

Silencing Justice Abroad: The Threat to the  
Independence of Lawyers in the Islamic  
Republic of Iran

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NOTE

SILENCING JUSTICE ABROAD: THE THREAT TO  
THE INDEPENDENCE OF LAWYERS IN THE  
ISLAMIC REPUBLIC OF IRAN

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*“The sons of Adam are Limbs of each other, having  
been created of one essence. When the calamity of  
time affects one limb the other limbs cannot remain at  
rest. If you have no sympathy for the troubles of  
others, you are unworthy to be called by the name of a  
Human.”*

*-Sa’adi Shirazi, Inscribed on the United Nations  
Building<sup>1</sup>*

I. INTRODUCTION .....	1564
II. LAWYERS’ INDEPENDENCE AND THE EVOLUTION OF HUMAN RIGHTS REPRESSION IN THE IRANIAN LEGAL SYSTEM .....	1568
A. Legal Framework.....	1568
B. Lawyers.....	1574
C. Bar Association.....	1577
D. The Iranian Legal Framework’s Conformity with International Principles .....	1578
1. International Principles .....	1578
2. Iranian Compliance with International Principles.....	1582

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1. Sa’adi of Shiraz, GULISTAN (1258). *Iranian Poetry ‘Bani Adam’ Inscribed on United Nations Building Entrance*, ZUAFISHAN (September 17, 2011) <http://www.zaufishan.co.uk/2011/09/iranian-poetry-bani-adam-inscribed-on.html>.

III. THE CURRENT THREAT TO THE IRANIAN HUMAN RIGHTS LAWYERS .....	1583
A. The Independence of Lawyers.....	1584
B. Article 187 Legal Advisors.....	1586
C. Proposed Regulations for Lawyers.....	1589
D. Effect of Current Threats on Human Rights Conditions ..	1591
IV. CURRENT APPROACHES IN ADDRESSING HUMAN RIGHTS ISSUES .....	1592
V. COMBATTING THE THREAT TO INDEPENDENCE.....	1596
A. Obstacles.....	1596
B. Solution.....	1600
VI. CONCLUSION.....	1602

### I. INTRODUCTION

Nasrin Sotoudeh is one of the most prominent human rights attorneys in Iran and has defended figures including Nobel Peace prize laureate and fellow human rights lawyer, Shirin Ebadi.<sup>2</sup> After the 2009 presidential election protests in Iran, Sotoudeh defended many of the families of those killed by law enforcement officials.<sup>3</sup> However, due to her involvement in this very work, Sotoudeh was

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2. See *With a Defiant Smile – A Portrait of Nasrin Sotoudeh*, INT’L FED’N HUM. RTS. (Aug. 7, 2015) [hereinafter *Defiant Smile*], <https://www.fidh.org/en/region/asia/iran/with-a-defiant-smile-a-portrait-of-nasrin-sotoudeh> (discussing Nasrin’s imprisonment); see also *Iran: Stop Targeting Rights Lawyer*, HUM. RTS. WATCH (Oct. 28, 2014, 4:54 AM) [hereinafter *Iran: Stop Targeting Rights Lawyer*], <https://www.hrw.org/node/264096> (discussing the governments well-documented harassment of Nasrin).

3. See *Defiant Smile*, *supra* note 2; *Iran: Stop Targeting Rights Lawyer*, *supra* note 2. Iran’s 10<sup>th</sup> presidential elections were held in 2009 and record amounts of people turned out to cast their votes. However, after the government claimed that the incumbent, President Mahmoud Ahmadinejad, received the majority of votes the disbelief of many of the Iranian voted quickly ignited widespread protests. The main source of criticism of the announced results came from pre-election polls that showed the main opponent having a strong lead in the final days of the campaign as well as the quick announcement of the results from the government. See Akbar Ganji, *Iran’s Green Movement Five Years Later – ‘Defeated’ But Ultimately Victorious*, HUFFINGTON POST, [http://www.huffingtonpost.com/akbar-ganji/iran-green-movement-five-years\\_b\\_5470078.html](http://www.huffingtonpost.com/akbar-ganji/iran-green-movement-five-years_b_5470078.html) (last visited Aug. 2, 2017)(explaining the rise in the Green Movement and its tactics after the 2009 election); see also Robert Worth and Nazila Fathi, *Protests Flare in Tehran as Opposition Disputes Vote*, N.Y. TIMES (June 13, 2009) <http://www.nytimes.com/2009/06/14/world/middleeast/14iran.html> (detailing the post-election protests).

arrested and charged with “propaganda against the system” and “acting against national security” in September of 2010.<sup>4</sup>

In January 2011, Sotoudeh was sentenced to eleven years in prison on these charges.<sup>5</sup> Additionally, while serving her sentence she was banned from practicing law and travelling for twenty years. Further, Sotoudeh’s family continued to be harassed while she was in prison. Her husband was arrested, and the Government imposed a travel ban on him and their daughter.<sup>6</sup>

In September 2013, Sotoudeh was released after three years imprisonment without any explanation. Since her release, Sotoudeh continues to work on human rights causes within Iran, but the fear of arrest and government repercussion still looms over her work.<sup>7</sup> Regardless of these threats, she continues to fight the government’s attempts to permanently revoke her license, as well as interfere with her work.<sup>8</sup> Sotoudeh explained that the Iranian bar association suspended her license in October 2014 due to heavy influence by the Judiciary.<sup>9</sup>

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4. *Defiant Smile*, *supra* note 2 (discussing Nasrin’s imprisonment); *see also Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing the government’s well documented harassment of Nasrin).

5. *See Defiant Smile*, *supra* note 2 (discussing Nasrin’s imprisonment); *see also Iran: Stop Targeting Rights Lawyer*, *supra* note 2. Her sentence was eventually reduced to six years after a number of parties called for her release.

6. *See Defiant Smile*, *supra* note 2 (discussing Nasrin’s imprisonment); *see also Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing the government’s well documented harassment of Nasrin).

7. *See Defiant Smile*, *supra* note 2 (discussing Nasrin’s imprisonment); *see also Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing the government’s well documented harassment of Nasrin).

8. *See Defiant Smile*, *supra* note 2 (discussing Nasrin’s imprisonment); *see also Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing the government’s well documented harassment of Nasrin).

9. *See Defiant Smile*, *supra* note 2 (discussing Nasrin’s imprisonment); *see also Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing the government’s well documented harassment of Nasrin). The Judiciary influenced the Iranian Bar Association’s decision through the use of the Tehran Revolutionary Court. This court issued its own ruling calling for Sotoudeh’s license to be revoked even though it lacked the proper jurisdiction and even though the IBA’s own disciplinary tribunal refused to do so a few months prior. In June 2015, the bar association revised the ban on her license so that she could renew her license immediately. *See Tehran Solicitors’ Disciplinary Tribunal rules Nasrin Sotoudeh may work as lawyer*, EUROPEAN PARLIAMENT: SAKHAROV PRIZE NETWORK (Sept. 5, 2014) [http://www.europarl.europa.eu/intcoop/sakharov/articles/20140905-nasrin\\_en.html](http://www.europarl.europa.eu/intcoop/sakharov/articles/20140905-nasrin_en.html) (discussing Sotoudeh’s license hearings); *see also Iran: Judicial harassment against human rights lawyer Ms. Nasrin Sotoudeh*, INT’L FED’N HUM. RTS. (Oct. 20, 2014) <https://www.fidh.org/en/region/asia/iran/16268-iran-judicial-harassment-against-human-rights-lawyer-ms-nasrin-sotoudeh> (discussing the judicial harassment of Sotoudeh).

Unfortunately, Sotoudeh's experience with government repression has not been an anomaly in Iran. After the election protests in 2009 and during the remaining presidency of Mahmoud Ahmadinejad, many individuals in Iran called for increased moderation and reform as a response to the administration's repressive tactics.<sup>10</sup> With the election of Hassan Rouhani, the only moderate candidate of the 2012 election, many Iranians believed that human rights abuses would begin to decrease.<sup>11</sup> Unfortunately, this has yet to be the case.

Human rights organizations, such as the United Nations ("UN"), as well as Iranian dissidents, continue to voice their concerns over the conditions occurring inside Iran from outside of the country.<sup>12</sup> However, advocates within the country find it significantly more difficult to voice their concerns and attempt to protect those affected by human rights abuses.<sup>13</sup>

Traditionally, human rights defenders mostly work at the local or regional level to gain the most effective results.<sup>14</sup> In a professional

10. See Abbas Milani, *The Green Movement*, THE IRAN PRIMER <http://iranprimer.usip.org/resource/green-movement> (discussing the creation of the Green Movement in Iran); see also Ganji, *supra* note 3.

11. See Shirzad Bozorgmehr and Michael Martinez, *Hassan Rouhani is Iran's next President after Appealing to Tradition, Reform*, CNN WORLD (June 15, 2013, 8:00 PM) <http://www.cnn.com/2013/06/15/world/meast/iran-elections/>; see also *Iran celebrates Rouhani's Presidential Win*, AL JAZEERA, (June 16, 2013) <http://www.aljazeera.com/news/middleeast/2013/06/201361523312748181.html> (describing Rouhani's win in the election).

12. See Adelle Nazarian, *UN Report: Iran's Human Rights Record Worse under Rouhani than Ahmadinejad*, BREITBART (November 2, 2015), <http://www.breitbart.com/national-security/2015/11/02/un-report-irans-human-rights-record-worse-rouhani-ahmadinejad/> (discussing the human rights violations continuing under the new president); see also Nicholas Vinocur, *Iranian dissidents warn human rights worse under Rouhani*, POLITICO (Oct. 10, 2015, 3:26 PM CET), <http://www.politico.eu/article/iranian-dissidents-human-rights-worse-rouhani/> (quoting an Iranian dissident who said that human rights violations continued after President Rouhani came into power).

13. See U.N. Special Rapporteur, *Situation of Human Rights in the Islamic Republic of Iran*, U.N. Doc. A/70/411 (Oct. 6, 2015) at 7 (discussing how human rights defenders continue to be interrogated and arrested by government agencies); see also Vinocur, *supra* note 12 (discussing how opposition activists have been arrested for political activities).

14. See, *Human Rights Defenders: Protecting the Right to Defend Human Rights*, Fact Sheet No. 29, U.N. HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER [hereinafter Fact Sheet No. 29], <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf> (discussing how the majority of human rights defenders work at a local level); see also Council of the European Union, *Ensuring protection – European Union Guidelines on Human Rights Defenders* [hereinafter *Ensuring Protection*], <https://www.consilium.europa.eu/uedocs/cmsUpload/GuidelinesDefenders.pdf> (discussing how human rights defenders work on a local level).

capacity, the most obvious human rights defenders include lawyers who work daily to promote and protect human rights through the legal system.<sup>15</sup> Unfortunately, in many concerning parts of the world, including Iran, human rights lawyers and defenders are at risk of government retaliation for the causes they defend.<sup>16</sup>

The UN identified this major obstacle for human rights defenders and attempted to help these individuals by creating guidelines on how they should be treated.<sup>17</sup> Broadly, in 1999 the UN General Assembly adopted the *Declaration on the Rights and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, which includes ways in which the State must protect an individual's right to criticize government practices.<sup>18</sup> Specifically, the UN also passed the universally known *Declaration on the Basic Principles on the Role of Lawyers*, which contains provisions that ensure the independence of lawyers from interference and persecution from government bodies.<sup>19</sup> However, states such as Iran continue to violate these declarations and, due to the nonbinding nature of the documents, receive no repercussions for their behavior.<sup>20</sup>

This Note sheds light on current threats to human rights defenders in Iran. Part I discusses the history and current legal framework in Iran and then analyzes how that framework both complies with and violates international principles on the independence of lawyering. Part II examines specific current threats

15. See Fact Sheet No. 29, *supra* note 14 (discussing human rights through professional activities); see also *Ensuring Protection*, *supra* note 14 (discussing activities of human rights defenders).

16. See Fact Sheet No. 29, *supra* note 14 (discussing violations committed against human rights defenders and other difficulties they face); see *Ensuring Protection*, *supra* note 14 (discussing how human rights defenders become targets of attacks and their rights are violated in many countries).

17. See Fact Sheet No. 29, *supra* note 14 (discussing violations committed against human rights defenders and other difficulties they face); see *Ensuring Protection*, *supra* note 14 (discussing how human rights defenders become targets of attacks and their rights are violated in many countries).

