

IRAN

The judiciary in Iran remained heavily under the influence of executive and religious government authorities. The functioning of Islamic Revolutionary Courts severely undermined judicial authority in the country. Lawyers were not adequately protected in exercising their functions by an effective professional association.

The Islamic Republic of Iran was established in 1979 after a populist revolution overthrew the Pahlavi monarchy. The 1979 Constitution, as amended in 1989, established a theocratic republic.

The Supreme Leader of the Islamic Revolution, Ayatollah Ali Khamenei, is the Head of State and constitutionally the highest authority in the country. He was chosen as Ayatollah Khomeini's successor in June 1989 by the Assembly of the Experts, a popularly elected group of senior religious scholars and pious laymen. The Supreme Leader maintains direct control over all internal security and police forces, the judiciary and the state broadcasters. He is the commander-in-chief and officially appoints the President, following popular elections. According to Article 57 of the Constitution, the legislature, the judiciary and the executive, all must function under the "absolute rule of the Supreme Leader." The unlimited term of the Supreme Leader and extremely wide powers vested in that office have been the source of popular dissatisfaction. Calls are increasing, especially within the ranks of the clergy, for the office of the Supreme Leader to be made elective and for a limited term. (See *Special Court for Clergy*)

President Mohammad Khatami was elected in February 1997 for a four-year term and was re-elected by a large majority in the June 2001 election. According to Article 113 of the Constitution, the President is second in line after the Supreme Leader and is responsible for implementing the Constitution. He is the Chief of the executive power, "except in matters directly concerned with (the office of) the Leadership." The Leader may dismiss the President "after the Supreme Court holds him guilty of the violation of his constitutional duties or after a vote of the Islamic Consultative Assembly testifying to his incompetence."

The Islamic Consultative Assembly, or *Majles*, is a 290-seat unicameral legislative body, popularly elected for a four-year term. The February 2000 Parliamentary election resulted in a landslide victory for candidates associated with the reformist faction. Although the reformist faction presently constitutes the majority of the Parliament, the legislation adopted by them is often vetoed by the Council of Guardians.

The Council of Guardians, which is composed of six clerical members appointed by the Supreme Leader and six lay jurists nominated by the head of the judiciary and approved by the Parliament, exercises great influence on the Parliament and is in charge of reviewing the compatibility of all the legislation passed by the Parliament with Islamic and constitutional principles. The Council is also responsible for the supervision of the elections. The Council construes Article 99 of the Constitution, which grants it "the responsibility of supervising the elections," to include approval of the qualification of candidates for all elected offices. This construction is considered unconstitutional by many leading legal authorities. Furthermore, the Council refuses to provide clear legally based reasons for disqualifying candidates, and its decisions are widely considered to be intended to block the election of persons holding political views not in conformity with the

official ideology. In the February 2000 parliamentary election, the Council annulled the results in a number of electoral divisions won by reformists, without presenting supporting evidence and in spite of the fact that the Interior Ministry had found no reason for the annulment.

The Expediency Council (*Majma'e Tashkhis-e Maslahat*) is in charge of breaking any deadlock between the Parliament and the Council of Guardians. The 1989 constitutional amendment instituted the Expediency Council as an advisory board to the Supreme Leader. In 1997, the Expediency Council was empowered with far reaching responsibilities, such as determining the major policies of the state, and Hashemi-Rafsanjani, the former President, was appointed by the Supreme Leader as the chairman of the Council.

HUMAN RIGHTS BACKGROUND

Despite the acknowledgment by high ranking officials of an urgent need for reform in respect of human rights, the past year has been marked by negative developments, especially in the areas of freedom of expression and association. A number of murders of intellectuals and political dissidents have remained unsolved. Illegal detentions, disappearances in the justice system, and broad use of torture by law enforcement agencies have increased dramatically, while impunity has remained widespread. The Secretary of the Islamic Human Rights Commission in Iran has confirmed the existence of illegal detention centres in the country. Extrajudicial groups and semi-official vigilante forces, such as the *Basiji* and *Ansar-i Hezbollah*, have continued to engage in violent attacks against students, journalists and individuals suspected of "anti-revolutionary" activities. International standards of fair trial continued to be disregarded by the judiciary. Some 130 executions occurred between January and July 2000 alone, including the execution of a woman in the presence of her two children. The Supreme Court upheld more than 310 execution sentences during the year 2001. Despite widescale public protest, public executions and floggings have substantially increased since the re-election of the President Khatami.

