

# IRAN

## POWER VERSUS CHOICE

### Human Rights and Parliamentary Elections in the Islamic Republic of Iran

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## SUMMARY

Iranians will vote on March 8, 1996, to elect 270 members of the parliament, or Majles, in an election process that severely limits citizen participation. Parliamentary elections could represent a real contest for power in Iran's political system—but only if arbitrary bans on candidates and other constraints on political life are lifted. As the campaign period opened on March 1, the government-appointed Council of Guardians had excluded some 44 percent of the more than 5,000 candidates on the basis of discriminatory and arbitrary criteria, significantly impairing access to the political process and citizens' freedom of choice. The council vetoed candidates by calling into question such matters as their commitment to the political system, their loyalty, and their "practical adherence to Islam," or their support for the principle of rule by the pre-eminent religious jurist (*velayat-e faqih*).

At the invitation of the Iranian government, Human Rights Watch was able to travel to Iran in early 1996 to investigate and discuss the human rights dimension of Iran's political process, and in particular the guarantees and restraints placed upon international standards of freedom of expression, association and assembly during the pre-election period. During this unprecedented three-week mission Human Rights Watch/Middle East interviewed dozens of political activists, lawyers, parliamentarians, writers, journalists, senior European diplomats and government officials in Tehran and Isfahan. Although denied permission to visit the city of Qom, where leading clerical critics of the government are imprisoned, Human Rights Watch was otherwise allowed broad access, including a private meeting with one of the longest-term political prisoners still in detention, former Deputy Prime Minister Abbas Amir Entezam.

The veto of the Council of Guardians, a twelve person government-appointed body of senior clerical figures and religious jurists, tightly controls access to the electoral process by vetting all candidates for the Islamic Consultative Assembly, or Majles. The council's veto cannot be challenged and it is not required to give reasons for its decisions. Such discriminatory and arbitrary interference in the right to stand for political office is a violation of Iran's obligations under international law to give its citizens the opportunity to participate in public affairs without imposing unreasonable restrictions.

The Constitution of the Islamic Republic of Iran states explicitly that members of the Majles should be elected directly by the people, and provides for the Council of Guardians to supervise presidential and Majles elections. Many Iranians contend that the Council of Guardians has overstepped the bounds of its impartial role envisioned by the Constitution's drafters. They argue that the council's decisions have been politically motivated. The council's power to exclude candidates in an arbitrary and discriminatory fashion has become the most controversial aspect of the election process.

The rights of free assembly and expression have been curtailed through violent attacks by pro-government mobs on opposition gatherings, leaders and bookstores. Opposition or independent journalists face prosecution, imprisonment and corporal punishment—as well as vigilante attacks—for exercising their right to free expression. Opposition political parties are denied legal registration, access to the major media, and the right to meet in public fora or to establish offices. Their public activities, where not banned, are subjected to ongoing harassment and violence from hezbollahi, groups of religious zealots loyal to various factions in the ruling political and religious leadership. Even religious scholars who dispute the ruling clerics have been imprisoned without charge or trial. Leaders of minority religious communities—notably the Baha'i and Sunni but also including some leading Shi'a clerics—remain wholly excluded from political life and face imprisonment or execution.

The government's toleration of, or support for the activities of violent mobs hezbollahi has had a particularly corrosive effect on basic freedoms. These attacks were met with inaction by security forces. The impunity with which these groups operate undermines the rule of law.

Although Article 26 of the Constitution provides for the right to form political parties, the rulers of the Islamic Republic have discouraged the formation of groups whose agendas it does not control. The official line has been that there should be no ideological division in the Islamic Republic, and that the country could be divided into those who

support the concept of velayat-e faqih and those who do not. Velayat-e faqih, and the idea of legitimacy through adherence to Islamic principles which it represents, is an elastic concept that creates space for a wide range of advocates for change. These include groups supporting a free market economy as well as those advocating increased state control, groups calling for rapprochement with the West and others calling for confrontation, all wrapped in the mantle of Islamic principles. But opponents of this concept have no place in the political contest. The decision as to who is for or against velayat-e faqih is not based on precepts established by law, rather it is a discretionary assessment of the leadership.

Iran's clerical leaders have concertedly discouraged the activities of independent political parties in a variety of ways, all in the name of national unity around shared Islamic goals. This intolerance even extends to other clerics who challenge the political and theological views of those in power. Groups opposed to the government are routinely denied access to the state-controlled electronic media and mass-circulation press, denied permission to publish their own newspapers, and subjected to official harassment and vilification. Freedom of the press is further constrained by the summary closure or suspension of the publication of magazines by executive order. The death in prison under suspicious circumstances of satirical writer Ali Akbar Saidi-Sirjani in November 1994, like the continuing death edict against British novelist Salman Rushdie, has had a chilling effect on freedom of expression; many writers believe that Saidi-Sirjani was killed on the instruction of the government. Even while the U.N. special rapporteur on freedom of expression was visiting the country, editor Abbas Maroufi was on trial for "publishing lies" in his magazine *Gardoun*--the results of a survey showing that Iranians are depressed by the lack of security in their society. He was subsequently sentenced to a six-month prison term and thirty-five lashes.

By monopolizing the interpretation of core ideological precepts, Iran's ruling elite has seriously undermined the rule of law in that country. Human rights safeguards contained within domestic legislation are qualified by reference to Islamic principles; the right to stand for election is reserved for those who demonstrate "a practical commitment to Islam;" the press is required to act in the best interests of Islamic society. The clerical leadership decides what these interests are in practice, and suppresses the views of those who dare to disagree.

Political parties from outside the closed circle of the current clerical leadership are effectively excluded from the political process. Dissident groups within the Shi'a religious leadership also face both exclusion and repression. Even if candidates survive vetting by the Council of Guardians, their party can be denied a license by the Commission on Political Parties, which can rule arbitrarily because it is not required to give reasons for its decisions. The lack of a license under the Political Parties Law limits candidates' access to the news media. Most importantly, leaders and supporters of political parties not approved of by the government are routinely subjected to harassment and physical assault. They frequently find their activities blocked by government forces without a reason being given and without effective recourse to the courts.

The Iranian Constitution provides safeguards for freedom of expression, but they are qualified by requirements to uphold "Islamic principles" and "the interests of the people." Similarly, the 1985 Press Law requires the press "to enjoin the good and forbid the evil" and to "promote the goals that are expressed in the Constitution." These loosely defined directives provide the authorities with broad discretion to suppress newspapers, books and other forms of expression of which they disapprove.

All daily newspapers are controlled by the clerical leadership. The government has closed newspapers by executive order, in violation of press laws requiring charges against the media to be brought before a court. Some journalists have been intimidated, harassed, or imprisoned, and two-- Sadeq Javadi Hessari and Abbas Maroufi-- now face sentences of imprisonment and flogging. No opposition political parties are permitted to publish newspapers, although there are some newspapers and magazines representing diverse viewpoints, including views critical of the government. These publications can be and are easily controlled, short of closure, by limiting the availability of subsidized paper for printing. Arbitrary closure of newspapers and magazines and the prosecution of writers and editors for expressing opinions protected under internationally accepted norms of free speech are clear violations of Iran's obligations under international law.