18. See G.A. Res. Art. 8, U.N. Doc. A/RES/53/144 (Mar. 8, 1999); see also *Ensuring Protection*, *supra* note 14 (discussing the UN Declaration's principles).

19. See *Basic Principles on the Role of Lawyers*, U.N. HUM. RTS. OFFICE OF THE HIGH COMM'R [hereinafter *Basic Principles*], <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx> (discussing the guidelines on how lawyers should be treated by state actors); see also *Basic Principles on the Role of Lawyers, What are the Basic Principles, LAWYERS FOR LAWYERS*, <http://www.advocatenvooradvocaten.nl/basic-principles/> (last visited Aug. 2, 2017)(explaining the main purposes of the basic principles).

20. See *infra* Part II.

to the independence of lawyering in Iran, such as arrests and detention of attorneys as well as the potential adoption of a bill that threatens the independent Iranian Bar Association. Part III examines widely held approaches to combatting persecution against lawyers and other human rights defenders including both bottom-up and top-down methods. Part IV argues that due to the cultural climate in Iran, the previous approaches by foreign Non-governmental Organizations (NGO) will not be sufficient in curbing the current issues human rights attorneys face. It further suggests that combining theories of Islamic NGOs with both bottom-up and top-down approaches will result in the best outcome.

## *II. LAWYERS' INDEPENDENCE AND THE EVOLUTION OF HUMAN RIGHTS REPRESSION IN THE IRANIAN LEGAL SYSTEM*

This Part examines the historical context and current legal framework of Iran. It discusses the way in which the current framework was formed after the 1979 Revolution as well as the way individuals enter the legal profession through both the traditional route of becoming a lawyer and the more recent creation of Legal Advisors by the Judiciary. This Part then delves into the various international guidelines around the independence of lawyering, including both treaties and non-treaties, and discusses how the Iranian model does and does not comply with such standards.

### *A. Legal Framework*

The modern-day Iranian legal framework formally began with the adoption of the country's first Constitution in 1906.<sup>21</sup> Heavy Western influence within Iranian politics and social life, due to interests in economic control over the territory, played a major role in the formation of current legal system.<sup>22</sup> By the end of the 19<sup>th</sup> century, the Qajar royal family began modernizing Iran by introducing

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21. See Shiva Balaghi, *A Brief History of 20th-Century Iran*, GREY ART GALLERY NYU, <https://greyartgallery.nyu.edu/2015/12/a-brief-history-of-20th-century-iran/> (last visited Aug. 2, 2017)(describing the constitutional revolution); see also Bager Moin, *Revolution in the Air: Iran*, HISTORY TODAY (Aug. 8, 2009), <http://www.historytoday.com/baquer-moin/revolution-air-iran-0> (describing the constitutional revolution).

22. See Balaghi, *supra* note 21 (describing Iranian struggle to maintain independence); see also *History of Iran – Qajar Dynasty*, IRAN CHAMBER SOCIETY [hereinafter IRAN CHAMBER SOCIETY], <http://www.iranchamber.com/history/qajar/qajar.php> (last visited Aug. 2, 2017) (describing Russian and English involvement in Iran).

Western science, technology, and educational methods.<sup>23</sup> This influence by Western countries, however, angered the Iranian public.<sup>24</sup>

Due to increased resentment over Western interference with the Royal family, the Iranian Constitutional Revolution took place resulting in the adoption of its first Constitution.<sup>25</sup> This Constitution limited the absolute powers of rulers.<sup>26</sup> However, the position of the Constitution continued to be challenged by opposing factions, including the ruling regime.<sup>27</sup>

After World War I, the commander of the military, Reza Khan, emerged as a leading figure within Iran.<sup>28</sup> In 1923, the last Qajar Shah named Reza Khan Prime Minister before leaving Iran permanently.<sup>29</sup> Soon after Reza assumed the position of Shah, creating the Pahlavi Dynasty.<sup>30</sup> During his reign, Reza Shah continued to modernize Iran.<sup>31</sup> At the same time, however, he consolidated power and denied citizens the right to participate in the country's political and social prosperity.<sup>32</sup> With the outbreak of the Second World War, the Allied powers soon forced Reza Khan out of his throne, replacing him with his son Mohammad Reza Pahlavi.<sup>33</sup> However, Mohammad Reza

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23. See IRAN CHAMBER SOCIETY, *supra* note 22 (describing modernization of Iran); see also Moin, *supra* note 21 (describing Iranian anger over western influence).

24. See IRAN CHAMBER SOCIETY, *supra* note 22 (describing Iranians belief that their rulers were beholden to foreign interests); see also Moin, *supra* note 21 (describing Iranian anger over western influence).

25. See Balaghi, *supra* note 21 (describing the constitutional revolution); see also Moin, *supra* note 21 (describing the constitutional revolution).

26. See Balaghi, *supra* note 21 (describing the constitutional revolution); see also Moin, *supra* note 21 (describing the constitutional revolution).

27. See Balaghi, *supra* note 21 (describing the constitutional revolution); see also Moin, *supra* note 21 (describing the constitutional revolution).

28. See Balaghi, *supra* note 21 (describing the Rise of the Pahlavi Dynasty); see also Moin, *supra* note 21 (describing the rise of Reza Khan after the war).

29. See Balaghi, *supra* note 21 (describing the Rise of the Pahlavi Dynasty); see also Moin, *supra* note 21 (describing the rise of Reza Khan after the war).

30. See Balaghi, *supra* note 21 (describing the Rise of the Pahlavi Dynasty); see also Moin, *supra* note 21 (describing the rise of Reza Khan after the war).

31. See Balaghi, *supra* note 21 (describing the Rise of the Pahlavi Dynasty); see also Moin, *supra* note 21, (describing the rise of Reza Khan after the war).

32. See Balaghi, *supra* note 21 (describing the Rise of the Pahlavi Dynasty); see also Moin, *supra* note 21, (describing the rise of Reza Khan after the war).

33. See Balaghi, *supra* note 21 (describing the Rise of the Pahlavi Dynasty); see also Moin, *supra* note 21 (describing the rise of Reza Khan after the war).



Pahlavi's rule would also be marred with significant hostility between the regime and the Iranian clergy and citizens.<sup>34</sup>

After alienating the country's clergy and their followers, the Iranian public ousted the reigning Shah and abolished the monarchy in what is now known as the Iranian Revolution of 1979.<sup>35</sup> This also led to the abolition of the 1906 Constitution and creation of the 1979 Constitution which, with the addition of significant amendments in 1989, governs the current regime.<sup>36</sup>

The increased feeling of resentment due to Western influence within Iran served as the catalyst for the Iranian Revolution and the ultimate reconfiguration of the Iranian legal landscape in 1979.<sup>37</sup> Western imperialism within Iran dates back to the 17<sup>th</sup> century, with the most complex and detrimental part of the relationship taking place from 1907 up until the 1979 Revolution.<sup>38</sup> The most impactful aspect of Western interference within the country comes from the heavy involvement within Iranian politics.<sup>39</sup> After the introduction of the first Iranian Constitution, Russia and Britain attempted to retain

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34. See Balaghi, *supra* note 21 (describing the reign of Mohammad Reza Shah Pahlavi); see also *Timeline: A Modern History of Iran*, PBS NEWSHOUR (Feb. 11, 2010, 8:51 PM) [hereinafter PBS NEWSHOUR], [http://www.pbs.org/newshour/updates/middle\\_east-jan-june10-timeline/](http://www.pbs.org/newshour/updates/middle_east-jan-june10-timeline/) (describing Mossadeq's rise to power). Tension between the Pahlavi dynasty and the clergy began with the Reza Shah's reforms around education and law. Both of these areas were historically the domain of the clergy and the Shah's interference sparked the clergy's quest against the ruling family.

35. See Balaghi, *supra* note 21 (describing the reign of Mohammad Reza Shah Pahlavi); see also *History of Iran: From Persia to Present*, CBC NEWS (June 11, 2009, 6:08 PM) [hereinafter CBC NEWS], <http://www.cbc.ca/news/world/history-of-iran-from-persia-to-present-1.791319> (explaining the events around the Iranian Revolution).

36. See Omar Sial, *A Guide to the Legal System of the Islamic Republic of Iran*, NYU GLOBALEX, <http://www.nyulawglobal.org/globalex/Iran1.html> (last visited Aug. 2, 2017) (discussing the constitutional background); see also *Iran Index*, INT'L CON. LAW PROJECT [hereinafter *Iran Index*], [http://www.servat.unibe.ch/icl/ir\\_\\_indx.html](http://www.servat.unibe.ch/icl/ir__indx.html) (last visited Aug. 2, 2017) (describing the particulars of the constitution).

37. See Balaghi, *supra* note 21 (describing the reign of Mohammad Reza Shah Pahlavi); see also PBS NEWSHOUR, *supra* note 34 (describing the events of the revolution).

38. See Daryl Worthington, *History of the Relationship Between Iran and the West*, NEWHISTORIAN (July 12, 2015), <http://www.newhistorian.com/history-of-the-relationship-between-iran-and-the-west/4300/> (discussing the role western European countries have had in Iranian politics); see also Younes Parsa Benab, *The origin and development of imperialist contention in Iran*, IRAN CHAMBER SOCIETY, [http://www.iranchamber.com/history/articles/origin\\_development\\_imperialist\\_contention\\_iran1.php](http://www.iranchamber.com/history/articles/origin_development_imperialist_contention_iran1.php) (last visited Aug. 2, 2017) (analyzing the effects of western involvement within Iranian politics).

39. See Worthington, *supra* note 38 (discussing the role western European countries have had in Iranian politics); see also Benab, *supra* note 38 (analyzing the effects of western involvement within Iranian politics).

control over Iran by dividing the country into spheres of influence, leaving the north to Russian and the south to Britain.<sup>40</sup> After the Bolshevik Revolution, Russia ultimately reversed its position and called on the Iranian public to free itself of the remaining British imperialism. However, soon after the United States joined the British in exerting influence over Iranian politics.<sup>41</sup>

One of the major events leading to the 1979 Revolution includes the heavy involvement of both US and British intelligence agencies in the fight against popular democratically elected premier, Mohammad Mossadeq, who was pushing for nationalization of the country's oil industry.<sup>42</sup> Following this interference, the push for Western-like modernization of the country through the Shah's White Revolution continued to enrage the public.<sup>43</sup> This anger coupled with the increasing unequal distribution of wealth eventually resulted in heavy student protesting, which in turn resulted in the Revolution. The 1979 Constitution abolished the monarchy, formally recognized Twelver Shiite Islam as the official religion of Iran. It also established separate branches of government.<sup>44</sup> This included the legislature, executive, and judiciary, as well as religious bodies with the authority to overrule these three institutions.<sup>45</sup>

Under the 1979 Constitution, the Supreme Leader, a religious position, holds the highest authority in the government.<sup>46</sup> The Supreme Leader, currently Ayatollah Khamenei, is responsible for leading the country in political, social, and economic matters in accordance with Islamic law and is appointed for life by a group of

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40. See Balaghi, *supra* note 21 (describing the reign of Mohammad Reza Shah Pahlavi); see also Benab, *supra* note 38 (analyzing the effects of western involvement within Iranian politics).

41. See Worthington, *supra* note 38 (discussing the role western European countries have had in Iranian politics); see also Benab, *supra* note 38 (analyzing the effects of western involvement within Iranian politics).

42. See Worthington, *supra* note 38 (discussing the role western European countries have had in Iranian politics); see also Balaghi, *supra* note 21 (describing the reign of Mohammad Reza Shah Pahlavi).

43. See Balaghi, *supra* note 21 (describing the reign of Mohammad Reza Shah Pahlavi); see also CBC NEWS, *supra* note 35 (explaining the events around the Iranian Revolution).

44. See Sial, *supra* note 36 (discussing the constitutional background); see also *Iran Index*, *supra* note 36 (describing the particulars of the constitution).

