



DEBRA L. RASKIN
PRESIDENT
PHONE: (212) 382-6700
FAX: (212) 768-8116
draskin@vladeck.com

Via Facsimile

November 17, 2015

His Excellency Dr. Hassan Rouhani
President of the Islamic Republic of Iran
c/o The Embassy of Pakistan
Interests Section of the Islamic Republic of Iran
2209 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Fax: +1 202 965-1073

Your Excellency:

I write on behalf of the New York City Bar Association to express serious concerns regarding the Comprehensive Bill on Attorneyship and Legal Advice, versions of which were submitted to the Majlis for legislative consideration in 2014. The Attorneyship Bill threatens to interfere with the ability of Iranian lawyers to carry out internationally recognized professional obligations and would curtail the independence of Iranian bar associations. We urge the government of Iran to immediately withdraw the proposed Attorneyship Bill from legislative consideration and to take all necessary steps to ensure that Iranian lawyers are able to exercise the duties of their profession in compliance with the International Covenant on Civil and Political Rights and other international law obligations.

The Association is a 145-year-old organization of more than 24,000 members in New York City, throughout the United States, and in over fifty countries across the globe. Our membership includes judges, prosecutors, government officials, and defense lawyers as well as corporate attorneys representing nearly every major law firm and corporation in the United States. The Association has a long history of engagement in legal issues to promote human rights, the rule of law, and the rights of lawyers to practice law. The Association's Committee on International Human Rights is particularly involved in efforts to investigate and uphold human rights and the rule of law in both the United States and around the world.

In your recent address to the U.N. General Assembly on September 28, 2015, you emphasized that—in light of the recent successes of constructive engagement—"a new chapter has started in Iran's relations with the world." We greatly welcome this development and look forward

to future cooperation with Iran and its citizens, as part of the international community of equal and sovereign nations committed to advancing and upholding the rule of law. Lawyers, judges, and independent bar associations will each play an important role in this new chapter of Iranian history.

We are therefore deeply troubled by the proposed Attorneyship Bill, which would undermine the legal profession in Iran and dramatically curtail the independence of Iranian bar associations. The bill was drafted without input from or consultation with Iranian bar associations, which have been outspoken in their opposition to it. If implemented, the Attorneyship Bill would place severe constraints on the ability of Iranian lawyers to conduct their profession and adhere to internationally recognized obligations toward their clients.

Through the restructuring contemplated by the Attorneyship Bill, Iranian bar associations would be placed under the direct control of government institutions. The following issues are of particular concern:

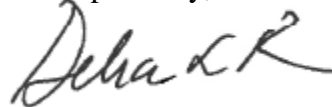
- **Increased judicial control over Iranian bar associations:** The Attorneyship Bill would create a “Supervisory Commission” under the direct control of the Iranian judiciary to actively oversee the internal governance of bar associations, including their leadership, budgets, and financial affairs. The Minister of Justice would have power to oversee the new regulations and would be required to submit an annual report on bar associations’ activities to the head of the judiciary. In addition, the Bill would require judges chosen for any attorney disciplinary tribunals to be approved by the head of the judiciary. (Arts. 4–8, 33–38, 95–96, 98, 145).
- **Restrictions on entrance to the profession:** The Bill would give the head of the judiciary sweeping power over the licensing and accreditation of new attorneys and would institute a new screening process for the admission of new lawyers to be carried out by Iranian intelligence agencies. (Arts. 35, 95–96, 145)
- **Restrictions on freedom of association, expression, and religion:** The Bill includes several provisions that adopt vague, undefined, and overbroad criteria for membership in the legal profession, including religious qualifications and restrictions on expression and association, that would permit authorities to deny new applications for admission or revoke existing attorney licenses in an arbitrary, retaliatory, or discriminatory manner. (Art. 39, 41, 71)
- **Governmental authority to deny or suspend attorney licenses:** The Bill authorizes a variety of government officials and entities—including the head of the judiciary, general prosecutor, head of the general inspection office, and ministry of intelligence—to question attorneys’ qualifications and refer attorneys to the Supervisory Committee for review of their licenses. Empowering commissions to suspend bar attorneys from practicing law allows General and Revolutionary Courts to directly suspend lawyers, a responsibility previously carried out by the Disciplinary Court for Attorneys. Since the Supervisory Committee is under control of the judiciary, the Bill would empower the government to directly interfere with the ability of attorneys to fulfill their professional obligations and to suspend or revoke attorney licenses. (Art. 48, 52)

These provisions in the Attorneyship Bill conflict with recognized principles governing the obligations of lawyers under the International Covenant on Civil and Political Rights, which was ratified by Iran in 1975, and other international law instruments.¹ The increased state control over the regulation of attorneys contemplated by the Bill would severely infringe on Article 14 (Fair Trial Rights) of the ICCPR, which guarantees, among other things, the right of a criminal defendant “to defend himself in person or through legal assistance of his own choosing.” General Comment 32, which elaborates on Article 14 of the ICCPR, provides that, “lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter.” Provisions of the Bill would also infringe upon several other ICCPR articles concerning freedom of association, freedom of religion, and freedom of expression.²

Moreover, the provisions of the Attorneyship Bill also directly conflict with the standards concerning the legal profession that are reflected in the U.N. Basic Principles on the Role of Lawyers.³ Paragraph 16 of the Basic Principles protects practicing attorneys from “intimidation, hindrance, harassment, or interference” by the state, and also stipulates that attorneys “shall not suffer, or be threatened with, prosecution or administrative, economic, or other sanctions for any action taken in accordance with recognized professional duties, standards, and ethics.” Paragraph 24 of the Basic Principles protects the right of attorneys to form free bar associations which may “exercise [their] functions” independent of “external interference.”

We are greatly concerned that adoption of the proposed Attorneyship Bill would result in numerous violations of these international legal instruments. Therefore, we respectfully urge the government to immediately withdraw the Attorneyship Bill from legislative consideration or, at a minimum, to significantly amend the bill to comply with international standards. We believe that such actions would directly contribute toward the continued path of constructive engagement between Iran and its citizens and the international community.

Respectfully,



Debra L. Raskin

¹ International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, entered into force Mar. 23, 1976, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, entered into force Jan. 3, 1976, 993 U.N.T.S. 3 (ratified by Iran on June 26, 1975).

² In addition to Article 14, the Attorneyship Bill would infringe upon several other provisions of the ICCPR, including Article 2 (prohibiting discrimination based on race, sex, language, religion, political opinion, national or social origin, etc), Article 18 (right to freedom of thought, conscience and religion), Art. 19 (right to freedom of expression), Article 22 (right to freedom of association), and Article 27 (right of minorities to enjoy their own culture, religion, and language).

³ The U.N. Basic Principles on the Role of Lawyers were adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana in 1990, and were endorsed by the General Assembly on December 14, 1990. U.N. Basic Principles on the Role of Lawyers, Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders, Aug. 27-Sep. 7, 1990, U.N. Doc. A/CONF.144/28/Rev.1, at 118–23, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>; G.A. Res. 45/121, U.N. GAOR, 45th Sess., U.N. Doc. A/CONF. 144/28 (1990).

cc: His Excellency Gholam Ali Khoshroo
Ambassador and Permanent Representative of the Islamic Republic of Iran
to the United Nations
Permanent Mission of the Islamic Republic of Iran to the United Nations
622 Third Avenue, 34th Floor
New York, NY 10017