As challenges to the government's legitimacy gain strength, it is clear that writers and journalists are becoming more fearful of reprisal. Writers who were willing to be quoted openly by Human Rights Watch, three years ago, insisted on anonymity this year. Works are subjected to rigorous censorship by a commission under the Ministry of Culture and Islamic Guidance. No reasons for delaying publication need to be provided. Writers and publishers have no avenue for seeking redress through the courts to allow publication of a blocked work.

## RECOMMENDATIONS

### To the government of Iran

- Candidates should be allowed to stand for election to the Islamic Consultative Assembly without regard to their political, religious or other beliefs. Disqualification on other grounds should only be permitted according to clear written criteria established in law.
- Candidates denied permission to run should be informed of the reasons for their exclusion and given the opportunity to challenge their exclusion before an impartial body.
- The government should uphold the right to non-violent freedom of assembly for all, including supporters of opposition political groups and parties.
- The government should take immediate and effective measures to put an end to attacks on public meetings and individuals critical of government policies. Government officials must refrain from endorsing or supporting in any way such attacks. Those responsible for such attacks, and for acts of destruction such as the burning of bookstores, should be prosecuted in accordance with the law.
- All political parties whose activities are not illegal should be allowed access to state-controlled media and to participate fully in political life.
- The government should cease the practice of arbitrarily closing magazines and newspapers by executive order.
- Writers, publishers and editors should not be prosecuted, imprisoned or subjected to corporal punishment for exercising the internationally recognized right of free expression.
- The government should repudiate unequivocally the edict calling for the death of British author Salman Rushdie.
- The government should lift restrictions on domestic human rights monitors and cooperate with international human rights monitors from the United Nations and independent nongovernmental organizations.

### To the International Community

- Condition future technical and economic assistance to the government of Iran on the fulfillment of the above conditions.
- Urge Iran to open its doors to international nongovernmental human rights monitors from the United Nations and independent nongovernmental organizations.
- Encourage and facilitate nongovernmental contacts among individuals and organizations concerned with issues of political and civil rights, including scholars, journalists and parliamentary representatives.

## BACKGROUND

On March 8, 1996, Iranians will go to the polls to elect the fifth Islamic Consultative Assembly (*Majles*) of the Islamic Republic of Iran. The human rights situation, in this as in any election, will be an important factor in assessing the outcome. If basic freedoms of expression, association and assembly are lacking in the society then it is unlikely that the conduct of the election will be free and fair, or that its outcome will be a true reflection of the will of the electors.

This report gives an account of the state of basic freedoms and the rule of law in Iran during the run-up to these parliamentary elections. It is based on an unprecedented three week Human Rights Watch research visit to the Islamic Republic, the first in recent years by an independent non-governmental human rights organization, carried out at the invitation of the Iranian government.

Human Rights Watch visited Iran from January 1 to January 22, 1996. During the visit, the organization's delegate met with political activists, lawyers, parliamentarians, writers and journalists and senior European diplomats as well as with Iranian government officials. Her movements were closely monitored by the government, but a wide range of meetings were nonetheless possible in Tehran and Isfahan. While her request to visit the city of Qom to meet with supporters of imprisoned religious leaders was denied, she was able to meet with individuals representing a wide range of political views.

These elections come at a time when Iran's government is facing increasingly vocal calls from within the society for fundamental changes in the form of government established after the 1979 revolution that brought Ayatollah Ruhollah Khomeini to power as Leader of the Islamic Republic. There is widespread discussion about the role of the clergy in politics and the need to separate religion and state. These calls for change have found a ready audience outside Iran, among the large exile community and among Western governments. Inside Iran, though, the leadership that has monopolized power since the early days of the revolution continues to dominate the political landscape. The government is able to derive popular support from some of these pressures, including international criticism of its human rights record, by presenting itself as upholding Iranian sovereignty and Islamic principles in a hostile world. The space for dissent in the context of this populist rhetoric is narrow. Legal and administrative restrictions on basic freedoms of speech and political participation constrict that space even further.

Serious discussion of Iran's human rights situation has been caught up in a war of words between Iranian and Western government officials. The Iranian government portrays human rights criticisms as cynical attempts by hostile powers to undermine its policies, an approach that has credence in Iran owing to U.S. rhetoric and policies explicitly aimed at toppling the government in Tehran. Hojatoleslam Nourbaksh, a national security advisor to President Hashemi Rafsanjani, told Human Rights Watch that Iran would never "surrender to direct or indirect pressure from Western powers whose aims are to use human rights as leverage against Iran."<sup>1</sup>

Iran in the past has obstructed international human rights organizations wishing to visit Iran and denied independent local human rights organizations the right to monitor and report on domestic conditions. This has meant that the human rights debate has taken place in an extremely politicized atmosphere and with limited evidence. The visit by Human Rights Watch/Middle East coincided with that of the two special rapporteurs of the United Nations Human Rights Commission dealing with freedom of expression and religious intolerance. These visits were quickly followed by the visit--the first in five years--by the United Nations special representative on the human rights situation in Iran, the newly-appointed Maurice Copithorne of Canada. Hopefully these visits represent the beginning of a trend of greater openness to human rights monitoring, both international and domestic, by the Iranian government. For its part, Human Rights Watch hopes to be able to return to Iran in the near future for a mission free of obstructive surveillance by the authorities. Facilitating access for such monitors, who serve as human rights safeguards, is required under international law.

The rancorous tone of the human rights debate in Iran today is captured in the officially authorized graffiti in Tehran and slogans at pro-government rallies which call for "Death to Galindo-Pohl," referring to Mr. Copithorne's predecessor as U.N. special representative. Reynaldo Galindo-Pohl's relations with the Iranian government took a turn

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<sup>1</sup> Human Rights Watch interview with Hojatoleslam Nourbaksh, Tehran, January 6, 1996.

for the worse when his reporting became more critical, in accordance with his mandate from the U.N. Human Rights Commission.

At the present time, the generally negative tone of the debate between Iran and Western governments means that any human rights report risks being taken up as a propaganda weapon by one side or another. Member of Parliament Said Rajaie Khorasani, who has formed a human rights committee within the parliament, told Human Rights Watch that in the early years after the revolution the government purposefully characterized human rights criticism as part of the international conspiracy against it. In his view, it has become extremely difficult to make people understand that human rights is not just propaganda and that it is relevant to problems people face in their every day lives.<sup>2</sup>

Towards this end, the debate about the human rights situation must, to the extent possible, be based on the facts. The focus of this report is on those human rights concerns likely to have a bearing on the election process, but it is not an effort to assess the fairness of these elections. Neither is it an assessment of the overall human rights situation in Iran today. Many of the human rights problems that are discussed here exist apart from the elections, and demand the immediate attention of the Iranian government and of those outside parties truly concerned with promoting respect for human rights in that country.

### ACCESS TO THE POLITICAL PROCESS

Article 99 of the Constitution of the Islamic Republic of Iran invests the Council of Guardians with responsibility for supervising elections for the presidency and for the Islamic Consultative Assembly, or Majles, in order to prevent executive branch involvement in the electoral process. The Constitution also stipulates that elections should be supervised by an impartial body.