45. See Sial, *supra* note 36 (describing the particulars of the constitution).

46. See Sial, *supra* note 36; see also, Malileh Zare, *An Overview of Iranian Legal System*, NYU GLOBALLEX, [http://www.nyulawglobal.org/globalex/Iran\\_Legal\\_System\\_Research1.html#IIIRelatedInformation](http://www.nyulawglobal.org/globalex/Iran_Legal_System_Research1.html#IIIRelatedInformation) (last visited Aug. 2, 2017) (describing the position of Supreme Leader).

religious leaders, the “Assembly of Experts.”<sup>47</sup> Additionally, the Supreme Leader holds the position of Commander-in-Chief of the armed forces and controls the country’s intelligence and security operations.<sup>48</sup>

The Assembly consists of eighty-six clerics who are elected by the public for eight-year terms.<sup>49</sup> As mentioned above, the Assembly of Experts has the power to appoint the Supreme Leader but also holds the power to remove him or challenge any of his decisions.<sup>50</sup> In addition, the Assembly retains the power to review a candidate’s eligibility for office prior to running for a seat in the Assembly.<sup>51</sup>

The second highest figure in the Iranian government is the President.<sup>52</sup> The President is popularly elected to a term of four years and is responsible for implementing the Constitution.<sup>53</sup> Additionally, the President acts as the head of the executive branch and deals with foreign affairs, such as negotiating international agreements and treaties, and appointing ambassadors.<sup>54</sup>

The Iranian Legislature consists of three entities - parliament (the “Majlis”), the Guardian Council, and the Expediency Council. The Majlis consists of officials who are elected by the people’s secret ballots for a term of four years.<sup>55</sup> The number of representatives from

47. See Sial, *supra* note 36 (discussing the role of the Supreme Leader); see also Zare, *supra* note 46 (describing the position of Supreme Leader).

48. See Sial, *supra* note 36 (discussing the role of the Supreme Leader); see also Zare, *supra* note 46 (describing the position of Supreme Leader).

49. See Sial, *supra* note 36 (discussing the Assembly of Experts); see also Farideh Farhi, *The Assembly of Experts*, THE IRAN PRIMER (last updated Aug. 2015) <http://iranprimer.usip.org/resource/assembly-experts> (describing the Assembly of Experts and its role).

50. See Sial, *supra* note 36 (discussing the Assembly of Experts); see also Farhi, *supra* note 49. The likelihood of the Assembly of Experts actually removing the Supreme Leader from power is quite low as they have never questioned the actions of the Supreme Leaders since the creation of the post in 1979. See Farhi, *supra* note 49; see also Emma Borden, *Everything you need to know about Iran’s Assembly of Experts election*, BROOKINGS (Feb. 9, 2016) <https://www.brookings.edu/blog/markaz/2016/02/09/everything-you-need-to-know-about-irans-assembly-of-experts-election/> (discussing the assembly of experts generally).

51. See Sial, *supra* note 36 (discussing the Assembly of Experts); see also Farhi, *supra* note 49.

52. See Sial, *supra* note 36 (discussing the role of the President); see also Zare, *supra* note 46 (describing the role of the President).

53. See Sial, *supra* note 36 (discussing the role of the President); see also Zare, *supra* note 46 (describing the role of the President).

54. See Sial, *supra* note 36 (discussing the role of the President); see also Zare, *supra* note 46 (describing the role of the President).

55. See Sial, *supra* note 36 (discussing the role of Parliament); see also Zare, *supra* note 46 (describing the Majlis as a part of the legislature).

each province is based on population as well as political and geographic factors.<sup>56</sup> The Majlis is responsible for passing laws outside of the Constitution as well as interpreting such laws.<sup>57</sup> Additionally, the Majlis has the power to approve the country's budget.<sup>58</sup>

The Council of Guardians ("Council") also plays a significant role in Iran's government.<sup>59</sup> The Council consists of twelve members, six of which are religious scholars appointed by the Supreme leader and six jurists recommended by the Judiciary and ultimately elected by Parliament.<sup>60</sup> The Council has the unique role of approving all candidates attempting to run for government positions, including the Presidency and the Majlis, as well as approving all legislation created by the Majlis.<sup>61</sup> Further, the Council has the ability to interpret the Constitution and supervise all elections.<sup>62</sup>

The last body that plays a role in the legislative process is the Expediency Council. Members of this Council are appointed by the Supreme Leader.<sup>63</sup> This group's sole responsibility is to resolve disputes between the Council of Guardians and Parliament.<sup>64</sup> Additionally, members advise the Supreme Leader at his request and review candidates to determine if they are fit to run for the respective office.<sup>65</sup>

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56. See Sial, *supra* note 36 (discussing the role of Parliament); see also Zare, *supra* note 46 (describing the Majlis as a part of the legislature).

57. See Sial, *supra* note 36 (discussing the role of Parliament); see also Zare, *supra* note 46 (describing the Majlis as a part of the legislature).

58. See Sial, *supra* note 36 (discussing the role of Parliament); see also Zare, *supra* note 46 (describing the Majlis as a part of the legislature).

59. See Sial, *supra* note 36 (discussing the Council of Guardians); see also Zare, *supra* note 46 (describing the organization of the Council of Guardians).

60. See Sial, *supra* note 36 (discussing the Council of Guardians); see also Zare, *supra* note 46 (describing the organization of the Council of Guardians).

61. See Sial, *supra* note 36 (discussing the Council of Guardians); see also Zare, *supra* note 46 (describing the organization of the Council of Guardians).

62. See Sial, *supra* note 36 (discussing the Council of Guardians); see also Zare, *supra* note 46 (describing the organization of the Council of Guardians).

63. See Sial, *supra* note 36 (discussing the Expediency Council); see also Zare, *supra* note 46 (describing the Expediency Council).

64. See Sial, *supra* note 36 (discussing the Expediency Council); see also Zare, *supra* note 46 (describing the Expediency Council).

65. See Sial, *supra* note 36 (discussing the Expediency Council); see also Zare, *supra* note 46 (describing the Expediency Council).

The third branch of Iranian government consists of the Judiciary.<sup>66</sup> The Supreme Leader appoints the head of the Judiciary, who is responsible for overseeing the various courts and subsequently appoints the head of the Supreme Court and the Chief Public Prosecutor.<sup>67</sup> The primary responsibilities of the Judiciary include (1) investigating and passing judgment on grievances; (2) supervising enforcement of laws; (3) prosecuting crimes; and (4) deciding punishments.<sup>68</sup> The Judiciary consists of civil, criminal, and Islamic Revolutionary Courts.<sup>69</sup> Judges in the Judiciary must be well versed not only in Iran's criminal and civil codes but also in Shia Islamic Law.<sup>70</sup> This branch of the Iranian government contains the strongest clergy presence, even though clergy involvement is not built into the organizational structure under the constitution, and plays a vital role in prosecuting critics against the State.<sup>71</sup>

### *B. Lawyers*

Within this legal framework, lawyers serve an important role in the Iranian legal system by acting as advocates for Iranian citizens.<sup>72</sup> In Iran, there are currently two ways in which an individual can become a lawyer.<sup>73</sup> The first route is the traditional route administered by the regional bar associations, which has been the primary way of

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66. See Sial, *supra* note 36 (explaining the role of the Judiciary); see also Zare, *supra* note 46 (describing the judiciary body of government).

67. See Sial, *supra* note 36 (explaining the role of the Judiciary); see also Zare, *supra* note 46 (describing the Judiciary body of government).

68. See Sial, *supra* note 36 (explaining the role of the Judiciary); see also Zare, *supra* note 46 (describing the Judiciary body of government).

69. See Sial, *supra* note 36 (explaining the role of the Judiciary); see also Zare, *supra* note 46 (describing the Judiciary body of government). Revolutionary courts are separate from public courts that deal with civil and criminal offenses in that they deal with certain categories of offenses including crimes against national security and other acts that undermine the Islamic Republic. *Id.*

70. See Sial, *supra* note 36 (explaining the role of the Judiciary); see also Zare, *supra* note 46 (describing the Judiciary body of government).

71. See Sial, *supra* note 36 (explaining the role of the Judiciary); see also Zare, *supra* note 46 (describing the Judiciary body of government).

72. See *Balancing independence and access to justice: a background report on the justice system in Iran*, INT'L B. ASS'N HUM. RTS. INST. REP. (Oct. 2007) [hereinafter *Balancing Independence*] (describing the ways in which individuals can obtain a license to practice in Iran); see also Zare, *supra* note 46 (describing lawyering in Iran).

73. See *Balancing Independence*, *supra* note 72 (describing the ways in which individuals can obtain a license to practice in Iran); Zare, *supra* note 46 (describing lawyering in Iran).

becoming a lawyer since before the Revolution.<sup>74</sup> The second route, created more recently and administered by the Judiciary, has increasingly gained momentum with the Iranian public.<sup>75</sup> Under the second method, the Judiciary trains and confirms the competency of attorneys and then works closely with them indefinitely after granting them a license to practice.<sup>76</sup>

The Qualification of Attorney's Licenses Act of 1997 governs the traditional route for becoming a lawyer.<sup>77</sup> Under this law, individuals must follow a precise route to obtain a license to practice law.<sup>78</sup> The first requirement includes entering an undergraduate school to obtain a Bachelor's in Law or a degree as a student of religious law.<sup>79</sup> After obtaining either one of these degrees, an individual must then apply for admission as an independent lawyer in Iran. At that time, the applicant must nominate which of the thirteen regional bar associations he or she plans to join.<sup>80</sup>

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74. See *Balancing Independence*, *supra* note 72 (describing the ways in which individuals can obtain a license to practice in Iran); see also Zare, *supra* note 46 (describing lawyering in Iran).

75. See *Balancing Independence*, *supra* note 72 (describing the ways in which individuals can obtain a license to practice in Iran); Zare, *supra* note 46 (describing lawyering in Iran).

76. See *Balancing Independence*, *supra* note 72 (discussing Article 187 lawyers); see also Mohammad Hossein Nayyeri, *Iranian Bar Associations: Struggle for Independence*, IRAN HUM. RTS. DOCUMENTATION CTR. (Nov. 2012), <http://www.iranhrdc.org/english/english/publications/legal-commentary/1000000211-iranian-bar-associations-struggle-for-independence.html?p=1> (discussing Article 187).

77. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association). The law was initially founded upon the regulations set forth in the Judicial Organization Act of 1908. Subsequently, the law was then modified by the Act for the Amendment of Judicial Organization of 1928, the Attorneys at Law Act of January 1937, the Law on the Independence of the Bar Association of 1952, and the Qualification of Attorneys' Licenses of Spring 1997.

78. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

79. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

80. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

The applicant must then sit for an annual national examination.<sup>81</sup> The examination tests candidates on their eligibility for the next requirement, which is an eighteen-month legal traineeship.<sup>82</sup> The thirteen regional bar associations determine the number of trainees permitted in each year and accepts candidates based on the highest test scores.<sup>83</sup> In addition to a high test score, a candidate must also exhibit belief and devotion to Islam.<sup>84</sup> Further, a candidate must also illustrate that he or she has not been a member of any outlawed groups, such as political parties opposing the religious authority.<sup>85</sup>

Once accepted as a trainee, a candidate is supervised by a lawyer that has over ten years of experience practicing law.<sup>86</sup> After completing the eighteen months of training, the candidate then sits for another examination administered by the bar associations.<sup>87</sup> After passing each of the three sections in this exam, the applicant is then eligible to be accepted and sworn in as a lawyer under the regional bar association initially chosen by the candidate.<sup>88</sup> The individual is then granted a license to practice law and is permitted to practice at

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81. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

82. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

83. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

84. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

85. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

86. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

87. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

88. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

all levels, but must have an office in the jurisdiction of the bar that has granted the license.<sup>89</sup>

In 2001, the Iranian Government created a second route in which individuals can practice a form of law outside of the process governed by the bar associations, entitled “legal advisors.”<sup>90</sup> Article 187 of the Law of Third Economic, Social and Cultural Development Plan creates this type of lawyer and allows the Judiciary to confirm competence of graduates and grant licenses to individuals taking this route to become a lawyer.<sup>91</sup> To become a legal advisor, an individual must attend a legal advisor institute, which in turn administers its own examinations and traineeship process.<sup>92</sup> After completing this separate process, legal advisors are allowed to practice by the approval of the Judiciary and to present cases in court, working directly under the Judiciary’s supervision.<sup>93</sup>

### *C. Bar Association*

The traditional route to becoming a lawyer is mostly governed by the bar associations.<sup>94</sup> The first Iranian Bar Association was formally created under Prime Minister Mohammad Mossadeq in 1952 with the signing of the Bill of Independence of the Iranian Bar Association.<sup>95</sup> However, after the Iranian Revolution, the bar association was suspended for eighteen years.<sup>96</sup> The bar association

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89. See *Balancing Independence*, *supra* note 72 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76 (discussing the history of the legal profession and bar association).

