


Submission to the Working Group on Business and Human Rights

Justice for Iran
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**Submission on connecting the business and
human rights and anti-corruption agendas**



Justice for Iran (JFI) is a not-for-profit, non-governmental organization established in 2010 in London, UK. The mission of JFI is to address and eradicate the practice of impunity that empowers officials of the Islamic Republic of Iran to perpetrate widespread human rights violations against their citizens, and to hold them accountable for their actions. To achieve its mission, JFI researches, documents, validates, and litigates individual cases. It further raises public awareness and participates in human rights advocacy through the UN and the EU.

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Submission to the Working Group on Business and Human Rights on connecting the business and human rights and anti-corruption agendas

This submission aims at shedding light on some of the key areas where corrupt practice of state actors and business, as well as systematic flaws in the legal and financial systems causes, contributes or is linked to human rights abuses in the context of Iran. We hope this will be helpful to the Working Group's work on connecting the business and human rights and anti-corruption agendas.



➤ 1. Problematic ownerships and corrupt practices

The first area that is noteworthy here concerns various but connected issues of ownership and control of companies, identity of shareholders and directors, connections with military or security forces (e.g. the Islamic Revolutionary Guard Corps) or other entities linked to gross human rights violations, corrupt bidding practices and taking over of businesses, and using political and military influence to win profitable contracts. Below is only one example of the scope and problematic nature of such issues:

In 2009, two IRGC-owned companies together with Execution of Imam Khomeini's Order (EIKO, also known as Setad), a foundation owned and controlled by the Supreme Leader of Iran,¹ formed a consortium called Tose'e Etemad Mobin, itself dominantly owned and controlled by the IRGC.² In 2009, in a wave of "privatization" of public companies pursued by the government of the time, the Consortium took part in a bid to buy the majority shareholding of Telecommunication Company of Iran (TCI) and won the bid. In addition to the problematic credentials of the Consortium, the bidding became an immediate cause of controversy as a number of other companies claimed the auction was rigged in favor of the Consortium.³ Among other issues, one of the bidders Pishgaman Kavir Yazd (PKY), was removed from competition and replaced by another company which belonged to paramilitary organisation Basij which is controlled by IRGC. At first, the head of Iran's Privatisation Organisation announced that PKY withdrew from the competition. However, after PKY publicly rejected the claim, the reason for its removal was revealed as lack of security clearance.⁴ Ironically, the head of the Competition Council, which supposedly should

1 A 2013 Reuters investigative report has documented how Setad has built a multibillion dollar empire on the systematic seizure of thousands of properties belonging to members of religious minorities like Baha'i, as well as political dissidents and other Iranians living abroad. See: Reuters, Khamenei controls massive financial empire built on property seizures, Nov 11, 2013, available at: <http://www.reuters.com/investigates/iran/#article/part1>

2 ICTNA, "The Characteristic of Etemad Mobin Consortium as the Buyer of Communications Stocks Explained", September 12, 2009, available (in Farsi) at: <http://www.ictna.ir/id/022937/>.

3 ICTNA, "Behind the Curtain of Security-related Disqualification of Pishgamana-Kavir-Yazd in the TCI Auction: In Conversation with PKY's CEO" Oct 26, 2009, available (in Farsi) at: <http://www.ictna.ir/report/archives/023756.html>

4 <https://bit.ly/2vklEsa>



have been concerned by such blatant violations of competition rules, stated that “practically there was no competition in this deal and therefore there was no ground for our intervention”.⁵

In 2016, a report published by an Iran-based specialist IT journal revealed the breakdown of the shareholders of the TCI following the 2009 purchase.⁶ The report criticizes the so-called ‘privatization’ of the TCI and stresses that there is no doubt that the Consortium that purchased the majority share of TCI is owned by IRGC and Setad. The report also gives a detailed account of the dominance of a complex network of companies over the ICT sector in Iran, the majority of which are controlled by the IRGC.⁷ Having purchased 50% plus one of the shares, and therefore holding the majority share of TCI, the IRGC-controlled Consortium now controls TCI and effectively a major part of the telecom sector in Iran with monopoly over for example landline telecommunications. This is extremely concerning given the track record of gross violations of human rights by the IRGC.