The Council of Guardians is made up of twelve appointed members--six religious authorities and six jurists. The clerical members are appointed by the Leader of the Islamic Republic, currently Ayatollah Khamene'i; the jurists are nominated by the head of the Judiciary, himself appointed by the leader, and approved by the Majles.

Because of its role in the last several parliamentary elections, there is now debate in Iran over whether the Council of Guardians has played the impartial role intended by the Constitution's drafters. In practice, the council has excluded candidates who, in its view, "lacked a practical commitment to Islam," or "failed to uphold the principles of *velayat-e faqih* (rule by the pre-eminent religious jurist<sup>3</sup>)." The council is not required to give reasons for its exclusions. Its decisions are final and not subject to appeal.

Many Iranians, including those excluded from previous elections, have objected that the Council's decisions have been politically motivated, or based on unsubstantiated allegations, and they have accused the Council of exceeding its constitutionally-specified mandate by arrogating to itself quasi-judicial and quasi-legislative powers. In short, these critics argue that "supervision" does not include the power of veto over who is eligible to stand for parliament. As the Constitution states explicitly that members of the Majles should be elected directly by the people and not through the mediation of the Council of Guardians or any other official body, the exercise of this veto is itself unconstitutional.

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<sup>2</sup> Human Rights Watch interview with Said Rajaie Khorasani, Tehran, January 10, 1996.

<sup>3</sup>According to the Constitution, the position of Leader of the Islamic Republic is to be filled by the *Faqih*, the leading religious authority of his era who is empowered to issue authoritative rulings on interpretation of Islamic Law.

In 1995, in an attempt to establish firmly in law the veto powers of the Council of Guardians, the Majles enacted amendments to the Law on Elections to the Islamic Consultative Assembly which stipulated vetting procedures, but this did little to clarify the legal basis for such powers.<sup>4</sup> Under these amendments, the council can appoint supervisory committees with powers of oversight in each electoral district. The council can review decisions of exclusion and inclusion taken by the supervisory committees, but the legal basis on which disqualification is based remains vague and arbitrary. The Council's veto powers continue to be criticized heavily by government opponents. For example, *Salam* newspaper wrote that the powers of the Council of Guardians "proved right the forecasts by those who believe that no positive changes will be seen in the Majles elections and in how the rightist factions and the Council of Guardians will act in omitting candidates from the lists."<sup>5</sup>

Even the members of the Council of Guardians appear divided on the scope of their supervisory powers. According to Ayatollah Mohamed Emami-Kashani, the council's official spokesman:

The Guardian Council supervises matters on a level that has nothing to do with who's who, where he's from, and which group or individual he represents.... The Guardian Council does not concern itself with the [candidates'] eligibility. Neither does it concern itself with the election procedure, whether it is carried out correctly or not. It concerns itself with whether there have been any violations, and whether those violations have disrupted the election procedure. That is the point. It means the Guardian Council considers the law. Under the law the people put forward their candidates, in accordance with criteria of practical adherence to Islam. Obviously one who does not adhere to Islam could not be a representative [of parliament] in an Islamic republic. [The candidate] should also be loyal to the Islamic Republic and the Supreme Jurisconsult. He should declare his loyalty. He should demonstrate his loyalty. It is not a matter of qualifications....<sup>6</sup>

The Leader of the Islamic Republic, Ayatollah Khamene'i, has described the main criteria for competent parliamentary candidates as:

commitment to the system, Islam and the revolution, and that they endeavor to carry out their responsibilities and representational duties. Those given to misappropriation and uncommitted to revolutionary mission and representational responsibilities must be prevented from entering the Majles.<sup>7</sup>

Sa'id Rajaie Khorasani told Human Rights Watch that he supports the role of the Council of Guardians. He gave as an example the exclusion from eligibility to run in the 1991 election of Hojatoleslam Sadegh Khalkhali, a revolutionary court judge and former member of parliament. He said that documents show him to be a thief, and that such people should be excluded..<sup>8</sup>

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<sup>4</sup> The date of the amendments was July 26, 1995 (*Mordad* 1374).

<sup>5</sup> *Salam* newspaper (Tehran), December 17, 1995, p.2, as printed in Foreign Broadcast Information Service, Near East and South Asia (FBIS-NESA), January 3, 1996, p. 90.

<sup>6</sup> Ayatollah Mohammad Emami-Kashani, Friday Prayer sermon, Tehran University, as printed in FBIS-NESA, January 26, 1996.

<sup>7</sup> Ayatollah Khamenei speaking on Iranian television, Feb. 3, 1996, as printed in FBIS-NESA, February 5, 1996 p. 59.

<sup>8</sup> Human Rights Watch interview with Said Rajaie Khorasani, leader of the Parliamentary Human Rights Committee, Tehran, January 10, 1996. Hojatoleslam Khalkhali was, however, never prosecuted as a thief.

Ayatollah Emami-Kashani has stated that eligibility “can be demonstrated by expression of faith without the need for this to be proven.” Ayatollah Ahmad Jannati, the Council of Guardian’s secretary, is more forthright about the validity of the council’s veto powers. “Practical commitment to the absolute authority of the *Faqih* is required,” he stated, implying that this commitment may be established by inquiry,<sup>9</sup> even though Article 23 of the Constitution prohibits the government from inquiring into the beliefs of its citizens.

Ayatollah Jannati has compared the powers of the council to those of a magistrate. It is precisely these powers to inquire into and make judgments on alleged violations of law or deviations from Islamic conduct that have drawn criticism. Ayatollah Jannati’s critics point out that judicial power is vested solely in the independent judicial branch of government; by assuming these functions, the Council of Guardians undermines the principle of separation of powers. Whereas court verdicts are subject to appeal by higher courts, the decisions of the council are not subject to independent appeal. Critics object further that by making criminal accusations against individuals without the obligation to substantiate them and without proceeding to a criminal prosecution, the council brings the idea of the rule of law into disrepute<sup>10</sup>. Other critics point out that “offenses” the council may find objectionable in a potential candidate may well not be illegal by statute. Thus the council is in effect basing its decisions to exclude candidates on its own unwritten law, a further self-extension of its constitutional powers.<sup>11</sup>

Dr. Ebrahim Yazdi, leader of the illegal (but tolerated) Iran Freedom Movement and former minister of foreign affairs during the transitional government of Mehdi Bazargan, told Human Rights Watch that decisions of the Council of Guardians to exclude candidates are “unfair and arbitrary.”<sup>12</sup> Yazdi stated that the council’s power of veto over candidates was unconstitutional, as it interferes with the people’s right to choose its own representatives. He objected to the powers of the Council of Guardians as an unwarranted interference by the executive branch of government in the electoral process. “We need an independent supervisory body for the elections, separate from the government.”