90. See *Balancing Independence*, *supra* note 72 (discussing Article 187 lawyers); see also Nayyeri, *supra* note 76 (discussing Article 187).

91. See *Balancing Independence*, *supra* note 72 (discussing Article 187 lawyers); see also Nayyeri, *supra* note 76 (discussing Article 187).

92. See *Balancing Independence*, *supra* note 72 (discussing Article 187 lawyers); see also Nayyeri, *supra* note 76 (discussing Article 187).

93. See *Balancing Independence*, *supra* note 72 (discussing Article 187 lawyers); see also Nayyeri, *supra* note 76 (discussing Article 187).

94. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also, *The Presentation of Iranian Bar Association*, IRANIAN B. ASS’N [hereinafter IRANIAN B. ASS’N] <http://www.iranbar.org/pltren.php> (explaining the role of the bar association).

95. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also IRANIAN B. ASS’N, *supra* note 94.

96. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also IRANIAN B. ASS’N, *supra* note 94 (explaining the role of the bar association). After the Revolution, a wave of Islamization and revolutionizing of institutions took hold of society. The then head of the Judiciary, Ayatollah Beheshti, led the push for the establishment of Sharia courts and headliners who supported this notion saw the bar association and its lawyers as a form of opposition. This position ultimately led to the closing of the bar association.



was formed once again when the government passed the Qualification of Attorneys Licenses Act in 1997, but its authority was significantly curtailed as the Act gave final approval for bar membership to the Judiciary.<sup>97</sup>

Currently, there are thirteen regional bar associations, based on geographic location, with the Central Bar Association located in Tehran which plays a major role in the administration of all of the regional bar associations. Candidates for attorneyship must apply for admittance to a specific regional bar association prior to taking their traineeship exam.<sup>98</sup> After passing the two exams before and after the traineeship, the chosen bar association then grants the candidate his or her license as well as membership into that bar association.<sup>99</sup>

As a member of the bar association, attorneys pay registration fees, which fund the association's expenses.<sup>100</sup> Attorneys also have the ability to elect the association's board every two years.<sup>101</sup> Each regional bar association also currently holds the primary role in governing its member attorneys.<sup>102</sup> Included in this role is the power to renew licenses, discipline attorneys, and revoke licenses if necessary.<sup>103</sup>

#### *D. The Iranian Legal Framework's Conformity with International Principles*

##### 1. International Principles

Several international law documents prescribe standards regarding the lawyering profession.<sup>104</sup> The standards, norms, and

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97. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also IRANIAN B. ASS'N, *supra* note 94 (explaining the role of the bar association).

98. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also IRANIAN B. ASS'N, *supra* note 94 (explaining the role of the bar association).

99. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also IRANIAN B. ASS'N, *supra* note 94 (explaining the role of the bar association).

100. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also IRANIAN B. ASS'N, *supra* note 94 (explaining the role of the bar association).

101. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also IRANIAN B. ASS'N, *supra* note 94 (explaining the role of the bar association).

102. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also IRANIAN B. ASS'N, *supra* note 94 (explaining the role of the bar association).

103. See Nayyeri, *supra* note 76 (discussing the formation of the bar association); see also IRANIAN B. ASS'N, *supra* note 94 (explaining the role of the bar association).

104. See *Basic Principles*, *supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors); see also U.N. Special Rapporteur Leandro Despouy, *Report*

guidelines include both documents at the treaty and non-treaty level.<sup>105</sup> Treaties that directly speak to the independence of lawyering include the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the American Convention on Human Rights.<sup>106</sup> At the non-treaty level, documents such as the Basic Principles on the Role of Lawyers also address universally accepted views on the role of lawyers. An examination of both levels provides an all-encompassing view on the international standards relevant to the role and independence of lawyers and the legal profession.

First, there are a number of treaties, which are the main source of binding international law, that touch on the rights of individuals in terms of legal representation.<sup>107</sup> Article 14 of the International Covenant on Civil and Political Rights (“ICCPR”) specifically deals with Fair Trial Rights.<sup>108</sup> General Comment 32 of Article 14 states that lawyers should be able to represent clients without restrictions and undue influence from any outside parties.<sup>109</sup> As a country that has both signed and ratified the ICCPR, Article 14 and the accompanied general comment is binding on Iran.<sup>110</sup>

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*of the Special Rapporteur on Independence of judges and lawyers*, U.N. Doc. A/64/181 (Jul. 28, 2009) (discussing the legal framework on the independence of lawyering).

105. See U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering); see also Jose Zeitune, *International Principles on the Independence and Accountability of Judges, Lawyers and Prosecutors: A Practitioners’ Guide*, (INT’L COMM’N OF JURISTS 2004) (discussing the independence of lawyers).

106. See U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering); see also Zeitune, *supra* note 105 (discussing the independence of lawyers).

107. See U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering); see also Zeitune, *supra* note 105 (discussing the independence of lawyers).

108. *International Covenant on Civil and Political Rights*, U.N. HUM. RTS. OFFICE OF THE HIGH COMM’R (Dec. 16, 1966) [hereinafter *International Covenant*] <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>; see also U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

109. *International Covenant*, *supra* note 108; see also U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

110. See *Ratification Status for CCPR – International Covenant on Civil and Political Rights*, U.N. HUM. RTS. OFFICE OF THE HIGH COMM’R, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=81&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=81&Lang=EN) (last visited Aug. 2, 2017) (listing all UN countries and signed and ratified date); see also *International Covenant on Civil and Political Rights*, UNITED NATIONS TREATY COLLECTIONS, <https://treaties.un.org/Pages/>

In terms of non-treaty principles on lawyering, the most detailed document discussing the rights and responsibilities of lawyers is found in the United Nations Basic Principles on the Role of Lawyers (“UNBPRL”).<sup>111</sup> The UNBPRL contains several provisions that explicitly deal with the independence of lawyers. Principle 16 of the UNBPRL sets out that the government must:

ensure that lawyers (a) are able to perform all of their professional duties without intimidation, hindrance, harassment, or improper interference; (b) are able to travel and consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.<sup>112</sup>

Principle 18 of the UNBPRL further protects the functioning of lawyers by explicitly stating that lawyers should not be associated with their clients as well as their clients’ causes.<sup>113</sup> The UNBPRL also explicitly recognizes a lawyers’ freedom of expression and association. Principle 23 grants lawyers the right to take part in public discussion on matters of the law, the administration of justice, and the promotion and protection of human rights.<sup>114</sup>

The UNBPRL also sets out standards in regards to the right of lawyers to assemble in professional associations. Principle 24 states that lawyers have the right to form and join self-governing associations that represent their interests and that the executive body of the association shall be elected by the association’s members

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111. *See Basic Principles, supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors); *see also* U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

112. *See Basic Principles, supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors); *see also* U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

113. *See Basic Principles, supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors); *see also* U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

114. *See Basic Principles, supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors); *see also* U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

without external interference.<sup>115</sup> Further, Principle 25 adds that the professional association should work with the government to ensure that everyone has equal access to legal services and that lawyers are able, without improper interference, to assist clients.<sup>116</sup>

In addition to the UNBPRL, the International Bar Association (“IBA”) has developed its own set of standards in regards to the independence of lawyering.<sup>117</sup> The IBA standards start out by recognizing that, “the independence of the legal profession constitutes an essential guarantee for the promotion and protection of human rights and is necessary for effective and adequate access to legal services.”<sup>118</sup> The principles set out that all qualified persons shall be able to practice without discrimination and that no one can be denied a legal education based on reasons such as religion and political or other opinion.<sup>119</sup> The standards reiterate the provisions set in the UNBPRL. They explain how a lawyer should be able to practice without inhibition or pressure from the government and how the lawyer should not be identified with a client or client causes.<sup>120</sup> The IBA standards also discuss the freedoms associated with professional associations in Principle 17 where it states that executive bodies of the association should be freely elected by members without external interference.<sup>121</sup>

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115. See *Basic Principles*, *supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors); see also U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

116. See *Basic Principles*, *supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors); see also U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

117. See *IBA Standards for the Independence of the Legal Profession*, (Int’l B. Ass’n. 1990) [hereinafter *IBA Standards*] (discussing the independence of lawyers); see also U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

118. See *IBA Standards*, *supra* note 117 (discussing the independence of lawyers); see also U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

119. See *IBA Standards*, *supra* note 117 (discussing the independence of lawyers); see also U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

120. See *IBA Standards*, *supra* note 117 (discussing the independence of lawyers); see also U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

121. See *IBA Standards*, *supra* note 117 (discussing the independence of lawyers); see also U.N. Special Rapporteur Leandro Despouy, *supra* note 104 (discussing the legal framework on the independence of lawyering).

## 2. Iranian Compliance with International Principles

At first glance, the way in which Iranian law governs the practice of law seems to fully comport with international principles on lawyering.<sup>122</sup> As described above and pursuant to international standards, the route in which an individual obtains his license to practice is entirely independent and up to the independent bar association.<sup>123</sup> To become a lawyer in Iran, one must go through a diligent qualification process, which is required by the UNBPRL.<sup>124</sup> Additionally, the existence of a bar association which is composed of and ran by other Iranian lawyers also comports with the standards set out in the UNBPRL.<sup>125</sup> Lastly, the bar association controls disciplinary hearings for Iranian lawyers without state interference, fulfilling yet another requirement set out under international law.<sup>126</sup> However, certain aspects of the governance on the lawyering profession also pose significant questions in terms of complying with international legal principles.

The major issue with the Iranian legal framework's compliance with international principles primarily comes from the instances in which the government inserts limitations and alternative methods to enter the legal profession.<sup>127</sup> As previously mentioned, a candidate's ability to undertake a traineeship after passing the initial required examination also relies on a candidate's beliefs and practices prior to pursuing a legal career.<sup>128</sup> These limitations breach international

122. See *Balancing Independence*, *supra* note 72 (describing the training of Iranian bar association lawyers); see also *Basic Principles*, *supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors).

123. *Balancing Independence*, *supra* note 72 (describing the training of Iranian bar association lawyers); see also *Basic Principles*, *supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors).

124. *Balancing Independence*, *supra* note 72 (describing the training of Iranian bar association lawyers); see also *Basic Principles*, *supra* note 19 (discussing the qualifications and training of lawyers).

125. *Balancing Independence*, *supra* note 72 (describing the training of Iranian bar association lawyers); see also *Basic Principles*, *supra* note 19 (discussing professional associations of lawyers).

126. *Balancing Independence*, *supra* note 72 (describing the training of Iranian bar association lawyers); see also *Basic Principles*, *supra* note 19 (discussing disciplinary proceedings).

127. *Balancing Independence*, *supra* note 72 (describing the training of Iranian bar association lawyers); see also *Basic Principles*, *supra* note 19 (discussing the guidelines on how lawyers should be treated by state actors).

128. See *Balancing Independence*, *supra* note 72, at 8 (discussing the independence of the legal profession); see also Nayyeri, *supra* note 76.

principles on the freedom of expression and association as well as the principle in the UNBPRL that prohibits discrimination based on a number of enumerated categories including religion, political, and other beliefs.<sup>129</sup>

The creation of an alternate method to become a lawyer poses another significant question in regards to Iranian compliance with international principles.<sup>130</sup> The admission procedures for Article 187 lawyers, the alternate method created by the Iranian government, does not provide true independence of lawyers because they are heavily influenced by the Judiciary in a manner that is contrary to international legal principles.<sup>131</sup> Additionally, due to the fact that legal advisors have less stringent training requirements, many believe that this body of lawyers does not meet the necessary qualification requirements.<sup>132</sup> Scholars argue that members of the public who are seeking legal assistance do not clearly know the distinction between lawyers and legal advisors, which may result in individuals receiving inadequate assistance.<sup>133</sup>

### *III. THE CURRENT THREAT TO THE IRANIAN HUMAN RIGHTS LAWYERS*

This Part evaluates the issues human rights attorneys face in Iran, primarily with the independence of their practice. It then discusses how this threat to independence impacts the human rights situation in Iran generally. Due to the great amount of human rights violations taking place in Iran currently, human rights attorneys have become important figures in protecting citizens' basic rights.<sup>134</sup> However, because of the increased criminalization and restriction of

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129. See *Balancing Independence*, *supra* note 72, at 8 (describing the training of Iranian bar association lawyers); see also *Basic Principles*, *supra* note 19, at 2 (discussing prohibition of discrimination based on set criteria).