In December 1997, the Commission for the Implementation of the Constitution and Constitutional Supervision was appointed by President Khatami to review complaints regarding rights violations. The Commission, however, did not function in an active manner. In its report of 30 November 1999, the Commission declared that it had received more than four hundred complaints but did not find them appropriate for consideration.

Independent political parties are non-existent and the Government maintains a monopoly on all television and radio broadcasting facilities. Since the election of President Khatami in 1997, the independent press has played an important role in providing a diverse forum for wide-ranging opinion and debate. However, during the past year, the independent press has been silenced and leading reformist journalists, politicians and human rights defenders were jailed pursuant to decisions by ultra-conservative elements within the judiciary. On 23 April 2000, 12 journals were arbitrarily closed without hearings, by order of the judiciary, in contravention of both the Iranian press law and international standards of fair trial. (see *The Judiciary*) More than 40 newspapers and magazines have been closed. In August 2000, efforts by the new Parliament to amend the Press Law were halted by unprecedented intervention in parliamentary affairs by the Supreme Leader. Despite the objections of the President and reformist parliament members, virtually all the reformist press has now been closed down and dozens of journalists and editors have been detained for prolonged periods without trial or access to legal council. Others have been sentenced on

arbitrary charges to punishments ranging from the death penalty to long imprisonment terms (see *Unfair Trials*).

Mere criticism of the Supreme Leader's actions or even of the criminal law codes, including the death penalty and other cruel and degrading punishments, was regarded by the judiciary as an offense and was punished for "harming the basis of the Islamic Republic," or insulting the Islamic system." In December 2000, Ata'ollah Mohajerani, Minister of Culture and Islamic Guidance, resigned from his office in protest at the constant attacks on the judiciary.

Investigations into the murders of several prominent Iranian dissidents and intellectual figures ("Serial Murders" case) that prompted public outrage in Iran in late 1998 and early 1999 have moved exceedingly slowly. Several intellectuals among the 134 signatories of the 1994 Declaration of Iranian Writers, declaring a collective intent to work for the removal of barriers to freedom of thought and expression, have been killed and disappeared. In March 2000, Saeed Hajjarian, a senior political adviser to President Khatami, escaped an assassination attempt linked to the serial murders that left him confined to a wheelchair. Minister of Intelligence Qorban Ali Dori-Najafabadi and several of his senior deputies resigned after it was revealed in an official inquiry, supported by President Khatami that, some senior officials of the Ministry of Intelligence had carried out the killings. In late December, the trial of 18 state officials accused of involvement in murders began in the Tehran Military Court behind closed doors, allegedly for "security reasons," and they were convicted in January 2001. However, the fairness of these trials has been called into question. (See *Unfair Prosecutions and Trials*)

Vigilantes accelerated their assaults on reformists, breaking up demonstrations and cultural events following supportive statements made by the highest political and judicial authorities, including the Supreme Leader and the head of the Judiciary, legitimising their extrajudicial activities,. On the anniversary of the student demonstrations that took place in July 1999, where four students were killed and several hundred arrested and wounded, students marched and expressed their frustration at the unsolved murders of their classmates and the poor economic conditions. The protesters were beaten and forcibly dispersed by Ansari Hezbollah.

THE JUDICIARY

According to Article 61 of the Constitution, judicial power shall be exercised through courts of justice, in accordance with Islamic criteria, acting to decide in cases of dispute, to protect public rights, to further the administration of justice and to uphold the divine jurisdiction. According to Article 4, all the laws and regulations must be based on Islamic criteria.

The judiciary in Iran is not free from government influence. Religious minorities, women and men are not treated equally before the courts. Although the Constitution endorses certain rights of fair trial, these are not respected in practice. In his report to the 2000 session of the UN Commission on Human Rights, the Special Rapporteur identified the following difficulties: ill-treatment in pre-trial detention; forced confessions; overcrowding in the prison system; the continuing existence of detention centres outside the official prison system; the denial of fair trial; denial of the right of the defense to call witnesses; issuance of judgment without provision of adequate time for the submission of the defense; making statements about cases which do not fall within the jurisdiction of the court; jailing defense lawyers for such actions as protesting the judge's refusal to allow them to call witnesses.