Fifteen supporters of the Freedom Movement put themselves forward as candidates in the parliamentary election. Initially only four of the fifteen were approved by the supervisory committees of the Council of Guardians.<sup>13</sup> Human Rights Watch learned that the excluded candidates were told to appeal the decision to the Council of Guardians, but they were not informed of the reasons why their applications had been denied.<sup>14</sup> Just before the official start of the election campaign, three of the four FMI candidates, including Dr. Ebrahim Yazdi, the former foreign minister who has headed the group since the 1995 death of former prime minister Mehdi Bazargan, were disqualified as well.<sup>15</sup>

Article 25 of the International Covenant on Civil and Political Rights, to which Iran is a State Party, provides that:

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<sup>9</sup> Ayatollah Ahmad Jannati, as printed in FBIS-NESA, January 26, 1996.

<sup>10</sup> For example, the council stated on February 12, 1996 that it had excluded candidates who “tried to buy votes.” These candidates were not identified, and no further measures were taken against them.

<sup>11</sup> See, commentary by ‘Abbas ‘Abdi, *Salam*, December. 17, 1995, as printed in FBIS-NESA, January 3, 1996 p. 90.

<sup>12</sup> Human Rights Watch interview Dr. Ebrahim Yazdi, Tehran, January 3, 1996.

<sup>13</sup> Some of the nominated candidates were: Ebrahim Yazdi, Abdolali Bazargan, Gholamabbas Tavasoli, Mohammad Tavasoli, Hashem Sabbaghian, Hassan Farid Alam, Nourali Tabandeh, Habib Davaran, Abolfazl Mir Shams Shahshahani, Nezamo-al-din Ghahhray, Ardalahy Mohammady, and Ali Akbar Moeenfar.

<sup>14</sup> Telephone interview with Dr. Ebrahim Yazdi, February 16, 1996.

<sup>15</sup> Telephone interview with chief staff of Freedom Movement of Iran Abass Abouzari, February 27, 1996.

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 [of the Covenant, these are: race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.] and without unreasonable restrictions:

- a. To take part in the conduct of public affairs, directly or through freely chosen representatives;
- b. To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

The powers of the Council of Guardians to veto the participation of candidates in the election on the basis of loosely defined, uncontestable criteria constitutes a clear violation of the rights of political participation upheld in the Covenant.

Moreover, the constitutional grounding on which the council bases its authority is disputed in Iran. Proponents of the council's broad authority, like Ayatollah Jannati, have declared that as a body appointed by the Leader the council has absolute powers, second only to those of the *Faqih*. Ayatollah Khamene'i has stated that "the Council of Guardians is an untouchable institution and no criticism of it will be tolerated." His instructions to the council to "use the law as your guideline" were inconsistent with his observation that "the Constitution is secondary to Islam and religion."<sup>16</sup>

In practice, some powers of the Council of Guardians have been diluted. In 1988, Ayatollah Khomeini decreed the creation of the Assembly for the Determination of Exigencies, with authority to resolve conflicts between the Majles and the Council of Guardians and to override the council's powers of veto over legislation. The Constitution in fact provides for the separation of powers, including a popularly elected parliament. While giving precedence to Islamic precepts over other provisions, the Constitution does not, in theory, provide any one branch of government with absolute powers. In practice, rather than being based on written laws, actual rights of access to the electoral process come down to a question of power politics. The government can and does exclude from the process those whom it deems unacceptable for ideological or whatever other reasons. By giving primacy to undefined Islamic values over codified law, the leadership reserves for itself the absolute power to exclude candidates it finds undesirable.

By the deadline of February 12, 1996, 5,121 prospective candidates had presented themselves for election to the 270-seat Majles. Forty-four percent of these were excluded by the council from appearing on the ballot. Because the council provides no reasons for its exclusions, there is no way to judge which if any of these are on the basis of clear criteria rooted in Iranian law and which are inappropriately based on a candidate's religious or political belief and therefore stand in violation of Iran's obligations as a party to the ICCPR. Valid legal criteria can be adjudicated by the courts, without the need for oversight by a political body like the Council of Guardians. Such a structure would bring Iranian practice closer to conforming with its international obligations, and provide a framework in which access to the political process would be guaranteed to all without discrimination on the basis of opinion or other arbitrary factors.

## FREEDOM OF ASSEMBLY

The right to freedom of assembly is specified in the Constitution of the Islamic Republic but qualified by a requirement that exercise of this right "should not violate the principles of Islam."<sup>17</sup> Article 21 of the International Covenant on Civil and Political Rights, to which Iran is a signatory, is more unequivocal:

No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public

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<sup>16</sup>*Ettela'at* newspaper (Tehran), February. 8, 1996.

<sup>17</sup>Constitution of the Islamic Republic of Iran, Article 27. For a discussion of restrictions and unilateral derogations from international standards contained in the Constitution, see, Ann Elizabeth Mayer, *Islam and Human Rights*, (Boulder, Col.: Westview, 1991), pp. 78 - 86.

safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

The government of Iran persistently and systematically violates the right to freedom of assembly. On January 2, 1996, Seekers for a Free Election, an organization set up by members of the Freedom Movement and the National Front to monitor violations during the election period, tried to hold a press conference. The police intervened, stating that they were unable to guarantee the security of the event. The organizers tried again on January 31 to hold a press conference at the house of one of the group's leaders. Police intervened on this occasion on the grounds that it was an illegal group. The group has complained that the police actions contradict repeated government assurances that the elections will be free.

Freedom of assembly has also been curtailed to suppress public protests and popular civic movements. In 1995, street demonstrations protesting economic conditions were forcefully put down by the security forces and those seized were held indefinitely in incommunicado detention, without charge or trial. Hundreds of protesters arrested after a demonstration against increased bus fares in the Islamshahr suburb of Tehran in April 1995 remain in detention without charges almost a year after their arrest by Revolutionary Guards.

Nothing has had a more corrosive influence on the climate of respect for basic freedoms than the government's toleration of, and in some cases even open encouragement for, the violent activities of groups of religious zealots, known in Iran as *hezbollahi*, or partisans of God. Such groups frequently have allegiance to various figures in the government and the clerical leadership. They have targeted government critics and free-thinkers of all kinds, burning property, beating individuals and disrupting gatherings.

The Human Rights Watch delegate was able to observe the permissive attitude of the authorities towards the activities of these vigilantes when she attended a memorial service for Mehdi Bazargan in Tehran on January 19, 1996. During the ceremony, an individual known previously to have physically assaulted the philosopher and writer Abdolkarim Soroush tried to shout down speakers criticizing the authoritarian nature of the government. The police stood by and did nothing. Outside a group headed by a strong-arm leader known as Haji Bakhshi drew up in a car and parked immediately outside the mosque, even though this would ordinarily be forbidden. They tried to disrupt the ceremony by claiming that one of the participants had broken a window in their vehicle. The police took this as a pretext to break up the memorial service. When Human Rights Watch brought its concern about the activities of known pro-government "vigilantes" to Hojatoleslam Nourbaksh, he at first denied that the problem existed but later agreed that it was a cause for concern and said that the government would look into the problem.