130. See *Balancing Independence*, *supra* note 72; see also *Basic Principles*, *supra* note 19, at 3 (discussing the guidelines on how lawyers should be treated by state actors).

131. See *Balancing Independence*, *supra* note 72; see also *Basic Principles*, *supra* note 19, at 3 (discussing the guidelines on how lawyers should be treated by state actors).

132. See *Balancing Independence*, *supra* note 72, at 10 (describing the training of Iranian bar association lawyers); see also *Basic Principles*, *supra* note 19, at 2 (discussing the qualification requirements).

133. See *Balancing Independence*, *supra* note 72, at 10 (describing the training of Iranian bar association lawyers); see also *Basic Principles*, *supra* note 19, at 3 (discussing the guidelines on how lawyers should be treated by state actors).

134. See Nayyeri, *supra* note 76; see also *Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing human rights attorneys work in Iran).

lawyer actions, continuing to protect such rights has become a great difficulty.<sup>135</sup>

### *A. The Independence of Lawyers*

The UN Special Rapporteur report on the situation of human rights in Iran explains that the international standard for lawyering assures a lawyer the right to practice his or her profession, “in accordance with generally recognized professional ethics without restrictions, influence, pressure, or under interference from any quarter.”<sup>136</sup> Additionally, foreign advocates explain that independent bar associations, in addition to the ability of a lawyer to practice independently, provide a guarantee to the protection of human rights and access to justice.<sup>137</sup> However, both of these aspects are increasingly at risk within Iran due to a number of measures taken by the Iranian government.<sup>138</sup>

A primary issue regarding lawyers’ independence comes from the religious underpinning of the whole government system.<sup>139</sup> After the Iranian Revolution, Islamization and the values behind the revolution heavily affected the judicial and legal system.<sup>140</sup> Religious revolutionaries quickly acted to close down the bar association and

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135. See Nayyeri, *supra* note 76, at 12 (discussing the history of independent lawyers standing against violations of law and human rights); see also *Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing human rights attorneys work in Iran).

136. See U.N. Special Rapporteur Ahmed Shaheed, *Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran*, U.N. Doc. A/HRC/28/70, at 8 (Mar. 12, 2015) (discussing the independence of lawyers); See also Nayyeri, *supra* note 76 (introducing basic rights attorneys should have).

137. See U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136, at 8 (discussing the independence of lawyers); See also Nayyeri, *supra* note 76, at 2 (introducing basic rights attorneys should have).

138. See U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing the independence of lawyers); See also Nayyeri, *supra* note 76 (introducing basic rights attorneys should have).

139. See Nayyeri, *supra* note 76, at 7 (discussing the role of the Judiciary after the revolution); see also *Lacking Independence, Bar Association Remains Silent as Lawyers are Prosecuted*, CTR. FOR HUM. RTS. IN IRAN (Aug. 24, 2011) [hereinafter *Lacking Independence*], <http://www.iranhumanrights.org/2011/08/bar-association-under-attack/> (discussing the independence of lawyers after the revolution).

140. See Nayyeri, *supra* note 76, at 5 (discussing the role of the Judiciary after the revolution); see also *Lacking Independence*, *supra* note 139, at 3 (discussing the independence of lawyers after the revolution).

revoked the licenses of a substantial number of lawyers.<sup>141</sup> The bar association was eventually reestablished, but with an increased governance by the Judiciary, which has a heavy religious underpinning.<sup>142</sup>

A number of laws that govern the Iranian legal system, including the bar association, contain aspects of governance by the Judicial branch.<sup>143</sup> The Judiciary currently has the right to stop candidates from accessing a seat on the board of the Iranian bar associations based on their previous affiliations and causes they advocate for.<sup>144</sup> Additionally, the Judiciary continues to influence the licensing process of attorneys by requiring payment for the renewal of licenses, as well as disqualifying students from receiving licenses based on previous student activism.<sup>145</sup>

It is important to note that not all societies require the judiciary to be independent from the legal profession.<sup>146</sup> On the contrary, some states, such as the United States, promote the idea of judicial supervision as an element for providing independent lawyering.<sup>147</sup> However, most of the arguments around the judiciary having this role in the legal profession in other countries stem from the fact that the judiciary is a separate power from other government bodies and are

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141. See Nayyeri, *supra* note 76, at 5 (discussing the role of the Judiciary after the revolution); see also *Lacking Independence*, *supra* note 139, at 3 (discussing the independence of lawyers after the revolution).

142. See Nayyeri, *supra* note 76, at 5 (discussing the role of the Judiciary after the revolution); see also *Lacking Independence*, *supra* note 139, at 3 (discussing the independence of lawyers after the revolution).

143. See U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136, at 8 (discussing the independence of lawyers); see also Nayyeri, *supra* note 76, at 9 (discussing the role of the Judiciary after the revolution).

144. See U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing the independence of lawyers); see also Nayyeri, *supra* note 76 (discussing the role of the Judiciary after the revolution).

145. See U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136, at 9 (discussing the independence of lawyers); see also Nayyeri, *supra* note 76, at 15 (discussing the role of the Judiciary after the revolution).

146. See Fred C. Zacharias & Bruce Green, *Rationalizing Judicial Regulation of Lawyers*, 70 OHIO ST. L.J. 73 (2009) (discussing judicial regulation of lawyers); see also Bruce Green, *Lawyers' Professional Independence: Overrated or Undervalued?*, 46 AKRON L. REV. 599, 620 (2013) (discussing the role the judiciary plays in lawyers' independence).

147. See Zacharias & Green, *supra* note 146 (discussing judicial regulation of lawyers); see also Green, *supra* note 146, at 620 (discussing the role the judiciary plays in lawyers' independence).



the most able bodied part of the government to provide oversight.<sup>148</sup> This view is not applicable to Iran due to the lack of separation of powers.<sup>149</sup>

As briefly mentioned in Part I, the structure of the Iranian legal system supports the notion that the judicial body is not separate from other government bodies, including the religious bodies.<sup>150</sup> Scholars have noted that the Judiciary is actually functioning under direct control of the Supreme Leader, who is the head of State in Iran.<sup>151</sup> Without a clear separation of powers between the Judiciary and other officials, such as the Supreme Leader, judicial supervision would then become counterintuitive to the main principles behind the independence of the legal profession.<sup>152</sup>

### *B. Article 187 Legal Advisors*

Related to the heavy presence of the Judiciary, another major limitation of the independence of the lawyering profession in Iran is found through the creation of Legal Advisors.<sup>153</sup> As previously mentioned, Legal Advisors are authorized to practice in the same fashion as bar association attorneys, but have the unique aspect of being directly supervised by the Judiciary.<sup>154</sup> Due to this supervision, it is very likely that these Legal Advisors are strongly influenced by

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148. See Zacharias & Green, *supra* note 146 (discussing judicial regulation of lawyers); see also Green, *supra* note 146, at 620 (discussing the role the judiciary plays in lawyers' independence).

149. See Zacharias & Green, *supra* note 146 (discussing judicial regulation of lawyers); see also Green, *supra* note 146, at 620 (discussing the role the judiciary plays in lawyers' independence).

150. See Ronda Cress et al., *Rule of Law in Iran: Independence of the judiciary, Bar Association, Lawyers and Iran's Compliance with International Human Rights Obligations*, HUM. RGTS. IN IRAN UNIT 22 (2014), <https://www.essex.ac.uk/hri/documents/rule-of-law-in-iran.pdf> (discussing the authority of the supreme leader on the judiciary); see also Nayyeri, *supra* note 76 (discussing the role of the judiciary after the revolution).

151. See Ronda Cress et al., *supra* note 150, at 22 (discussing the authority of the supreme leader on the judiciary); see also Nayyeri, *supra* note 76, at 5 (discussing the role of the judiciary after the revolution).

152. See Ronda Cress et al., *supra* note 150, at 22 (discussing the authority of the supreme leader on the judiciary); see also Nayyeri, *supra* note 76, at 5 (discussing the role of the judiciary after the revolution).

153. See Nayyeri, *supra* note 76, at 12 (discussing legal advisors of the Judiciary (Article 187)); see also *Balancing Independence*, *supra* note 72, at 9 (describing the creation of a new breed of lawyers).

154. See Nayyeri, *supra* note 76, at 12 (discussing legal advisors of the Judiciary (Article 187)); see also *Balancing Independence*, *supra* note 72, at 9 (describing the creation of a new breed of lawyers).

the Judiciary.<sup>155</sup> Additionally, this relationship may also affect judicial independence and impartiality due to their close involvement with this set of lawyers.<sup>156</sup>

Another concern with Legal Advisors comes from the training that they receive compared to traditional bar association lawyers.<sup>157</sup> Unlike traditional lawyers, Legal Advisors are only required to sit for one exam and can complete their traineeship in six months.<sup>158</sup> Traditional lawyers sit for two exams, with the latter being one of the most difficult examinations held in Iran, as well as undertake an eighteen-month long traineeship.<sup>159</sup> Many advocates argue that Article 187 is producing underqualified lawyers when compared with bar association lawyers.<sup>160</sup>

A major concern in recent years has arisen from the increased arbitrary detention and imprisonment of human rights attorneys.<sup>161</sup> Since the mass protests in 2009, over fifty human rights attorneys have been detained in Iran, with countless more being forced into exile due to the threat of imprisonment.<sup>162</sup> After the protests, the Ahmadinejad administration, with the goal of increased centralization of power, began to heavily investigate attorneys who represented

155. See Nayyeri, *supra* note 76, at 13 (discussing concerns with the article 187 attorneys); see also *Balancing Independence*, *supra* note 72, at 10 (describing the concerns about Article 187 legal advisors).

156. See Nayyeri, *supra* note 76, at 13 (discussing concerns with the article 187 attorneys); see also *Balancing Independence*, *supra* note 72, at 10 (describing the concerns about Article 187 legal advisors).

157. See Nayyeri, *supra* note 76, at 13 (discussing concerns with the article 187 attorneys); see also *Balancing Independence*, *supra* note 72, at 10 (describing the concerns about Article 187 legal advisors).

158. See Nayyeri, *supra* note 76, at 13 (discussing concerns with the article 187 attorneys); see also *Balancing Independence*, *supra* note 72, at 10 (describing the concerns about Article 187 legal advisors).

159. See Nayyeri, *supra* note 76, at 13 (discussing concerns with the article 187 attorneys); see also *See Balancing Independence*, *supra* note 72, at 10 (describing the concerns about Article 187 legal advisors).

160. See Nayyeri, *supra* note 76 (discussing concerns with the article 187 attorneys); see also *Balancing Independence*, *supra* note 72 (describing the concerns about Article 187 legal advisors).

161. See *Lacking Independence*, *supra* note 139 (discussing various measures taken against human rights attorneys); see also *You Can Detain Anyone for Anything*, HUM. RTS. WATCH, Vol. 20, No. 1(E), 1 (Jan. 2008) [hereinafter *You Can Detain Anyone*], full report available at <https://www.hrw.org/reports/2008/iran0108/> (discussing how human rights defenders are subject to arrest).

162. See *Lacking Independence*, *supra* note 139 (discussing various measures taken against human rights attorneys); see also *You Can Detain Anyone*, *supra* note 161, at 1 (discussing how human rights defenders are subject to arrest).

clients who criticized the regime.<sup>163</sup> The government quickly criminalized their behavior by imposing charges of violating Iran's national security laws such as "acting against national security" and "spreading propaganda against the regime."<sup>164</sup>

Once arrested under these crimes, attorneys were held in facilities operating outside the traditional prison administration, where they were often subjected to torture and abuse.<sup>165</sup> These tactics led to many false confessions, leading to prison sentences, suspension of licenses, and even physical punishments including lashings.<sup>166</sup> Additionally, while in prison, many attorneys were unable to access their own attorneys or even family members.<sup>167</sup>

In response to the treatment of lawyers such as Sotoudeh, many individuals have spoken out against the bar association for not protecting its attorneys.<sup>168</sup> However, similar to the issues facing individual attorneys, the bar association continues to feel repressed by government bodies, which limit its ability to function as a truly independent organization.<sup>169</sup> This lack of independence is due to the restrictions imposed on the bar association through the Qualification of Attorneys Licenses Act.<sup>170</sup> Through the Act, the Judiciary obtained a great amount of the bar associations authority in regards to

163. See *Lacking Independence*, *supra* note 139 (discussing various measures taken against human rights attorneys); see also *You Can Detain Anyone*, *supra* note 161, at 1 (discussing how human rights defenders are subject to arrest).