In December 1999, the head of the judiciary announced an initiative to reform the judicial system, remarking that the country is "still a long way off from having a reformed and developed judicial organization." He also declared that 40 judges, clerks, and "middle-men" had been arrested on corruption charges.

Structure of the courts

By a constitutional amendment in 1989, the High Judicial Council (HJC) was abolished and all the duties and responsibilities of HJC were conferred to the head of the judiciary, who is appointed directly by the Supreme Leader for a period of five years. The head of the judiciary appoints half the members of the Council of Guardians, all members of the Supreme Court, and the chief judges in all of Iran's provinces. According to Articles 157 and 162 of the Constitution, the head of the judiciary, the chief of the Supreme Court and the Prosecutor-General all must be members of the clergy. Ayatollah Mahmoud Hashemi Shahrudī was appointed by the Supreme Leader in August 1999 as the head of the judiciary.

The head of the judiciary exercises extraordinary powers for determining the professional career of judges. According to Article 158 of the Constitution, the head of the judiciary is authorized to appoint, dismiss, transfer, promote and discipline judges, and to make all similar administrative decisions, in accordance with the law. (See Qualification, Appointment, Dismissal.)

The Law of Establishment of General and Revolutionary Courts made several widely criticised changes to the judiciary system. The office of the Prosecutor was omitted from the institution of the judiciary. Hence, the chief judges of the jurisdictions, who are at the same time the chief justices of the Courts of First Instance, function now both as prosecutor and judge in the same case. Chief judges of the Courts of First Instance, who should be impartial and presume the innocence of defendants, are in charge of the investigatory procedures in cases, including interrogation of the defendant, collection evidence of the crime and accusing the defendant.

Another problematic change introduced is the establishment of "the General Courts," thus abolishing the conventional system of civil and criminal courts. In the former system, courts were divided according to their adjudicative specialization in civil and criminal offenses. In the new system, "the General Courts" deal with all types of cases, thus placing a severe burden on the caseload of the courts and decreasing the quality of the juridical profession.

The Constitution also establishes Military Courts, the Court of Administrative Justice, and the Supreme Court. Military Courts, which investigate crimes committed in connection with military or security duties by members of the Army, the Gendarmerie, the police and the Islamic Revolutionary Guard Corps. The Court of Administrative Justice investigates complaints, grievances and objections by the public with respect to government officials, organs and statutes. The Supreme Court supervises the correct implementation of the laws by these courts, ensuring uniformity of judicial procedure and fulfilling any other responsibilities assigned to it by law.

Islamic revolutionary courts

These courts were established in 1979 by the Revolutionary Council to adjudicate offenses regarded as potentially "threatening to the Islamic Republic," including offenses against internal and external security, narcotic crimes, economic crimes, and official corruption. The legitimacy of the Revolutionary Courts is questionable, as they are not established in the Constitution, and were only created by the Revolutionary Council, which temporarily functioned as the legislature at the

beginning of the Revolution. It was not until three years after their establishment that the Revolutionary Courts were approved by a law adopted by the Parliament.

Trials in these courts are notorious for their disregard of international standards of fair trial. In addition to those shared by the Islamic Revolutionary Courts with courts in general, these courts have the following deficiencies: the judges are chosen in part based on their ideological commitment; defendants are detained for prolonged periods without access to a lawyer and the right to confront their accusers; secret or summary trials take place; defendants are often indicted for vaguely defined offenses such as "insulting Islamic tenets", "insulting the Supreme Leader", "anti-revolutionary behaviour", "moral corruption", and "propaganda against the state." The abuses associated with the Islamic Revolutionary Courts appear to be so numerous and so entrenched as to be nearly beyond reform.

The Special Court for the Clergy

The Special Court for the Clergy (SCC), established to deal with all criminal acts committed by clergy, has become an instrument to discipline and prosecute dissident clerics. The cases are to be argued on the basis of religious law. Appeals are heard by another chamber of the Cleric's Court. The Supreme Court has no jurisdiction to review the SCC cases.