In August 1995, the Morgh Amin bookstore in Tehran was firebombed because it had published a book condemned by some authorities as un-Islamic. Some high-ranking officials, like Council of Guardians member Ayatollah Jannati, praised the actions of those who burnt the store, saying that they had only done what the authorities should have done. Supporters of President Rafsanjani responded by asking "how a man who is a member of the legislature can encourage thugs to take the law into their own hands."<sup>18</sup> Hard-liners responded that it was the testament of Ayatollah Khomeini that the Hezbollahi should take up the task of protecting Islam whenever the authorities failed. On August 21, 1995, when *Salam* newspaper accused Ayatollah Jannati of "encouraging anarchy," a mob gathered outside the newspaper offices shouting "death to the enemies of Islam." In September, more than forty publishers sent an open letter to President Rafsanjani calling on the government to "deal legally with anti-cultural elements and book burners."<sup>19</sup> The next month, on October 31, 1995, another Tehran bookstore named Attar was torched by a mob.

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<sup>18</sup>*Middle East International*, September 8, 1995, p. 13.

<sup>19</sup>*Ibid.*

Nor have such attacks been confined to “secular” targets. On February 15, 1996 a mob that included Haji Bakhshi attacked a memorial service in a Tehran mosque commemorating the death in Vienna of the well-known leftwing poet, Siavash Kasraie. A number of literary personalities, including Mohammed Ghazi and Houshang Golshiri, were severely beaten by the mob, who disrupted the service with chanting and violence.

The leader of Freedom Movement of Iran, Ebrahim Yazdi showed Human Rights Watch copies of letters he had written over a period of years to the public prosecutor’s office calling attention to threats to his person and property. In 1994 a mob had set fire to his house. Dr Yazdi complained but no action was taken by the authorities. Although the right to form political parties is provided for in Article 26 of the Constitution, the leadership of the Islamic Republic has discouraged the formation of groups organized around agendas that it does not control. Ayatollah Khomeini dissolved the ruling clerical leadership’s own party, the Islamic Republican Party, in 1987. Since then the official line has been that there should be no ideological division in the Islamic Republic,<sup>20</sup> and that the population can be divided into those who support the concept of *velayat-e faqih* and those who do not.

The formation of factions and interest groups has flourished even while formal political parties have remained weak. *Velayat-e faqih*, and the idea of legitimacy through adherence to Islamic principles, which it represents, is a sufficiently elastic concept to permit the emergence of a wide range of groups advocating change. These include groups supporting a free market economy as well as groups advocating state control, groups advocating rapprochement with or confrontation against the West. All clothe themselves in the mantle of Islamic principles and adherence to *velayat-e faqih*.

Since this concept is a core principle of the Constitution, and adherence to the Constitution is a pre-condition of participation in elections, the opponents of this concept are denied a role in the political contest. Interpretation of who is for or against *velayat-e faqih* by definition a subjective matter carried out at the discretion of the leadership. A group wishing to register as a political party under the Political Parties Law of 1981 must submit documentation to the Ministry of the Interior, which refers the matter to an appointed five-person Political Parties Commission, provided for under Article 10 of the Law,<sup>21</sup> to consider whether to grant the party a license. Under Article 12 of the Political Parties Law, if the commission does not issue or deny a license within three months, the Ministry of the Interior is required to issue the license. Under the Constitution the commission cannot order the closure of a political party, but it can refer the application to a special court, as provided for in Article 168 of the Constitution, with the recommendation that the court should issue an order for the party’s dissolution.

The experiences of the Freedom Movement of Iran, the Iran Nation Party and the National Front illustrate the difficulty of the process of applying to register under the law. The Freedom Movement filed a request to register as a political party in 1982, immediately after the passage of the Political Parties Law. In 1988, when the party was informed that the law had come into effect it submitted further supporting documents. Four years later, in 1992, it was informed that its application had been denied. No reason was given.

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<sup>20</sup> Opposition leader Ebrahim Yazdi told Human Rights Watch that the rulers “do not recognize any difference between them and the system.” They portray any criticism of their policies as an attack on the system itself. Yazdi points out that this contradicts the constitutional right to change the government every four years through elections. Human Rights Interview, Tehran, January 3, 1996.

<sup>21</sup> This commission consists of two representatives of the judiciary, two members of the *Majles*, and a representative of the Ministry of the Interior.

According to law, because of the delay in the commission's response, the party's license should have been issued automatically by the Ministry of the Interior. The Freedom Movement brought a suit against the commission before a civil court in 1992. The court decided that it was not competent to rule on the party's objections to the commission's decision.<sup>22</sup> The case currently rests with an administrative division of the courts.

Asadollah Badamchian, chairman of the Political Parties Commission, has said that the Freedom Movement will never be given a license as a political party. The commission is not required to give reasons for its decisions, but Mr. Badamchian has called the Freedom Movement "disloyal" for saying that "the clergy cannot be entrusted with the task of running the country." Mr. Badamchian has also stated that the Iranian people had rejected the Freedom Movement, citing the fact that none of its candidates were elected to the Second Majles. (The Freedom Movement had withdrawn from these elections because its headquarters were closed, its newspaper banned and its candidates attacked by mobs.) Badamchian further noted that "disloyal acts"—like complaining to the international media about the lack of freedom prompted the commission to deny the Freedom Movement a license.<sup>23</sup>

Lack of a license does not make a party illegal per se. The commission itself stated that all groups with or without a license can be active. Many unlicensed groups hold meetings and even publish newspapers, while political parties in existence for decades are not permitted to do so. But unlicensed status excludes a group's candidates from coverage on radio and television and in mass circulation government-controlled newspapers. The lack of a license is used a pretext to prevent it from holding activities in public buildings like universities, mosques, and streets. Nor can an unlicensed party have an official office.

Perhaps most important is the vulnerability of opposition leaders and supporters to violent attacks and other extra-legal measures through which government intolerance is expressed. Unlicensed political groups are denied effective police protection for their public activities and may be physically attacked by militant supporters of the government. Official intolerance of party activities is often demonstrated in physical attacks on meetings by *hezbollahi*, or by arbitrary acts against party supporters, rather than through measures to suppress them under the law. In July 1995, for example, a mob attacked the memorial service of Dr. Karim Sanjabi, a leader of the banned but tolerated National Front and a former minister in the transitional government of Mehdi Bazargan.<sup>24</sup> The authorities took no action to restrain the attackers or to pursue and prosecute them after the event.

Attacks on the opposition can also take non-violent but no less devastating forms. In January 1995, a supporter of the Freedom Movement in Zanjan, Ahad Rezaie, held a ceremony in his house to mark Bazargan's death. The authorities were informed and the gathering passed off peacefully. Soon afterwards, however, Mr. Rezaie received a notice from his landlord that he should close his business, the Chamaran Bookstore. He was not given any reason; he has complained to different authorities for a year now without receiving any response.

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<sup>22</sup>The party argued that under the Constitution it did not require permission to carry out its activities, and it had sought registration merely for the convenience of having official registration. The party argued that the Commission was not competent to rule against its activities.

<sup>23</sup>Assadollah Badamchian, quoted in *Iran Times*, December 1, 1995, p. 15.

<sup>24</sup>Human Rights Watch interview with Darioush Forouhar, Tehran, January 4, 1996.