164. See *Lacking Independence*, *supra* note 139 (discussing various measures taken against human rights attorneys); see also *You Can Detain Anyone*, *supra* note 161, at 1 (discussing how human rights defenders are subject to arrest).

165. See *Lacking Independence*, *supra* note 139 (discussing various measures taken against human rights attorneys); see also *You Can Detain Anyone*, *supra* note 161, at 1 (discussing how human rights defenders are subject to arrest).

166. See *Lacking Independence*, *supra* note 139 (discussing various measures taken against human rights attorneys); see also *You Can Detain Anyone*, *supra* note 161, at 1 (discussing how human rights defenders are subject to arrest).

167. See *Lacking Independence*, *supra* note 139 (discussing various measures taken against human rights attorneys); see also *You Can Detain Anyone*, *supra* note 161, at 1 (discussing how human rights defenders are subject to arrest).

168. See *Lacking Independence*, *supra* note 139 (discussing various measures taken against human rights attorneys); see also *Country Info: Iran*, LAWYERS FOR LAWYERS, <http://www.advocatenvooradvocaten.nl/countries/iran/> (discussing how lawyers received no aid from their professional association).

169. See Nayyeri, *supra* note 76 (discussing the role of the judiciary in the bar association); see also U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing the independence of lawyers).

170. See Nayyeri, *supra* note 76 (discussing the role of the judiciary in the bar association); see also U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136.

attorneys, which heavily restricted its ability to work with its attorney members.<sup>171</sup> Further, since 2000 the risk to the independence of the bar association, and effectively the independence of lawyers, has come under a renewed threat through the proposal of a new regulation that would further restrict the independence of bar associations.<sup>172</sup>

### *C. Proposed Regulations for Lawyers*

Less than a week after the 2009 election results were announced, the government announced a new set of regulations that heavily curtailed the independence of the Iranian bar association.<sup>173</sup> The Act, entitled the “Revision to the Regulations of the Law of Independence of the Bar Associations” was approved by the Head of the Judiciary and did not require approval by any other bodies of government.<sup>174</sup> This set of regulations gave the Judiciary the decisive role in approving membership to the bar and licensing applications.<sup>175</sup>

Specifically, Article 11 of the Bill created a five-member committee to decide on license applications and membership. It requires three of the five members to be appointed by the Head of the Judiciary, with the other two members being picked by the bar’s board of directors. However, the Judiciary must also approve the members picked by the bar’s board.<sup>176</sup> Almost immediately, the legal community denounced the new regulations as contrary to the Law of

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171. See Nayyeri, *supra* note 76 (discussing the role of the judiciary in the bar association); see also U.N Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing the independence of lawyers).

172. *English Translation of the Judiciary Draft Bill on Attorneyship*, IRAN HUM. RTS. DOCUMENTATION CTR., <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000577-english-translation-of-the-judiciary-draft-bill-on-attorneyship.html>; see Nayyeri, *supra* note 76 (discussing the New Bill of Attorneyship); see also U.N Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing the Formal Attorneyship Bill).

173. See Nayyeri, *supra* note 76 (discussing the Post-June 2009 Presidential election); see also *Iran: Halt Moves to Curtail Lawyers*, HUM. RTS. WATCH (July 16, 2009) [hereinafter *Halt Moves to Curtail Lawyers*], <https://www.hrw.org/news/2009/07/16/iran-halt-moves-curtail-lawyers> (discussing the new regulations that severely limits the independence of the Iranian Bar Association).

174. See Nayyeri, *supra* note 76 (discussing the Post-June 2009 Presidential election); see also *Halt Moves to Curtail Lawyers*, *supra* note 173 (discussing the new regulations that severely limits the independence of the Iranian Bar Association).

175. See Nayyeri, *supra* note 76 (discussing the Post-June 2009 Presidential election); see also *Halt Moves to Curtail Lawyers*, *supra* note 173 (discussing the new regulations that severely limits the independence of the Iranian Bar Association).

176. See Nayyeri, *supra* note 76 (discussing the Post-June 2009 Presidential election); see also *Halt Moves to Curtail Lawyers*, *supra* note 173 (discussing the new regulations that severely limits the independence of the Iranian Bar Association).

Independence of the Bar Associations signed into law by Mossadeq in 1952.<sup>177</sup> These objections culminated in the Head of the Judiciary suspending the regulations for six months and then continuing to renew the suspension until they effectively became unenforceable.<sup>178</sup> However, the Judiciary did not stop there.

In early 2012, the Judiciary proposed a new law entitled the “Bill on Formal Attorneyship” which it intended to submit to Parliament for final approval.<sup>179</sup> Effectively, the bill was very similar to the regulations proposed in 2009 and would wipe out the independence of the bar association in Iran.<sup>180</sup> The bill primarily increased the supervision over the bar associations by the Judiciary by creating a Supervision Commission that would have the power to grant and revoke licenses of all attorneys.<sup>181</sup> Additionally, this committee would control preliminary training and education of attorneys and would require the Commission’s approval for each applicant for membership into the bar.<sup>182</sup> Further, the bill would protect the Commission’s decisions by making them final and unchallengeable.<sup>183</sup>

By June 2013, the government decided to suspend consideration of the Formal Attorneyship bill.<sup>184</sup> However, in September 2014,

177. See Nayyeri, *supra* note 76 (discussing the Post-June 2009 Presidential election); see also *Halt Moves to Curtail Lawyers*, *supra* note 173 (discussing the new regulations that severely limits the independence of the Iranian Bar Association).

178. See Nayyeri, *supra* note 76 (discussing the Post-June 2009 Presidential election); see also *Halt Moves to Curtail Lawyers*, *supra* note 173 (discussing the new regulations that severely limits the independence of the Iranian Bar Association).

179. See Nayyeri, *supra* note 76 (discussing the New Formal Attorneyship Bill); see also *In defense of “Independent Legal Practice” in Iran*, IRAN HUM. RTS. DOCUMENTATION CTR. [hereinafter *In defense of “Independent Legal Practice”*], <http://www.iranhrdc.org/english/news/1000000251-in-defense-of-independent-legal-practice-in-iran.html> (discussing the new bill of Formal Attorneyship).

180. See Nayyeri, *supra* note 76 (discussing the New Formal Attorneyship Bill); see also *In defense of “Independent Legal Practice,” supra* note 179 (discussing the new bill of Formal Attorneyship).

181. See Nayyeri, *supra* note 76 (discussing the New Formal Attorneyship Bill); see also *In defense of “Independent Legal Practice,” supra* note 179 (discussing the new bill of Formal Attorneyship).

182. See Nayyeri, *supra* note 76 (discussing the New Formal Attorneyship Bill); see also *In defense of “Independent Legal Practice,” supra* note 179 (discussing the new bill of Formal Attorneyship).

183. See Nayyeri, *supra* note 76 (discussing the New Formal Attorneyship Bill); see also *In defense of “Independent Legal Practice,” supra* note 179 (discussing the new bill of Formal Attorneyship).

184. See Ahmed Shaheed, *Attorneyship Bill Challenges the Independence of Lawyers*, MAJZOOBAN NOOR, <http://www.majzooban.org/en/index.php/news/6298-attorneyship-bill-challenges-the-independence-of-lawyers> (discussing the suspension of the original bill in

several amended versions of the bill were once again submitted to Parliament for consideration.<sup>185</sup> The newly proposed bills continue to impose a significant role for government supervision and influence on the bar association.<sup>186</sup> The Bill is currently still open for consideration in the Parliament and can be passed at any moment.<sup>187</sup>

#### *D. Effect of Current Threats on Human Rights Conditions*

The UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Ahmed Shaheed, recently released a number of reports on the human rights conditions within Iran.<sup>188</sup> The reports were compiled and analyzed in light of the 291 recommendations made during the Universal Periodic Review (“UPR”) of Iran in October 2014.<sup>189</sup> The major human rights areas that were addressed in both the report and the UPR include issues with civil and political rights, economic, social, and cultural rights, and gender equality and women’s rights.<sup>190</sup>

The International Principles on the Independence of Lawyers explain that the independence of the legal profession is an essential aspect of promoting the protection of human rights.<sup>191</sup> Additionally, they also discuss how this independence is necessary in terms of providing access to legal services.<sup>192</sup> Many believe that access to legal

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2013); *see also* U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing the Formal Attorneyship Bill).

185. *See* Shaheed, *supra* note 184 (discussing the suspension of the original bill in 2013); *see also* U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing the Formal Attorneyship Bill).

186. *See* Shaheed, *supra* note 184 (discussing the suspension of the original bill in 2013); *see also* U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing the Formal Attorneyship Bill).

187. *See* Shaheed, *supra* note 184 (discussing the suspension of the original bill in 2013); *see also* U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing the Formal Attorneyship Bill).

188. *See* U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136; *see also* U.N. Special Rapporteur, *supra* note 13.

189. *See* U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136; *see also* U.N. Special Rapporteur, *supra* note 13.

190. *See* U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136; *see also* U.N. Special Rapporteur, *supra* note 13.

191. *See* IBA Standards, *supra* note 117 (discussing the independence of the legal profession); *see also* *Basic Principles*, *supra* note 19 (discussing the importance of equality before the law).

192. *See* IBA Standards, *supra* note 117 (discussing the independence of the legal profession); *see also* *Basic Principles*, *supra* note 19 (discussing the importance of equality before the law).

services is essential when it comes to individuals protecting their legal, economic, social, cultural, civil, and political rights.<sup>193</sup> The threat to the independence of lawyering in Iran not only threatens the legal field but also Iranian citizens who need access to independent lawyers in order to protect their fundamental human rights.

The current human rights conditions in Iran show that Iranian citizens are in dire need for independent lawyers.<sup>194</sup> Without the independence of lawyers, Iranian citizens who have been detained due to political reasons, similar to those arrested after the 2009 elections, will have difficulty finding attorneys willing to take on their cases due to fear of state retaliation.<sup>195</sup> Additionally, if the bar association comes under the control of the Judiciary, the government would have the power to suspend the licenses of human rights attorneys, significantly impacting human rights advocacy within Iran.<sup>196</sup> Without the independence of lawyering in Iran, the human rights condition in the State is sure to continue to worsen.

#### *IV. CURRENT APPROACHES IN ADDRESSING HUMAN RIGHTS ISSUES*

This Part focuses on current approaches taken by several actors to address the human rights issues in Iran. Part IV begins by discussing the general methods used by actors when looking at human rights broadly. This Part continues by looking at the specific approaches taken by various actors in regards to Iran, particularly dealing with the independence of lawyers.

International human rights advocates have addressed various human rights issues primarily through two approaches: (1) top-down or (2) bottom-up.<sup>197</sup> The bottom-up approach concentrates on target

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193. See IBA Standards, *supra* note 117 (discussing the independence of the legal profession); see also *Basic Principles*, *supra* note 19 (discussing the importance of equality before the law).

194. See Shaheed, *supra* note 184.

195. See U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136; see also U.N. Special Rapporteur, *supra* note 13.

196. See U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136; see also U.N. Special Rapporteur, *supra* note 13.

197. See Lucie Cerna, *The Nature of Policy Change and Implementation: A Review of Different Theoretical Approaches*, ORG. FOR ECON. CO-OPERATION AND DEVELOPMENT (2013), <https://www.oecd.org/edu/cei/The%20Nature%20of%20Policy%20Change%20and%20Implementation.pdf> (discussing the two main approaches); see also Biswambhar Panda, *Top Down or Bottom Up? A Study of Grassroots NGOs' Approach*, 9 J. OF HEALTH MGMT. 257, 259 (2007) (discussing approaches undertaken by NGOs).

groups at a local level.<sup>198</sup> In contrast, the top-down method focuses on policy designers and other influential actors, such as government entities.<sup>199</sup> A number of groups, including groups within Iran, Iranian American groups, and Islamic groups, have taken various steps within these approaches to address human rights concerns in Iran.