The Court tries the reformist clerics, in sessions closed to the public, for deviating from Islamic orthodoxy, and may sentence them to severe punishment, including the death penalty. The defense counsel in a trial before a SCC must be chosen from designated clergy. In his report to the 1999 session of the U.N Commission on Human Rights, the U.N Special Representative on Iran recommended the abolition of the SCC, finding it be an arbitrary and secretive tribunal that denies its defendants the right to a fair trial.

The SCC is another extra-constitutional judicial body, yet the violations of the Constitution in the case of the SCC are more remarkable. Some of the major deficiencies of the SCC are as follows:

- The SCC lacks legitimacy, having been established only by decree of Ayatollah Khomeini and subsequently ratified by Ayatollah Khamene'i.
- A special court only for a single class of people may violate the constitutional principle of equality before the law (Article 2).
- The SCC functions under the supervision of the Supreme Leader and all the judges and prosecutors of this court are appointed by the Supreme Leader, not the judiciary. Moreover, the SCC does not follow the general legal principles and criminal procedure laws applicable in the other courts. The establishment of a court outside of the judicial system is in a clear violation of Article 61 of the Constitution, which provides that only the General Courts of Justice have jurisdiction to perform the functions of the judiciary.
- According to Article 13 § (1) of the Decree of the SCC, "[t]he SCC and its office of the Prosecutor have a jurisdiction to adjudicate all cases entrusted to it by the Supreme Leader." Thus, the SCC prosecutes all individuals and all cases viewed by the Supreme Leader himself as involving a "crime", rendering its own judgment as to the criteria for criminal prosecution.

- The SCC is in a position of hierarchy vis-à-vis the other courts. According to Article 13 of the Decree of the SCC, "[a]ll the judicial departments should adjudicate the files sent to them by the office of the SCC Prosecutor."
- In clear contravention of Article 167 of the Constitution that places the Islamic sources and verdicts as secondary to the codified laws, the SCC considers these sources as equal. In a further step, the SCC considers even the Penal Codes as secondary in line to the Islamic law.
- Judges are empowered to "give sentences based on their own personal opinions," in the case of dealing with "a crime which does not have a defined punishment in the *Shari'a* and the law." Such broad powers given to judges in criminal cases clearly violate international standards of fair trial, as well Article 36 of the Constitution, which provides that "the passing and execution of a sentence must be only by a competent court and in accordance with law."
- In contravention of Article 168 of the Constitution that establishes the General Courts as being the only judicial authority that has jurisdiction to review press offenses, the SCC recently has dealt also with press offenses, on the grounds that "the defendant is a member of the clergy."

Press Courts

The Press Court is a branch of the General Courts that handles offenses related to the press. According to Article 168 of the Constitution, trials for press offenses should be held openly and in the presence of a jury, whose composition is determined in the Press Law. However, prosecution of critics of the government and harassment of a number of independent journalists and writers by the judiciary increased dramatically during the past year. One of the main factors conditioning this attack is the lack of legal protection for freedom of expression and association in Iranian Law.

In contradiction of international standards, the Press Law, enacted in 1985, significantly restricts freedom of expression by determining narrow roles for the media and setting up sweeping prohibitions. Article 6 of the Press Law, for instance, prohibits the press from publishing materials that "harm the basis of the Islamic Republic" or "create division among the different strata of society." The law establishes the Press Supervisory Board, dominated by members of the executive branch of the government, as the responsible official body for issuing press licenses and examining complaints filed against publications or journalists, editors and publishers. According to the Press Law, and in a violation of Article 14 (1) of the ICCPR, the Board enjoys semi-judicial powers to determine violations of the Press Law and may close newspapers or magazines solely by administrative order.

In the case of referral of some of the complaints to the judiciary by the Press Supervisory Board, the Press Court, a special tribunal within the judiciary, hears such complaints. The jury of the Press Court is in charge of making recommendations to the judge regarding the guilt or innocence of defendants and the severity of any penalty to be imposed. In tens of cases against the newspapers and journalists, the recommendations of the jury for lenient penalties were disregarded by the judges of the Press Court in favour of harsher measures. Most of the press cases were brought before the Revolutionary Courts and Special Clerical Courts, which do not have jurisdiction to hear press cases, and where defendants enjoy fewer legal protections. In most of the press cases,

newspapers or magazines were closed down before trial as a result of unprecedented and highly criticized creation of irrelevant laws by the judiciary.