“The people are afraid to support us,” stated Dr. Yazdi. “Freedom without security is meaningless. By failing to grant the opposition the facilities to carry out its legitimate activities the government is denying the people its rights, eliminating avenues of constructive and peaceful protest and encouraging uprising and social unrest. Unless the activities of these paralegal vigilante groups are contained by the government the elections will be meaningless and no one will believe in them.”<sup>25</sup>

There are few other political parties. Opposition parties like the Tudeh Party and other groups on the left were banned in the early years of the revolution. Pre-revolutionary parties like the National Front and the Iran Nation Party have called for a boycott of the elections because, according to National Party leader Darioush Foruhar,

In the present atmosphere it is impossible to hold free elections. We are not allowed to circulate our newspaper and we cannot hold a public rally without it being attacked by a mob.<sup>26</sup>

Human Rights Watch was able to meet with former Deputy Prime Minister Abbas Amir Entezam, even though he remains under house arrest. Entezam, who has been a political prisoner since late 1979 on unproven charges of espionage for the United States, also called for a boycott of the elections and for a referendum to change the system because “it is impossible to have democracy under the present system.”<sup>27</sup>

Shi'i Muslim religious leaders whose views differ from those of the ruling circle are also excluded from the political process by extralegal means, including vigilante attacks and sometimes by imprisonment. For example, in January 1995, Grand Ayatollah Sadeq Rouhani wrote an open letter to President Rafsanjani stating that life in Iran had become “unbearable for those who abide by the true principles of our Islamic faith.” He stated that he wished to leave Iran because his life was at risk from “armed criminals.” He also criticized specific government practices, including night raids on private homes on the pretext of searching for alcohol, and confiscation of property without due process of law. In a second open letter, published in June 1995, Grand Ayatollah Rouhani criticized arbitrary detention, beatings of prisoners and extrajudicial executions. In an apparent response to his statements in July and August 1995, the authorities detained twenty-five of his followers, including his son Javad. In November 1995 at least eighteen followers of Grand Ayatollah Shirazi were detained without charge because of criticism of Iran's present form of government.

Human Rights Watch tried to visit Qom, the center of clerical learning in Iran, to meet with family members and associates of the imprisoned religious figures and to learn more about their situation. Grand Ayatollah Shirazi had agreed on January 10, 1996, to receive the Human Rights Watch delegate. Government representatives, though, denied the delegate permission to visit Qom, charging that these people “sought to undermine the basic structures of the Islamic Republic.” The government has not even pretended that these prisoners of conscience were being dealt with in accordance with law. The assertions by these clerics that the present government lacks religious legitimacy places them over the line in terms of permitted political discourse.

Non-Shi'i religious groups face even more direct repression, to an extent that excludes them from political life altogether. Members of the Baha'i faith are forbidden to practice their religion. In January 1996, a Baha'i who had converted to Islam in order to keep his job, was sentenced to death after he continued to practice his original faith. (Since 1979 many hundreds of Baha'is have been executed for their religious beliefs, and hundreds of thousands have fled to avoid persecution.) Members of the minority Sunni Muslim community have been sentenced to death, apparently for their religious views. During her visit, the Human Rights Watch delegate received a report of the execution of sixteen Sunnis, though it was not possible in the time available to verify this information.

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<sup>25</sup>Human Rights Watch interview with Dr. Ebrahim Yazdi, Tehran, January 3, 1996.

<sup>26</sup>Human Rights Watch interview with Darioush Foruhar, Tehran, January 19, 1996.

<sup>27</sup>Human Rights Watch interview with Abbas Amir Entezam, Tehran, January 11, 1996. In February 1996, Entezam announced the formation of the Iranian National Salvation Front.

In the absence of functioning political parties, the most significant organized forces in the election are groups such as the religious teachers' associations. The Jame-e Ruhaniyat-e Mobarez (Militant Clerics Society, or JRM) is the dominant group in the present Majles. Its thirty candidates this time for the thirty seats in Tehran were all elected in the 1992 elections. The Majma-e Ruhaniyun-e Mobarez (Militant Clergymen's Association, or MRM) had been the leading force in the third Majles, but suffered defeat in the 1992 elections, and in some cases exclusion from the ballot.

President Rafsanjani is on record as wishing to see the creation of strong political parties in Iran. "It would be better if we had serious parties," he told a television interviewer in November 1995. "Once they had a majority in the Majles, they would naturally form the government and the government would enjoy a Majles that worked in cooperation with it." The lack of parties in the Majles complicates the task of building majorities to enact legislation, and obstructs the plans of the executive branch. A group of leading government officials closely identified with the president announced their intention to form a new political party, Mardom-e Iran (People of Iran) in December 1995. The proposal provoked vehement opposition, however, especially from the influential JRM, and the plans for the new party have been postponed until after the election. At the time of writing, it was unclear whether the JRM's list of candidates would face opposition from a list of prominent government supporters identified with President Rafsanjani, or whether attempts at mediation led by the Leader, Ayatollah Khamene'i, would result in a JRM list that includes supporters of the president. A group of radical clerics, led by former Majles member and Minister of Heavy Industry Behzad Nabavi, the Mojahedin of the Islamic Revolution, prepared a list to compete with the JRM candidates. At least sixty of their supporters in different provinces were rejected as candidates.

In view of the vigorous jockeying for position taking place between different factions in the run-up to elections, the results are not a foregone conclusion. But the electoral contest is not an open one between political parties. Rather, it takes place behind closed doors, at meetings of the governing council of the JRM, or in negotiations between government leaders over the formation of electoral lists.

## FREEDOM OF EXPRESSION

The pre-election period presents an opportunity to assess the extent of the Iranian government's compliance with its international obligations to uphold freedom of expression. The authorities' response to statements that might portray their record in a bad light bears particular scrutiny, as does the official response to the efforts of the government's opponents to communicate their message to potential supporters.

Iran is required by its international obligations to respect the right to freedom of expression. Article 19 (2) of the International Covenant on Civil and Political Rights, for example, states:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

The Iranian Constitution's safeguards for freedom of expression are qualified by requirements to uphold "Islamic principles" and "the interests of the people." Similarly, the 1985 Press Law requires the press "to enjoin the good and forbid the evil," and to "promote the goals that are expressed in the Constitution."<sup>28</sup> These loosely-defined directives provide the authorities with broad latitude to suppress newspapers, books and other forms of expression of which they disapprove. All mass-circulation daily newspapers are controlled by the clerical leadership. Titles which have been critical of some aspects of the policies of the present government are dependent on support and protection from the leadership. For example, the editor of a newspaper often critical of the government told Human Rights Watch

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<sup>28</sup> For a full discussion of freedom of expression issues in Iran, see, Middle East Watch (now Human Rights Watch/Middle East), *Guardians of Thought, Limits on Freedom of Expression in Iran*, (New York: Human Rights Watch, August 1993).

that he was able to get away with publishing critical articles because “we have very strong connections.” There are a few independent newspapers, journals and magazines. According to instructions from the Ministry of Culture and Islamic Guidance, such periodicals are not permitted to deal with political issues, but they do engage in political debate under the cover of social, economic or literary subjects.

