers have increased significantly. Many lawyers in Iran have faced threats from security forces and national security-related charges when attempting to represent their clients. It has been reported that between September 2022 and March 2023, at least 66 lawyers were arrested for their work, with at least 11 being sentenced.<sup>70</sup> Khosrow Alikordi, a lawyer representing several families of killed protestors, was sentenced to one year of imprisonment.<sup>71</sup> Lawyers Amir Mahdi Mahdipour, Marzieh Mohebi and Ghasem Bodi Bonab faced severe harassment through intense interrogations and detentions and were forced to flee the country, fearing for their lives.<sup>72</sup>
53. In addition, three female lawyers reportedly died under suspicious circumstances related to the 2022 protests. No one has been held accountable for their deaths, and their families are reportedly under pressure not to speak publicly about the incidents.<sup>73</sup>
54. The increase in arrests, arbitrary detention, and illegitimate prosecution of lawyers in Iran since the 2019 UPR stands in stark contrast to the safety guaranteed to lawyers under the Basic Principles. Interference in the work of lawyers results in violations of the right to a fair trial under Article 14 of the ICCPR. The UN Human Rights Committee has stated that “lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter.”<sup>74</sup>

### **Discrimination against Women in the Legal Profession**

55. Women lawyers face additional challenges to the exercise of their profession.
56. Women lawyers have reported numerous instances where their ability to engage in their work and their credibility as lawyers has been brought into question and hampered due to their gender in violation of Article 3 ICCPR. Women lawyers have reported being reprimanded by men within court buildings for supposedly not wearing their hijab properly as a means to humiliate and degrade them. Lawyer Mahnaz Parakand was reportedly openly asked by a judge why she, as a woman, needed to meet with a man, her client, in prison. Reports have further been shared of judges warning male colleagues against women lawyers, who may try to charm and allure them by their coquetry.<sup>75</sup>

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<sup>69</sup> Iran Human Rights, AmirSalar Davoudi, (Dec. 1, 2023), <https://iranhr.net/en/people/5530/>.

<sup>70</sup> The Law Society of England and Wales, *Lawyers at Risk, March 2023, Statement on detained lawyers in Iran*, <https://www.lawsociety.org.uk/campaigns/international-rule-of-law/whats-changing/lawyers-at-risk>.

<sup>71</sup> Iran International, *Iranian Lawyer Jailed For Advocating For Protesters' Families Sunday*, (Feb. 18, 2024), <https://www.iranintl.com/en/202402183982>.

<sup>72</sup> Information collected from interviews with said-lawyers by Lawyers for Lawyers.

<sup>73</sup> دادخواهان ایران (@VFFFTJ\_Iran), X (Mar. 3, 2024, 5:21 PM), [https://x.com/VFFFTJ\\_Iran/status/1764415862881071263](https://x.com/VFFFTJ_Iran/status/1764415862881071263).

<sup>74</sup> Human Rights Committee, General Comment No. 32, Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial, para. 34, U.N. Doc. CCPR/C/GC/32 (Aug. 23, 2007).

<sup>75</sup> IranWire, *Why is Iran's Judiciary a Male-Dominated Institution?*, (Oct. 8, 2020), <https://iranwire.com/en/features/67752/>.

57. Women lawyers also face difficulties in accessing the legal profession. There have been reports of women being denied access to the profession despite meeting all the requirements, because they failed the “personality test” required. For example, Mehrnaz Mansouri, who possessed a master's degree in public law, reported having taken several consecutive qualifying exams but failing the personality test on every occasion.<sup>76</sup>

## Recommendations

58. Our organisations call on Iran to take the following action to protect and promote human rights, access to justice and the rule of law, and encourage members of the Human Rights Council to make similar recommendations during the UPR of Iran:

- i. Repeal Article 4 of the Law on Obtaining Legal License and restore the role of the IBA as the principal body organising and representing lawyers;
- ii. Remove legal obstacles preventing the IBA from being totally independent from the executive and effectively defending and representing the interests of all lawyers in Iran;
- iii. End the “Request to Investigate the Operations of Bar Associations and their Union” and stop all interference with the independence of the IBA;
- iv. Repeal all laws that interfere with the independence of the judiciary;
- v. Uphold the right to fair trial, and guarantee everyone’s right to effective access to justice;
- vi. Guarantee the right of access to a lawyer for accused persons at all stages of criminal proceedings, including those charged with ‘internal or external security crimes’ and repeal the Note to Article 48 of the CCP;
- vii. Ensure that lawyers can perform their professional functions without intimidation, hindrance, harassment or improper interference;
- viii. Ensure that lawyers are not subjected to arbitrary prosecution and detention when conducting their professional duties;
- ix. Guarantee that lawyers may exercise their right to freedom of expression, belief, association and peaceful assembly;
- x. Ensure the immediate and unconditional release of lawyers, who are arbitrarily detained and prosecuted for carrying out their legitimate professional activities.

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<sup>76</sup> *Id.*