2. Businesses controlled by the Supreme Leader of Iran

The second area relevant to the current topic concerns extraordinary advantages and privileges of entities controlled by the Supreme Leader of the Islamic Republic of Iran such as their exemptions from audit and supervision, lack of transparency and tax exemptions. Such special arrangements give huge advantages to the Supreme-Leader-controlled businesses and companies over other public or private businesses. Although the above exemptions are well-established, there have been some occasions where further clarification was needed. For example, in July 1993, the minister of Economic Affairs and Finance issued an administrative order stressing on the exemption of the EIKO (aka Setad) from paying taxes. In his order, the minister Nourbakhsh refers to an order by the Supreme Leader of IRI in which he had ordered the grant of such an exemption.⁸

5 <https://bit.ly/3bv6yAP>

6 Meysam Qasemi, “Humble Owners of ICT”, Peyvast Monthly, Sep 2016, available at: <http://peivast.com/month-report/مالکان فرتن-ict/>

7 Ibid.

8 <http://www.intamedia.ir/Pages/Action/LawsDocShow/2/1/1/4/1052>



In addition to tax exemption, such entities are excluded from the scrutiny of public bodies. For instance, in 2008 the Iranian parliament amended its internal regulation preventing its members from investigating the organisations under control of the Supreme Leader without his permission. Without the public scrutiny there is always a chance of making financial transactions by such entities benefits of which end up in places other than public funds. In April 2015, the press reported a case of corruption in Bonyad Ta'avon of NAJA (Police Cooperative Foundation) one of the financial giants that belongs to the Police force whose commander is appointed directly by the Supreme Leader. The case indicated the involvement of this foundation in selling oil shipments worth \$180 million which was never deposited to the government's treasury.⁹

3. Undue influence and corruption in public entities

Another problematic aspect is the internal corruption in many public entities. In a revealing interview, Mohammad Sarafraz the former head of state-run Broadcasting entity (IRIB) admits that there is a pervasive and systematic corruption in every level of governmental and semi-governmental entities. Sarafraz stresses the role of these entities in Iran's business market through their semi-private companies. Sarafraz claims that his downfall and removal from his high ranking position was because of his investigation into several projects within IRIB with significant budgets which were granted to companies owned by military and semi-governmental organisations. He further claims that this led to persecution and interrogation of his deputies by IRGC Intelligence Organisation and even the attempted assassination of one IRIB inspector. Sarafraz also mentions the role of these organisations in influencing 2015 IRIB auction for its advertising contracts worth 2500 billion Rials (\$1 billion).¹⁰

9 <https://www.telegraph.co.uk/news/worldnews/middleeast/iran/11676847/Money-can-buy-any-thing-in-Iran-says-ex-police-chief.html>; See also: <https://www.bbc.com/persian/tv-and-radio-40713368>

10 <https://bit.ly/31LFdpe>

4. **Corrupt banking system**

Iran's banking system is among the major contributors to the country's financial corruption. A typical example, about which there have been some anti-corruption court cases, concerns undue influence in obtaining loans and financial credits by individuals or entities with close ties to the Islamic Republic's inner circle which indicates the institutionalised corruption in the lending policies of state-owned banks favouring patronage and nepotism.

The lack of dependency of the central bank and the influence of governmental and military entities over the state-owned banks has turned the Iranian banking system into a means of circumventing the sanctions through untraceable financial activities facilitated by the state-owned banks. Such covert financial operations along with improper monetary policy and lack of independent monitoring system contribute to structural and systematic corruption. The \$2.6 billion embezzlement scandal in 2011, and numerous banking fraud cases between 2014-2018 are only a few examples of corruption within the Iranian banking system.¹¹

5. **Front (private!) companies and long chains**

Using front companies in order to conceal the role of governmental and military entities in Iran's market is a common and well-known practice. The main reason for such a practice, among others, is to circumvent the sanctions and to keep the financial activities of governmental and military entities undetected especially to the states that impose sanctions on these organisations.¹² Front companies are mostly used to establish international business partnerships and professional cooperation with foreign and multinational companies on behalf of the Iranian governmental and military entities.