When they do, however, they risk closure. Since January 1995 at least seven titles have been closed down, mostly by administrative order of the Ministry of Culture and Islamic Guidance.<sup>29</sup> The government closes newspapers by executive order, in violation of press laws requiring that charges be brought before a court. The government submitted the draft of a new press law to the Majles in June 1995 that would provide the Ministry of Islamic guidance with powers to order the closure of publications without the need for prior court approval, thus writing into law powers that it has been exercising for years. After pressure from journalists the draft law was withdrawn from the Majles in October 1995, but it may be reintroduced when the new Majles convenes.

A number of journalists have been convicted of offenses under the press law and are serving prison terms. These include cartoonist Manouchehr Karimzadeh, who was prosecuted in 1992 for drawing a cartoon of a soccer player said to resemble, and thereby to insult, Ayatollah Khomeini. Journalists sentenced to prison terms for freedom of expression crimes often face additional writing bans that extend beyond the prison sentences. Abolghassem Golbaf, publisher of the monthly magazine *Gouzarish*, was sentenced to three months in prison in January 1996 for defaming a state-controlled fertilizer company in a case brought to the press court by Minister of Agriculture Issa Kalantari. This violated the terms of the press law, which permits only the press council from the Ministry of Culture and Islamic Guidance to bring prosecutions to the press court. Many independent journalists and writers have either suspended sentences or pending cases before the court, often on loosely framed charges. This leaves them uncertain about when the authorities might take action against them.<sup>30</sup> For example, a journalist from *Iran-e Farda* magazine spent two months in prison during the spring of 1995 although he was not charged with any offense.

No opposition political parties are permitted to publish newspapers. The Freedom Movement's newspaper was banned in 1982. Newspapers are prohibited from carrying favorable coverage of unlicensed parties. When these groups and their leaders are attacked in the media, they are not given any right of reply.

A case which demonstrates the extent of the government's intolerance of free expression is that of Abbas Maroufi, editor of the magazine *Gardoun*. On January 27, 1996, Maroufi was sentenced to thirty-five lashes and six months imprisonment. The government banned him from practicing journalism and revoked the license of his magazine. He was convicted of “publishing lies,” a charge that related to his publication of a survey which concluded that many Iranians are psychologically depressed. He was also convicted of “insulting the Leader of the Islamic Republic” for publication of an article comparing the shah and Ayatollah Khamene'i. Prominent writers Simin Behbehani and Houshang Golshiri protested the sentencing of Mr. Maroufi and demanded that his punishment be divided between them as contributors to the magazine.

There were many violations of fair trial procedures in Mr. Maroufi's prosecution. Firstly, the case was brought to the press court by a group of private citizens (including the editor of another magazine), contrary to the provisions of the law. During the proceedings the jury was changed three times. Additional charges were leveled mid-way through the trial, giving defense lawyers no opportunity to prepare a defense. One of the charges on which he was convicted and sentenced was under Article 28 of the press law relating to the publication of pornographic material. These charges did not appear in the indictment, and no evidence for them was presented in court. Finally, in accordance with new procedures by which judges are obliged to take on prosecutorial functions, no prosecutor was present for the

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<sup>29</sup>The closed publications are: *Jahan-e Eslam*, *Omide*, *Takapou*, *Payam-e Daneshjou*, *Tous*, *Gouzarish*, and *Gardoun*. Only in the case of *Gardoun* was the closure carried out by court order.

<sup>30</sup>Journalists and editors who met with Human Rights Watch referred to these threatened court actions as reason for not speaking openly to the organization, and declining to be identified in this report.

proceedings; the judge played the roles of both judge and prosecutor. (New laws relating to organization of the courts which came into effect last year abrogated the function of the prosecutor, assigning that role to the judge.)

Abbas Maroufi's conviction was not an isolated incident. In November 1995, editor Mohammed Sadeq Javadi Hessari, whose magazine *Tous* had previously been subjected to temporary suspensions, was sentenced to twenty lashes and six months of imprisonment on charges of slander and "divulging official secrets." The conviction came after he criticized the authorities for acting arbitrarily in suspending publication of his magazine without cause. The sentence was issued without the jury required in prosecutions under the press law, and in the absence of the defendant.

Minister of Culture and Islamic Guidance Mostafa Mir-Salim, writing in *Keyhan* newspaper on February 8, 1996, accused the press of "not understanding its limits" and of acting without wisdom and common sense. Shortly after this, Deputy Minister of Cultural and Islamic Guidance Ahmad Masjed Jame'i resigned in protest over new censorship rules, saying that he could "not accept responsibility for the new policies".<sup>31</sup>

Those who would exercise their right to free expression confront not only the government but much of the officially-sanctioned media as well. Some editors and writers speak out in favor of censorship, encouraging *hezbollahis* and other zealots to suppress critical thinkers. For example, Mehdi Nassiri, editor of *Sobh* newspaper, has said that he "cannot accept that some newspapers and institutions publish opinions of people that have nothing except differences with the nation and the government. I am ready to die in order to prevent such freedom existing and developing."<sup>32</sup>

A further obstacle facing independent newspapers, magazines and books is the limited availability of subsidized paper for printing. While official publications are printed on glossy high quality paper, independent magazines are printed on rough paper. Editors complained that even supplies of this were becoming hard to obtain. If restrictions on the availability of subsidized paper continues these editors thought that their publications would not be able to continue.

Arbitrary closure of newspapers and magazines, and the prosecution of writers and editors for expressing non-violent opinions, are clear violations of Iran's obligation in international law to uphold the right to freedom of expression. Other instruments for putting pressure on the press, such as control of the paper supply, or condoning the activities of violent mobs, are equally at variance with the government's obligations to uphold this basic freedom.

Individual writers who seek to chart an independent course similarly confront many difficulties. As the challenges to the government's legitimacy gain strength, the scope for freedom of expression is narrowing, and writers and journalists are becoming more fearful of reprisals. When Middle East Watch carried out interviews with journalists and writers in Iran in 1993 during preparation of its *Guardians of Thought* report, allowed their statements to be attributed. All of the writers and journalists interviewed by Human Rights Watch in 1996 asked not to be identified in this report for fear of retribution from the authorities.

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<sup>31</sup> *Iran Times*, February 23, 1996, p.14.

<sup>32</sup> Interview in another newspaper, *Iran*, December 17, 1995.

The November 1994 death in detention in suspicious circumstances of satirical writer Ali Akbar Saidi-Sirjani had a chilling effect on independent writers. The government has withheld the coroner's report on this writer's cause of death. Human Rights Watch received reports that Saidi-Sirjani's widow is living in considerable hardship because their bank accounts remain frozen by government order. Human Rights Watch was also informed in Tehran that all of the 134 writers and intellectuals who signed an open letter to President Rafsanjani protesting the Saidi-Sirjani case have received anonymous death threats. One of these signatories, Dr. Ahmad Mir-Allai, died in disputed circumstances in Isfahan in October 1995. Official press reports stated that he died of a heart attack in the street. In contrast, the Friday Prayer Leader in Isfahan, Ayatollah Taheri told the organization that Dr. Mir-Allai died in hospital.<sup>33</sup> Many writers told Human Rights Watch that they believe he was killed, although it has not been possible to confirm their suspicions.