For groups based in Western countries promoting Iranian rights, the top-down approach serves as the primary advocacy model.<sup>200</sup> Due to the lack of access to Iran, Western organizations fill an important role in bringing the issues that affect the Iranian public onto the international stage.<sup>201</sup> These organizations provide information about the human rights situations within Iran by creating reports and publishing data which is accessible not only to other Western societies but also to the very people that these circumstances affect, the Iranian people.<sup>202</sup> Most importantly, these organizations work closely with Iranian human rights defenders to make sure that they have a voice on the international stage.<sup>203</sup>

Even though Iranian citizens find it difficult to voice their concerns on a global scale without the help of outside organizations, they have still formed groups within Iran to promote human rights and highlight the issues within the country.<sup>204</sup> The amount of groups doing this work within Iran is greatly limited due to the government's repressive behavior towards these organizations.<sup>205</sup> However, the few groups that have continued to do human rights work within Iran do so by using both the top-down and bottom-up approaches.<sup>206</sup> Using the top-down approach, these organizations develop and publish reports

198. See Cerna, *supra* note 197 at 18; see also Panda, *supra* note 197 at 259.

199. See Cerna, *supra* note 197 at 18; see also Panda, *supra* note 197 at 259.

200. See Cerna, *supra* note 197 at 18; see also Panda, *supra* note 197 at 259.

201. See *Background*, CTR. FOR HUM. RTS. IN IRAN [hereinafter *Background*], <https://www.iranhumanrights.org/background-2/> (discussing the way the campaign supports Iranian people's struggle for human rights); see also *Mission*, IRAN HUM. RTS. DOCUMENTATION CTR. [hereinafter *Mission*], <http://www.iranhrdc.org/english/mission.html> (discussing the mission of the center).

202. See *Background*, *supra* note 201; see also *Mission*, *supra* note 201.

203. See *Background*, *supra* note 201; see also *Mission*, *supra* note 201.

204. See *About the Defenders of Human Rights Center*, DEFENDERS OF HUM. RTS. CTR., (Apr. 12, 2009) <http://www.humanrights-ir.org/?p=233> (discussing the activities that DHRC is focused on); see also *Women's Organization of Iran*, FOUNDATION FOR IRANIAN STUDIES, <http://fis-iran.org/en/women/organization> (describing the WOI).

205. See DEFENDERS OF HUM. RTS. CTR., *supra* note 204; FOUNDATION FOR IRANIAN STUDIES, *supra* note 204.

206. See DEFENDERS OF HUM. RTS. CTR., *supra* note 204; FOUNDATION FOR IRANIAN STUDIES, *supra* note 204.



on human rights violations and use the media to raise awareness throughout the country.<sup>207</sup> Through the bottom-up approach, these groups work directly with impacted individuals such as political prisoners.<sup>208</sup> For the most part, these groups focus on working within the country to educate the population and promote human rights.<sup>209</sup>

Additionally, there are a few international and Iranian Islamic human rights groups that work to promote human rights within the Middle East.<sup>210</sup> Islamic human rights groups focus their efforts on promoting human rights through the use of Islamic law and principles.<sup>211</sup> Typically, Western advocates tend to reject this approach as they believe it is inconsistent with human rights principles.<sup>212</sup>

Primarily, Islamic groups work within the top-down approach to advocate to government bodies to protect human rights within a country.<sup>213</sup> These groups campaign on the platform that the Quran protects human rights by promoting human dignity and commands followers to fight for oppressed people.<sup>214</sup> Many Muslims and scholars believe that the Quran is actually largely concerned with promoting human rights, as it pleads for humans to be free from

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207. See DEFENDERS OF HUM. RTS. CTR., *supra* note 204; FOUNDATION FOR IRANIAN STUDIES, *supra* note 204.

208. See DEFENDERS OF HUM. RTS. CTR., *supra* note 204; FOUNDATION FOR IRANIAN STUDIES, *supra* note 204.

209. See DEFENDERS OF HUM. RTS. CTR., *supra* note 204; FOUNDATION FOR IRANIAN STUDIES, *supra* note 204.

210. See *History*, KARAMAH: MUSLIM WOMEN LAW. FOR HUM. RTS., <http://karamah.org/about/history> (discussing the work Karamah does pursuant to Islam); see also *About IHRC*, THE ISLAMIC HUM. RTS. COMM'N, <http://www.ihr.org.uk/about-ihr/about-us> (describing their research work).

211. KARAMAH: MUSLIM WOMEN LAW. FOR HUM. RTS., *supra* note 210; see also THE ISLAMIC HUM. RTS. COMM'N, *supra* note 210.

212. See Riffat Hassan, *Are Human Rights Compatible with Islam?: The Issue of the Rights of Women in Muslim Communities*, THE RELIGIOUS CONSULTATION, <http://www.religiousconsultation.org/hassan2.htm> (last visited Aug. 2, 2017) (describing why many advocates promote human rights within a secular context); see also Turan Kayaoglu, *A Rights Agenda For the Muslim World?: The Organization of Islamic Cooperation's Evolving Human Rights Framework*, BROOKINGS (Jan. 8, 2013), <https://www.brookings.edu/research/a-rights-agenda-for-the-muslim-world-the-organization-of-islamic-cooperations-evolving-human-rights-framework/> (discussing how Islamic law is incompatible with human rights).

213. See KARAMAH: MUSLIM WOMEN LAW. FOR HUM. RTS., *supra* note 210.

214. *Id.*

repressive aspects of society such as authoritarianism, racism, and sexism.<sup>215</sup>

In regards to the independence of lawyers, Islamic human rights advocates argue that Islamic Law promotes the idea of professional ethics and calls for specific duties to be adhered to within the legal professions.<sup>216</sup> Scholars argue that Islamic law calls for lawyers to observe a certain code of ethics to gain confidence and trust from the general public and to promote dignity for the profession as a whole.<sup>217</sup> Additionally, general Islamic ethics call for lawyers to not be influenced by others and to uphold the interests of his or her client in order to further promote the dignity of the legal profession.<sup>218</sup> Furthermore, analyzing the various advocacy efforts specifically taken to curb the lack of independence for lawyers in Iran, it becomes evident that both methods have been utilized but that top-down efforts have been the primary form of advocacy.<sup>219</sup>

Organizations addressing the current threats to independence have taken the bottom-up approach by calling on the target group in this conflict, Iranian lawyers, to stand out against the intrusion on their profession.<sup>220</sup> One way in which Iranian lawyers have attempted to curb the various government practices against their independence has been to organize protests against the imprisonment of human rights attorneys.<sup>221</sup> Additionally, detained attorneys have also used

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215. See Hassan, *supra* note 212.

216. See Zulkifli Hasan, *Ethical Principles of Lawyers in Islam*, ISLAMIC SCI. UNIV. OF MALAYSIA, <https://zulkiflihasan.files.wordpress.com/2008/10/shariah-law-report-ethics.pdf> (discussing how professional ethic is a hallmark of the legal profession and how Islam adheres to this principles); see also Abouzar Ahmadi et al., *Moral Qualities and Characteristics of a Lawyer in Islam*, 2 INT'L J. OF ECON., MGMT., AND SOC. SCI. 959 (2013) (discussing the way in which the Quran mentioned legal ethics and the legal profession).

217. See Hasan, *supra* note 216; Ahmadi, *supra* note 216.

218. See Hasan, *supra* note 216; Ahmadi, *supra* note 216.

219. See *Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing protests carried out by human rights lawyers); see also *LAWYERS FOR LAWYERS*, *supra* note 168 (discussing activities by lawyers).

220. See *Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing protests carried out by human rights lawyers); see also *LAWYERS FOR LAWYERS*, *supra* note 168 (discussing activities by lawyers).

221. See *Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing protests carried out by human rights lawyers); see also *LAWYERS FOR LAWYERS*, *supra* note 168 (discussing activities by lawyers).

this approach by protesting their own detention through hunger strikes while detained.<sup>222</sup>

When assessing the responses opposing the detention of human rights attorneys, as well as the proposal of bills to curb the independence of the bar association, many organizations have preferred to use the top-down approach as opposed to the bottom-up method.<sup>223</sup> Organizations have called on lawyers worldwide to draft letter campaigns to the government calling for a stop to the detention of human rights attorneys.<sup>224</sup> Similarly, many organizations have issued statements opposing the Formal Attorneyship Bill.<sup>225</sup> Further, organizations have also asked various governments to vocalize their objection to both the detention of attorneys as well as the Attorneyship Bill.<sup>226</sup>

#### V. *COMBATTING THE THREAT TO INDEPENDENCE*

This Part discusses the major obstacles in using the two traditional approaches to address the problem with the independence of lawyering in Iran. Due to the unique nature of Iranian culture and politics, these two approaches have major difficulties within the country. Further, this Part discusses how a combination of both methods tailored specifically to Iran will result in the conflict's resolution.

##### A. *Obstacles*

Human rights defenders traditionally prefer to use the top-down approach through efforts such as letter campaigns directed towards

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222. See *Iran: Stop Targeting Rights Lawyer*, *supra* note 2 (discussing protests carried out by human rights lawyers); see also *LAWYERS FOR LAWYERS*, *supra* note 168 (discussing activities by lawyers).

223. See *In defense of "Independent Legal Practice," supra* note 179 (urging organizations to condemn the actions in Iran); see also *LAWYERS FOR LAWYERS*, *supra* note 168 (discussing activities by lawyers).

224. See *In defense of "Independent Legal Practice," supra* note 179 (urging organizations to condemn the actions in Iran); see also *LAWYERS FOR LAWYERS*, *supra* note 168 (discussing activities by lawyers).

225. See *In defense of "Independent Legal Practice," supra* note 179 (urging organizations to condemn the actions in Iran); see also *LAWYERS FOR LAWYERS*, *supra* note 168 (discussing activities by lawyers).

226. See *In defense of "Independent Legal Practice," supra* note 179 (urging organizations to condemn the actions in Iran); see also *LAWYERS FOR LAWYERS*, *supra* note 168 (discussing activities by lawyers).

government officials.<sup>227</sup> The beneficial aspect of using this method comes from the potential embarrassment an administration may feel from being negatively politicized by other governments. With respect to Iran, due to the country's current economic climate and continued isolation by other states, this may be particularly beneficial.<sup>228</sup>

The recent Iranian economic and political crisis stems from the increased hostility between Iran and Western countries over Iran's nuclear capabilities.<sup>229</sup> As a result of these hostilities, European nations and the United States imposed major economic sanctions on Iran and froze many of the country's foreign assets.<sup>230</sup> These actions negatively impacted the national economy, which heavily affected the Iranian population.<sup>231</sup> Pressure from the Iranian public resulted in an agreement in early 2016 between Western nations and Iran. This agreement lifted the economic sanctions imposed against Iran and gave the country the ability to once again become an active member in the international community.<sup>232</sup> However, many government actors, such as the Supreme Leader, as well as much of the Iranian population continue to consider Western ideals contrary to Iranian culture, exemplified by the Iranian Revolution.<sup>233</sup> Therefore, letter campaigns may prove to be less than fruitful.

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227. See Nayyeri, *supra* note 76, at 13 (discussing concerns with the article 187 attorneys); see also *Balancing Independence*, *supra* note 72, at 10 (describing the concerns about Article 187 legal advisors).

228. See *Rouhani Urges End To Iran's Isolation*, REUTERS (Jan. 2, 2015, 8:29 AM), <http://www.reuters.com/article/us-iran-economy-rouhani-idUSKBN0KD0CG20150104> (discussing the president's call for an end to Tehran's international isolation); see also *President Rouhani hails lifting of Iran Sanctions: Years of economic isolation ends after Tehran complies with terms of last July's landmark nuclear deal*, AL JAZEERA (Jan. 17, 2016), <http://www.aljazeera.com/news/2016/01/president-rouhani-hails-lifting-iran-sanctions-160117104307664.html> (explaining how the president hailed the lifting of sanctions).

229. See *Iran nuclear crisis: Six key points*, BBC (July 14, 2015), <http://www.bbc.com/news/world-middle-east-32114862> (discussing the effects of the nuclear crisis); see also Kasra Naji, *Iran nuclear deal: Five effects of lifting sanctions*, BBC (Jan. 18, 2016) <http://www.bbc.com/news/world-middle-east-35342439> (outlining the effects of the nuclear deal).