11 https://www.washingtonpost.com/world/middle-east/top-iranian-banker-flees-amid-embezzlement-scandal/2011/09/28/gIQAhhK14K_story.html

12 https://wikileaks.org/plusd/cables/10RPODUBAI41_a.html

What is significant for our discussion is that such use of front companies, when combined with a long chain of further companies involved in business cooperation inside and outside Iran, make the detection of the nature of their activities and their real business ties with governmental and military organisations in Iran extremely difficult. In some cases, including in the case of front companies used by various IRGC entities, such entities establish business cooperation with foreign companies through other foreign proxies.

6. Lack of independent watchdogs and tribunals

A further point that significantly contributes to the prevalence of corruption in Iran is the lack of impartial independent tribunals that would hear such cases and punish the wrongdoers. This has created a culture of impunity where numerous cases of large scale corruption are rife and the major perpetrators are hardly ever touched by the law.

It can therefore be safely argued that the lack of impartial and independent monitoring bodies and tribunals is the main obstruction to tackle corruption in Iran's economy. As explained above, as most of the corruption cases are linked to the organisations under control of the Supreme Leader, the existing monitoring bodies are either unwilling to investigate or prevented from thorough investigation by the Office of Supreme Leader.

The most problematic however is the judiciary, which is in charge of the current anti-corruption operations. The head of the judiciary who appoints the senior judges to deal with major cases of corruption is directly appointed by the Supreme Leader. The judiciary itself is deeply affected by systemic corruption and the courts often act under the influence of intelligence services. Rich and influential figures with links to high rank authorities are either spared from prosecution or can move a trial in their favor.¹³

7. Lack of protection for journalists and whistleblowers

The systemic corruption institutionalised in governmental and military-controlled entities in Iran's economy has contributed to gross violations of freedom of press and freedom of expression. The lack of transparency and accountability has led to a total information blackout about the scale and nature of their business activities. The governmental and state-controlled entities use numerous techniques to directly or indirectly hinder access to their records and information. Some examples of such techniques are as follows:

a. Releasing unusable information and document dump

Many entities in Iran which are obliged by law to give press access to their information intentionally release the relevant documents in a way or format which is not usable to the investigators and journalists. Alternatively, they release the data in a confusing way in order to hide the important information among the piles of irrelevant data. For instance, despite multiple requests from the press, the government insists on releasing the annual budget in unsearchable PDF format in which the budget of each organisation has been intentionally scattered and hidden in numerous tables making it more difficult to calculate the total budget for each organisation.¹⁴

In other cases entities under scrutiny bury the journalists and investigators under avalanche of documents which only a fraction is relevant. This tactic drastically increases the costs and duration of usually time sensitive investigations. For instance, Iran's Ministry of Cooperatives, Labour and Social Welfare released its records of the recipients of its loans (equivalent of one billion dollars) for rural job creation program in form of 31 unsearchable PDF with more than 1.5 million data unit.¹⁵

14 <https://bit.ly/37DMMRa>

15 <https://karafarini.mcls.gov.ir/fa/tarehtahsilateshteghal>

b. Releasing misleading information

The lack of dependent monitoring bodies has led to misuse of statistics and release of misleading information. For instance, Tehran Chamber of Commerce warned in a report about public bodies' misuse of statistics and data manipulations regarding exports in order to hide the real value of exported goods.¹⁶

c. Withholding information and ignoring the law

Most of the governmental and state-owned entities in Iran block press access to the information. Privatisation Organisation, for instance, does not release the content of its sale contract of the public enterprises to the private sector based on the pretext of protecting the privacy of individuals. In another example, Iran National Tax Administration refuses to release the number of individuals who paid wealth tax, following an inquiry by a journalist, on the grounds that such information is top secret.¹⁷

In addition, high profile entities, particularly those under direct supervision of the Supreme leader or those controlled by IRGC, can easily ignore the laws that expressly oblige them to give press or parliamentary monitoring bodies access to their information. For instance, while Article 29 of the Sixth Development Program Act expressly obliges the government to establish a database and release the salary data of high rank managers of all governmental, para governmental and revolutionary organisations that receive public funds, none of the organisations outside the government's administrative organisations have released this information.¹⁸ In many cases, parliament's investigation into the entities under the control of the Supreme Leader has been stopped either by the direct order of the Supreme Leader or under political pressure on the part of these organisations.