Unfair prosecutions and trials

There were several violations of the right to a fair trial in the "Serial Murders" cases. Among the accused high-ranking security agents was Saeed Emami, former Deputy Minister of Intelligence, who, according to the state's report, committed suicide in prison before the beginning of the trial. Only five defendants, who were accused of being the main perpetrators of the killings, were in custody, whereas other suspected accomplices remained free on bail. The lawyers of the victims' families were denied access to the case files. The identity of the defendants and the specific charges against them are still not known. Furthermore, any criticism of the actions of the judiciary and the conditions of the trial received harsh punishments from the judiciary. Several citizens, including journalists and lawyers of the victims' families were arrested and prosecuted merely for criticising the actions of the judiciary in connection with the case. (See *Cases*)

The largely peaceful student demonstration of July 1999, which was conducted to protest the closure of the popular *Salam* newspaper, was followed by an attack on Tehran University dormitories by uniformed security forces and members of *Ansar-i Hezbollah*. At least four students were killed and 300 were wounded, when paramilitary forces threw them from the dormitory's windows. Although investigations by the Parliament and the National Security Council indicated that the raid had taken place without authorization from the Ministry of Interior and that "police officers and non-military personnel" were responsible for the attack on students, no criminal proceedings were conducted. According to a declaration by the head of the Tehran Revolutionary Court, Hojatoleslam Gholamhossein Rahbarpour, in September 1999, 1,500 students were arrested during the riots, 500 were released after questioning, 800 were released subsequently and formal investigations were undertaken against 200. Four students were sentenced to death by a Revolutionary Court for their role in the demonstrations, but the sentences were commuted to terms of imprisonment. While 98 policemen and senior officers were arrested for their actions, only 20 went on trial. In February 2000, the court released all but two of the accused officers. However, scores of students who were arrested during the demonstrations are still in prison.

In October 2000, Amir Farshad Ibrahimy, a former member of a vigilante group, was sentenced to two year imprisonment for defamation after he stated in a videotape that *Ansar-i Hezbollah* vigilantes had received payments from senior clerics and conservative politicians to carry out attacks on reformist personalities and to disrupt public events and demonstrations. His lawyer, Shirin Ebadi, and another lawyer, Mohsen Rahami were also prosecuted and received suspended imprisonment in relation with this case. (See *Cases*)

Some 17 leading Iranian reformist intellectuals and politicians who attended an international conference on Iran held in April 2000 in Berlin were arrested and some were detained incommunicado. In October 2001, they were brought before a Revolutionary Court in Tehran, and on January 13, 2001, behind closed doors, the court convicted seven of them on vague charges concerning "national security," "propaganda against the state," and "insulting Islam."

Mr. Amir Entezam, former Deputy Prime Minister, aged 68, was released after 17 years detention in the notorious Evin Prison in Tehran. He had spent much of the past 20 years in and out of prison on charges of collaboration with the United States, and his appeals for a fair and public trial were denied. He was re-arrested in December 1999 after an interview was published in an Iranian newspaper, in which he made critical statements about Mr. Assadollah Lajevardi, an assassinated

prosecutor and former chief warden of Evin. His imprisonment was renewed after his refusal to sign a "confession." The trial of Mr. Amir Entezam included several overt violations of Iranian law and international rules concerning a fair trial, including denial of counsel and access to the allegedly incriminating evidence against him. Mr. Entezam was not allowed to attend the first hearing, and the judge stated that he did not know the reason for his detention, which subsequently was prolonged for 10 more months to receive accusations. Having been a frequent victim of torture in prison and denied proper medical treatment, Mr. Entezami has serious health problems and was the victim of an assassination attempt during a transfer. Foreign observer missions, including The International Commission of Jurists (ICJ), were barred from attending judicial proceedings.

On March 18, 2001, The Tehran Revolutionary Court closed down the Iran Freedom Movement, an unlicensed political party, whose several members, including Mehdi Bazargan, (former Prime Minister), had participated in the first government of the Islamic Republic in 1979, on the grounds that the party was attempting to "overthrow the Islamic regime." The Court's action was in a clear violation of Iran's Political Parties Law, which provides that the courts may take action against a political party only after receiving an official complaint from a special committee, known as an "Article 10 Commission," in charge of reviewing the activities of political parties. Apparently no such complaint had been made against the Freedom Movement. The Court also ordered the detention of dozens of other independent political activists, legal scholars, engineers and physicians around the country on suspicion of being associated with the Freedom Movement. Most of the detainees have been held incommunicado on unknown charges, without access to medical treatment, and their families have had no information regarding the places of their detention.