230. See *Iran nuclear crisis: Six key points*, *supra* note 229; see also Kasra Naji, *supra* note 229.

231. See *Iran nuclear crisis: Six key points*, *supra* note 229; see also Kasra Naji, *supra* note 229.

232. See *Iran nuclear crisis: Six key points*, *supra* note 229; see also Kasra Naji, *supra* note 229.

233. See *History of Iran (Persia)*, HISTORY WORLD, <http://www.historyworld.net/wrldhis/PlainTextHistories.asp?ParagraphID=azv> (discussing the Arab Conquest); see also *Iran Profile – timeline*, BBC (May 1, 2017) <http://www.bbc.com/news/world-middle-east-14542438> (setting the advent of Islam at 636 A.D.).

Foreign government bodies can also use the human right treaties to which the Iranian government is bound and argue that Iran violates them by detaining the country's attorneys. Iran is currently bound to several treaties including the ICCPR, which it both signed and ratified.<sup>234</sup> Advocates for the release of the detained attorneys can press the government to abide by its treaty obligations, thus using a legal route that the country has voluntarily agreed to.

However, the Iranian government can undermine this argument by simply declaring that they have come to a different understanding of the treaty than Western nations, thus eliminating advocates' arguments about the violation of treaties and international law. Additionally, the treaties that Iran is bound to were mostly signed prior to the Iranian Revolution in 1979, including the ICCPR.<sup>235</sup> Thus, the Iranian government may reject their obligations by stating that they were a part of the Shah's attempts to westernize the country.<sup>236</sup> Therefore, using a pure top-down approach may not fully help advocates reach their goals of pressuring the government to limit their restrictions on the lawyering profession.

The bottom-up approach seeks to gain reform by focusing on the target population being affected by the government repression.<sup>237</sup> In this situation, advocates would focus their efforts on the lawyering population in Iran and attempt to have them pressure the government and society to stop the repression of lawyering. One application of this approach is to have lawyers in the country organize protests and media campaigns that expose the unjust conditions lawyers face in the country. However, as seen through the experience of lawyers such as Nasrin Sotoudeh, this can be particularly difficult for attorneys in Iran.<sup>238</sup>

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234. See *Iran: International treaties adherence*, GENEVA ACAD., [http://www.adh-geneve.ch/RULAC/international\\_treaties.php?id\\_state=109](http://www.adh-geneve.ch/RULAC/international_treaties.php?id_state=109) (listing the treaties that Iran is currently bound to); see also *LAWYERS FOR LAWYERS*, *supra* note 168 (discussing the international human rights treaties that Iran is bound to).

235. See GENEVA ACAD., *supra* note 234; see also *LAWYERS FOR LAWYERS*, *supra* note 168.

236. See *History of Iran (Persia)*, *supra* note 233 (discussing the Arab Conquest); see also *Iran Profile – Timeline*, *supra* note 233 (setting the advent of Islam at 636 A.D.).

237. See Cerna, *supra* note 197 (discussing the two main approaches); see also Panda, *supra* note 197 (discussing approaches undertaken by NGOs).

238. See U.N. Special Rapporteur Ahmed Shaheed, *supra* note 136 (discussing civil and political rights); see also *Codifying Repression: An Assessment of Iran's New Penal Code*, HUM. RTS. WATCH (Aug. 2012), <https://www.hrw.org/report/2012/08/28/codifying-repression/assessment-irans-new-penal-code> (discussing how the new penal code does not

If lawyers in Iran attempted to protest and politicize the government's actions, they could potentially face the same fate as those they are intending to assist. The government can take their actions as acting out against the regime and potentially arrest them as well. This would seem less likely if lawyers could politicize the repression to the point in which the public began to speak out against the government's detention of human rights defenders as well, but this is a very risky method as many citizens may also feel too intimidated to speak out against the government's actions.

Another bottom-up method that may be more fruitful could involve foreign advocates assisting Iranian lawyers in bringing cases to court against repressive government tactics. Through this method, foreign advocates could better educate Iranian attorneys in international law mechanisms while still upholding the framework under Islamic Law. The beneficial aspect of this tactic comes from the way in which domestic attorneys would be able to utilize their knowledge of the Iranian legal system, as well as Iranian culture and morals. However, there remains the fear that this type of advocacy can be seen as a threat against the regime leading to the arrests of any participants. As compared to other approaches, however, it seems as if aspects of the bottom-up approach are more practical when it comes to Iran than top-down. However, using the beneficial aspects of both approaches may seem to be an even better fit.

To combat the issue of threats against the independence of lawyering within Iran, the best approach would be to combine aspects from both top-down and bottom-up methods to create a more fluid approach in such a unique cultural landscape. Iran's government and citizens continue to uphold certain negative feelings towards Western ideals due to the events that took place from the 1900s to 1979 coupled with the more than forty years of sanctions and hostile international relationships that came in the aftermath of the Revolution.<sup>239</sup> However, because of the fairly recent global isolation the Iranian government and public have endured due to the sanctions imposed as a response to the nuclear arms crisis, there also seems to

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curb the violations of civil and political rights). *See also Lacking Independence*, *supra* note 139 (discussing various measures taken against human rights attorneys).

239. *See History of Iran (Persia)*, *supra* note 233 (discussing the Arab Conquest); *see also Iran Profile – Timeline*, *supra* note 233 (setting the advent of Islam at 636 A.D.).

be a more openness to foreign cooperation to a certain extent.<sup>240</sup> As a result, a combination approach to dealing with the threats against the lawyering profession could prove fairly useful.

### *B. Solution*

The best approach in gaining independence as well as deterring future detentions would be to better train lawyers in how to combat these abuses using international law as well as campaign against the government domestically and from abroad. To do this, Western organizations that are more acquainted with international law mechanisms can prepare materials and host trainings for Iranian attorneys to better familiarize the latter in the resources that are available to them. Western organizations then can continue to serve as a resource after initial trainings when Iranian attorneys return to Iran to put their newly acquired skills to use.

Training Iranian lawyers in how to use international law in Iranian courts would prove to be beneficial because of the country's growing desire to once again be a global player. However, Iranian lawyers would also need to be trained in how to employ international standards pursuant to domestic law. By doing this, attorneys would be more likely to realize positive outcome, as they would be using universal notions of international law but framing it in a friendlier manner to which Iranian judges may be more accustomed. Additionally, training Iranian lawyers on how to use these mechanisms within the country would lend itself to making international law a more frequently used source of law within Iran and would give Iranian attorneys more ownership and control over the legal system that they are already so heavily involved with.

In addition to training lawyers, advocates can combine the top-down approach by continuing letter campaigns to the government from Iranian lawyers themselves as well as foreign nations. Even though there would be the continued risk of arrest for domestic attorneys who challenge the governments actions, these attorneys could also take advantage of the government's desire on once again becoming a global player. Attorneys who address the government can continue to publicize their efforts and gain foreign support through

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240. See Nayyeri, *supra* note 76 (discussing the New Formal Attorneyship Bill); see also *In defense of "Independent Legal Practice," supra* note 179 (discussing the new bill of Formal Attorneyship).

various NGOs as well as global media platforms, which are more than willing to publicize Iranian affairs.

Furthermore, Iranian attorneys could plead with foreign governments to support their efforts by denouncing the state's actions against lawyers. Through this tactic, attorneys would need to make sure to work with foreign governments who hold more sway with Iranian officials such as important trade partners.<sup>241</sup> Again, this method lends itself to ensuring that Iranian attorneys hold more ownership over these efforts and the outcomes that undeniably affect them daily through their legal work. This ownership results in a heavier investment in obtaining positive outcomes, which ultimately makes the approach more useful and successful.

In terms of the threats against the Independence of the Iranian Bar Association, the above-mentioned tactics can again be seen to be beneficial. Throughout the world, many countries hold the independence of bar associations as a main way of upholding rule of law. Additionally, bar associations play a pivotal role in many countries' legal systems by providing expertise and commentary on different policy approaches. To combat the threats against the Iranian bar associations, Iranian lawyers can use both international standards as well as domestic law in domestic courts to assure the independence of the bar association.<sup>242</sup>

Moreover, foreign nations, and foreign bar associations, can play a major role in combating this threat by reaching out to Iranian government figures such as President Rouhani and explaining their opposition towards the Formal Attorneyship Bill. In turn, this could pressure Parliament into suspending consideration for the bill once again.

Overall, advocates for the independence of lawyering in Iran must call on both the Iranian government and the international community to come forward to stop this injustice and uphold international standards on the rule of law. Foreign advocates must play a special role in assisting Iranian attorneys to combat the

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241. Some examples of important trade partners include China, India, and Japan who are major importers of Iranian products. See *Iran*, OBSERVATORY FOR ECON. COMPLEXITY, <http://atlas.media.mit.edu/en/profile/country/irn/> (listing top trade partners of Iran); see also *Iran Exp., Imp. & Trade*, ECON. WATCH (June 29, 2010) [http://www.economywatch.com/world\\_economy/iran/export-import.html](http://www.economywatch.com/world_economy/iran/export-import.html) (discussing Iranian exports).

242. See Sial, *supra* note 36 (explaining the role of the judiciary); see also Zare, *supra* note 46 (describing the judiciary body of government).



government. Without this assistance, the government will continue to simply arrest and punish attorneys who speak out against their actions. By including an international aspect into the fold, Iranian lawyers will have a better chance at obtaining true reform.

#### *VI. CONCLUSION*

President Hassan Rouhani ran his 2012 campaign on promises of reform and moderation as compared to his more conservative opponents. Currently, some believe that Rouhani has lived up to his campaign promises by bringing change to the country as seen through the resolution of sanctions and the nuclear arms crisis. However, many Iranians also believe that President Rouhani has failed to live up to his promises, exemplified through the continued human rights violations by the Iranian government.

Current human rights violations include an attack on the independence of the lawyering profession as well as the Iranian Bar Association.<sup>243</sup> Since the 2009 election, human rights attorneys have been particularly affected by the government's actions due to the high number of arrests as a result of their human rights advocacy.<sup>244</sup> The detention of human rights lawyering is particularly worrisome in that the main way to combat the country's many other human rights violations is to take up cases that challenge the violations. However, attorneys may soon be unwilling to take on controversial cases for fear of punishment. The bar association faces a major threat to its independence due to the Judiciary's proposal of the Formal Attorneyship Bill to Parliament.<sup>245</sup> This bill would effectively remove the bar association's independence in choosing its members and would leave this decision primarily upon the Judiciary, a very religiously associated body of the government.<sup>246</sup>

In light of the unique cultural positioning of the government as well as the general public, the best approach in combatting the threat against the independence of lawyers in Iran would be to fuse both approaches together.<sup>247</sup> Currently, the Iranian government, as well as Iranian citizens, seek to once again become a global player after the economic and social consequences that have occurred since the

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243. *See infra* Part III.

244. *Id.*

245. *Id.*

246. *Id.*

247. *See infra* Part V.

imposition of sanctions.<sup>248</sup> By taking advantage of this fact, human rights advocates can use both methods to successfully combat the threat against lawyers in Iran.<sup>249</sup>

The best way in which to use the bottom-up approach in Iran is to help train Iranian lawyers in International human rights mechanisms while still framing the arguments as consistent with domestic law.<sup>250</sup> By doing this, Iranian lawyers would be equipped to respond to the government's actions while still protecting themselves through the logic of Iranian law. In addition to this tactic, Iranian lawyers as well as foreign nations can continue to pressure government officials through letter campaigns that call for the release of imprisoned attorneys as well as against the enactment of the Formal Attorneyship Bill.<sup>251</sup>

Both Iranian politics and culture place it in a unique position in terms of foreign intervention and diplomacy.<sup>252</sup> Human rights defenders find this particularly burdensome in that it places them in a precarious position in terms of fighting human rights violations within the country. However, the globalization of not only the lawyering profession but of the economy and world affairs places advocates in the unique circumstance of being able to take advantage of this aspect, especially at a changing time for Iran.<sup>253</sup>

Advocates for the independence of lawyers must use the country's precarious positioning to their advantage and create an approach that combines both top-down and bottom-up policy. By combining these methods, advocates would not only be able to respectfully work within Iranian societal and cultural norms, but would also uphold international standards of justice and law.

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248. *Id.*

249. *Id.*

250. *Id.*

251. *Id.*

252. *Id.*

253. *Id.*