16 <https://donya-e-eqtasad.com/%D8%A8%D8%AE%D8%B4-%D8%A8%D8%A7%D8%B2%D8%B1%DA%AF%D8%A7%D9%86%DB%8C-4/3484519-%D8%AE%D8%B7%D8%A7%DB%8C-%D9%85%D8%AD%D8%A7%D8%B3%D8%A8%D9%87-%DB%8C%D8%A7-%D8%AF%D8%B3%D8%AA%DA%A9%D8%A7%D8%B1%DB%8C-%D8%A2%D9%85%D8%A7%D8%B1>

17 <https://www.s-rahkar.org/1398/09/04/1127/>

18 <https://www.alef.ir/news/3970426004.html>



d. Threats and intimidation against journalists and whistleblowers

In the circumstances as mentioned above, the little and rare information available about these entities and their transactions is limited to what has been disclosed by investigative journalists or leaked by the whistleblowers. Without any legal protection for those who expose corruption and government's wrongdoing, the whistleblowers and also the journalists who publish the leaked information are facing harsh judicial and extrajudicial punishment. Many journalists and whistleblowers have been subjected to acts of reprisal and prosecution for exposing corrupt practices.

In September 2016, following publishing a set of declassified reports involving the General Inspection Office on the controversial transfer of properties by the Tehran Municipality to a number of people, journalist Yashar Soltani was arrested based on the lawsuit filed by the mayor and head of Tehran City Council.¹⁹ Although the judiciary expressly confirmed that the municipality had acted illegally in the transfer of the properties and despite numerous letters of protest by civil society and members of parliament, Soltani remained in jail for two months and then released on bail in November 2016. However, in January 2019 the verdict was issued and he was sentenced to five years in prison for publishing "secret documents with the intent to harm national security".²⁰

19 <https://www.theguardian.com/world/iran-blog/2016/nov/04/silencing-iranian-journalist-draws-huge-public-backlash-tehran-corruption>

20 <https://cpj.org/2019/01/iran-sentences-journalist-to-five-years-over-corrup>

Recommendations:

1. Connection between corruption and human rights abuses:

It is evident from cases of corruption at governmental, institutional and individuals levels that corrupt practices cause and contribute to human rights abuses. The actors and stakeholders of corrupt practices are often linked to human rights abusers and in many cases enable them to further abuse human rights by providing the required funding, technology and equipment. Such corrupt practices also contribute to widespread violations of economic and social rights by draining public funds and serving the interests of the inner circle of the Islamic Republic to the detriment of the vast majority of the population.

2. A more comprehensive risk assessment and heightened due diligence:

Due to the lack of transparency and accountability and the common practice of data manipulation in contexts like Iran, the ordinary methods of risk assessment are inadequate with regards to the companies' track record of corruption and ties with the main perpetrators of human rights violations. The most important part of any investigation and risk assessment for business relations with Iran is to understand that the involvement of Iranian businesses in human rights violation might be indirect or through a long chain of business relationships and therefore, undetectable without a thorough investigation into their business partners and the context and range of their business activities. The fact that entities and companies in Iran would go a great length to hide their connections with governmental and military organisations and given the government's willingness to conceal such relationships, it would constitute a strong case for a more comprehensive risk assessment through in-depth and thorough investigations into business partners and the context. This would indeed lead to heightened due diligence obligations in such contexts for businesses and investors.

3. Consultation with civil society and human rights groups:

Risk assessment of businesses with regards to being complicit in human rights violation in context such as of Iran would require specialised skills and knowledge. As the companies' risk assessment is mostly focused on economic and financial dimensions (e.g. compliance with international sanctions), many potential risks of human rights violations might be overlooked. This is why foreign businesses and investors are advised to take consultation with stakeholders more seriously in such contexts as they would benefit from engagement with civil society and human rights groups before and during their business relations.