Iran's reformist-dominated Parliament has recently filed suit against several hard-line judiciary members, including senior judges, for violations of the Constitution. The Parliamentary Committee in charge of investigating complaints against the state recently declared that the judiciary had constantly disregarded the Constitution in the arrest or detention of political activists and journalists. In an open letter read out in the Parliament by a member, Davoud Hassan-zadegan, the names of 50 activists are mentioned as having been denied access to lawyers, some of whom had been held in "temporary" solitary confinement for more than five months.

The infamous trial of 13 Iranian Jews, accused of espionage for Israel, failed to meet international standards of a fair trial. The accused were arrested without warrant in 1999, have been detained for over one year in solitary confinement, without official charges or access to lawyers and relatives. Furthermore, trials held behind closed doors and the courts used televised confessions by the defendants. In July 2000, they received prison sentences ranging from four to 13 years, which were reduced subsequently by the Court of Appeals to between two and nine years' imprisonment.

Qualification, appointment and dismissal

According to Article 164 of the Constitution, "a judge cannot be removed, whether temporarily or permanently, from the post he occupies except by trial and proof of his guilt, or in consequence of a violation entailing his dismissal. A judge cannot be transferred or redesignated without his consent, except in cases when the interest of society necessitates it, and only by decision of the head of the judiciary branch after consultation with the chief of the Supreme Court and the Prosecutor General." The Article insures that "the periodic transfer and rotation of judges will be in accordance with general regulations to be laid down by law." However, the authority to determine the "interest of society" in "exceptional" cases of judges' transfer remains with the head of the judiciary, thus conferring upon him far-reaching power over the judicial profession.

The 1991 Disciplinary Court of Judges Law (DCJL) grants the head of the judiciary further authority to disqualify and dismiss judges. This law contains several deficiencies that severely undermine the independence of judges:

- The vague criteria for disqualification of judges: According to Article 1 of the DCJL, the head of the judiciary may determine disqualification of a judge according to religious criteria, which could be interpreted in a broad and ambiguous way.
- The dependence and partial structure of the Disciplinary Court of Judges (DCJ): Once the head of the judiciary reaches the conclusion that a certain judge is disqualified, he may refer the case to a Commission of Experts composed of the Prosecutor of the DCJ, the Deputy Ministry of Justice in Legal and Parliamentary Affairs and the Deputy of the Prosecutor-General. After reviewing the case, the Commission transmits the matter for final decision regarding qualification of the judge to the DCJ, which consists of the head of the judiciary, the head of the Supreme Court, the head of the first branch of the DCJ, the Prosecutor of the DCJ and the Prosecutor-General.

The membership structure of the DCJ undermines its independence, as two members of the DCJ are also members of the Commission of Experts, which would have been responsible for the earlier decision regarding the case. In addition, most members of the DCJ are not elected, but appointed by the head of the judiciary. Thus, the presence of the head of the judiciary in the DCJ renders the court's decisions effectively dependent on the decision of the head of the judiciary, who is in charge of filing complaints against the judges in the first place.

- Restrictions on the independent decision-making of the DCJ: According to Article 2 of the DCJL, the decisions of the DCJ are only valid if the majority opinion includes the opinion of the head of the judiciary. Secondly, the decision of the DCJ is restricted only to the announcement of the qualification or disqualification of the judges. The determination as to the type of the applicable disciplinary punishment in a case (e.g., dismissal, retirement or transfer of the judge) remains under the authority of the head of the judiciary.

LAWYERS

According to Article 35 of the Constitution "both parties to a lawsuit have the right in all courts of law to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel." The assigned lawyers, however, typically assume a passive role, and in some cases, have been openly denounced in the courts by the defendant for not telling the truth. The disciplinary court for lawyers within the Bar Association has not been active for a considerable time.

The Independent Bar Association (IBA) of Iranian lawyers, despite the turmoil concerning the freedom of press and the courts, was silent on the rights of the defendants to fair trial and the detention of the lawyers. The Union of Iranian Journalists met with the Speaker of the Parliament to complain about the passive role of the IBA over the detention of three of its members, Mehrangiz Kar, Shirin Ebadi and Mohsen Rohami.