The law does not provide for pre-publication censorship as such, but writers and publishers are required to ensure that their work "safeguards the Islamic republic." A commission under the Ministry of Culture and Islamic Guidance sets guidelines for the publication of books, and publishers must send unbound copies of new books to the commission for approval. At this stage the commission may recommend changes, to be carried out at the writer's or publisher's expense, or may delay giving approval indefinitely until the book is withdrawn. The ministry has a second opportunity to block the publication of a book when bound copies are submitted for pricing. Again, the ministry may delay a decision indefinitely, or may penalize a publication by setting an unrealistically high or low price. (A high price means that the book does not sell well; a low one prevents the publisher recouping costs through sales.<sup>34</sup>) No reasons for delaying publication need be given. Writers and publishers have no avenue for seeking redress through the courts to allow publication of a blocked work.

Some of the more prominent writers whose works are subject to censorship include Reza Berahani, Simin Behbehani, Abbas Maroufi, Houshang Golshiri and Mohammad Ali Sepanlou. Commenting on the wide scope of censorship, Golshiri remarked that "if Iranian culture was brought to trial in an Islamic Republic court it would be sentenced to be executed."<sup>35</sup> When Human Rights Watch asked an official in the Ministry of Culture and Islamic Guidance why these and other literary works were suppressed, he replied that "these works are pornographic and have no place in our contemporary culture."<sup>36</sup>

Iran's most notorious violation of the right to freedom of expression, the *fatwa* issued by Ayatollah Khomeini in February 1989 condemning British novelist Salman Rushdie to death for blasphemy in his novel *The Satanic Verses*, continues to influence debate on human rights issues inside Iran, and even to impact the election campaign. For example, Speaker of the Majles Ali Akbar Nateq-Nouri recently criticized his political opponents (whom he identified as "technocrats") for wanting "to revoke Iran's position on Salman Rushdie." "We are not against political development and economic growth," Nateq-Nouri said, "but it should not be achieved at the price of sacrificing our revolutionary principles."<sup>37</sup> Iran's leaders today see the Rushdie issue more as a question of refusal to bend to international pressure rather than as the violation of international human rights law that it is. Some Iranians assert that it is the Western governments who are keeping the issue alive by continuing to press for an official retraction, but the Rushdie issue serves as a test of political orthodoxy inside the country. Supporters of the fatwa taunt opponents--those whose enthusiasm for it may be less pronounced than their own--by saying that those opponents have given in to Western pressure and propaganda.

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<sup>33</sup>Human Rights Watch interview with Ayatollah Taheri, Isfahan, January 15, 1996.

<sup>34</sup>See *Guardians of Thought*, pp.73 - 78.

<sup>35</sup>Human Rights Watch interview with a writer who declines to be identified, Tehran, January 9, 1996.

<sup>36</sup>Human Rights Watch interview with Mr. Entezami, General Director of the Press Division of the Minister of Culture and Islamic Guidance, Tehran, January 20, 1996.

<sup>37</sup>Interview in *Iran Times*, February 12, 1996.

Another case of great notoriety inside Iran is that of the philosopher and writer Dr. Abdolkarim Soroush. Since early 1995 he has been unable to speak in public without his meetings being attacked by mobs. Scores of youths prevented him from speaking at Isfahan University in July 1995 and at Tehran University in October 1995. In each attack, furniture was thrown at the podium and Dr. Soroush was fortunate to escape without injury. Intemperate remarks by senior government officials attacking Soroush provided the backdrop to the mob violence. Following Soroush's lectures and statements calling for political reform, and in particular urging a lesser role for the clergy in government, Foreign Minister Ali Akbar Velayati had urged Dr. Soroush to "stop dragging this kind of thing into the newspapers" because it was "weakening the basis of our independence, our national harmony and our rule." Soroush responded that government officials should not "fabricate pretexts for plucking petals from the flower of freedom." In comments published in *Salam* newspaper on January 2, 1996, Soroush asked:

Is it logical that a person who does not have access to the radio, to television, to newspapers, to mosques, to Friday prayer gatherings, and to religious delegations; a person who is constantly pounded by the mass media in the ugliest manner and is accused of spying, incompetence and treachery, of being a freemason, an American agent, a hypocrite, a liberal, a Salman Rushdie could weaken the basis of our independence and national harmony?<sup>38</sup>

The picture that the Foreign Minister paints of Iranian society is that this society is like an Institution that has been eroded by termites and that the slightest shock will make it disintegrate. The picture he has painted of himself is of a medieval priest who has been appointed foreign minister of the Islamic republic of Iran now at the end of the twentieth century and is wielding the weapon of excommunication in front of the alert eyes of the world. Mr. Foreign Minister I advise you not to join your voice in unison with anti-freedom groups that distort the lofty name and good image of this country in the eyes of foreigners and future generations or with those who insist on propagating violence and distorting truth.<sup>39</sup>

## CONCLUSION

The electoral process in Iran, reflecting the overall condition of civil and political rights protected in international instruments to which Iran is a State Party, is undermined by an absence of binding legal safeguards. The rule of law cannot prevail where constitutional provisions are qualified by broad reference to "Islamic principles," giving the government discretion to interpret the law in accordance with its own interests. It is not surprising, given the essentially non-binding nature of many basic statutes, that the law is often disregarded in practice, and that a pattern of arbitrary exercise of power characterizes many government actions.

To the extent that the government of Iran undermines and erodes the rule of law, citizens of that country confront a pervasive uncertainty about the limits of acceptable behavior. Victims of arbitrary and discriminatory state action, whether it be violence, deprivation of liberty, or simply the denial of access to information, are unable to seek legal redress.

Iranian society is far from monolithic, and there is a real contest for political power taking place in these elections, and doubtless continuing afterwards. However, it is a contest from which many prospective candidates are excluded and in which the participation of Iranian voters is narrowly circumscribed. It is a question for social scientists, beyond the scope of this report, whether this type of contest can offer any solution for the many problems confronting Iran. From a human rights perspective, Iran is dangerously lacking in basic safeguards and therefore vulnerable to

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<sup>38</sup>Abolkarim Soroush, *Salam*, January 2, 1996, p.2, as printed in FBIS-NESA, January 18, 1996, p.86.

<sup>39</sup> *Ibid.*, p. 87.

widespread human rights abuses. Repression in Iran may grow more or less intense over time, but there will be no change in the basic pattern of human rights violations until safeguards of basic freedoms are enforced by law.

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#### *Human Rights Watch/Middle East*

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. The staff includes Kenneth Roth, executive director; Cynthia Brown, program director; Holly J. Burkhalter, advocacy director; Robert Kimzey, publications director; Jeri Laber, special advisor; Gara LaMarche, associate director; Lotte Leicht, Brussels office director; Juan Méndez, general counsel; Susan Osnos, communications director; Jemera Rone, counsel; and Joanna Weschler, United Nations representative. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair. Its Middle East division was established in 1989 to monitor and promote the observance of internationally recognized human rights in the Middle East and North Africa. Christopher George is the executive director; Eric Goldstein is the research director; Joe Stork is the advocacy director; Virginia N. Sherry is associate director; Fatemeh Ziai is counsel; Elahe Hicks is a consultant; Shira Robinson and Awali Samara are associates. Gary Sick is the chair of the advisory committee and Lisa Anderson and Bruce Rabb are vice chairs.