According to a 1998 law, the judiciary is empowered to confirm the competency of all law graduates to receive a license as a lawyer. In his interim report on the situation of human rights in Iran, the Special Representative of the Commission on Human Rights asserted that "as the bar cannot be beholden to the judiciary, that provision clearly offends international standards of the independence of the bar, as well as the reputation of the 90-year-old Iranian institution." Several cases of disrespectful behaviour on the part of judges toward lawyers were reported to the Islamic Human Rights Commission.

Despite the Law on the Independence of the Bar Association, which declares that the Bar Association is the only competent authority to issue licenses to lawyers, the SCC accepts clergy members as lawyers. Moreover, the lawyers who are not clergy are banned from practicing their profession in the SCC, which requires the defendants to choose clerics as their lawyers. The non-cleric lawyers of Hojatoleslam Mohsen Kadivar, a reformist religious scholar, and Hojatoleslam Abdollah Nouri, a former Minister of Interior, were refused by the SCC and the accused were forced to receive the services of clergy for their defense.

CASES

Mehrangiz Kar (lawyer and women's rights activist): After her participation in the international Berlin conference, where she made a speech advocating women's rights, Ms. Kar was arrested on 29 April 2000 and detained without charge. She was freed on \$60,000 bail on 21 June 2000. Her family had not been informed of her place of detention and she was denied access to legal council and a fair trial. Shirin Ebadi, her lawyer, had to resign, stating in an interview on 5 June that she was not permitted to meet with her client when she was questioned. On 10 October 2000 she was tried, along with sixteen other reformist intellectuals, who attended the conference, and on 13 January 2001, she was sentenced to four-year imprisonment by Tehran Revolutionary Court on charges of "propaganda against the state" and "insulting Islam." Mrs. Kar has recently been diagnosed with breast cancer and was prevented for a while from leaving the country for medical treatment.

Mohsen Rahami (lawyer, human rights defender, a former member of Parliament, and professor of law at Tehran University), and Shirin Ebadi (lawyer, women's and children's rights defender): Mr. Rahami, a lawyer for students injured during the raid by security forces on student dormitories in July 1999, and Ms. Ebadi, an advocate of women's rights and a lawyer for writers and intellectuals murdered in 1998 and 1999, were arrested on 27 June 2000. Having represented the family members of the victims in "Serial Murders" cases, Mr. Rahami and Ms. Ebadi were accused of "disturbing public opinion" by producing and distributing a video cassette, in which Amir Farshad Ibrahim, a former member of *Ansar-i Hezbollah*, stated that *Ansar-i Hezbollah* vigilantes had received payments from senior clerics and conservative government officials to carry out attacks against reformists and dissidents, including a failed attempt to murder Hojatoleslam Abdollah Nouri, former Vice President and Interior Minister. The lawyers were held for weeks in pre-trial detention without access to legal counsel. After a closed trial in 27 September 2000, both lawyers received suspended prison sentences of fifteen months and were banned from practicing law for five years.

Nazar Zarafshan (lawyer): Mr. Zarafshan, attorney for the families of the serial murder victims, was arrested on 10 December 2000 for "revealing state secrets" and "engaging in propaganda against the Islamic system." Mr. Zarafshan had criticized the lack of investigation before the trial of

those convicted for these murders and suggested that a series of killings at the end of 1998 was part of a wider plot and that, therefore, other unsolved murders should be investigated and tried simultaneously. Mr. Zarafshan was freed on 13 December 2000, then rearrested shortly thereafter and held in solitary confinement until his release on 13 January 2001 on \$60,000 bail.

Hojatoleslam Sayyid Mohsen Saidzadeh (reformist legal scholar, lawyer and a former judge):

He was arrested without a warrant on 28 June 1998, and convicted by the SCC for his criticism of the legal situation of women under Iranian law and his advocacy of the equality of men and women before the law. After being held in incommunicado detention in Tehran for a prolonged period, he was released from prison in early 1999. He has been banned from performing any clerical duties and publishing for five years. As a result, he discontinued writing his monthly column, in which he had discussed various legal issues, focusing on women's rights.