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One Year under Rouhani: Iran's Abysmal Human Rights Record, June 19, 2014

Introduction

Almost one year ago, Iranians went to the polls to choose the seventh president of the Islamic Republic of Iran. Few people in Iran had any illusions about the flawed electoral process or the real power of the Office of the President in Iran. Over the past three decades, elections in Iran have been filled with allegations of rigged voting, intimidation and threats against candidates, and more importantly, widespread disqualification of independent and opposition candidates by the ultra-conservative electoral monitoring body. Just last week, on the one-year anniversary of his election, the Iranian President Hassan Rouhani himself openly noted that elections in Iran have the reputation of being a political sham.

Unlike the United States, Iran's Constitution allows limited authority to the president of the country. The Office of the President in Iran, for example, has no control over the army, the intelligence, the police, or key foreign policy issues. As such, one can compare the power of Iran's president to that of a governor in the U.S., rather than the U.S. president. The real center of power in Iran's politics is the Office of the Supreme Leader, Ayatollah Ali Khamenei, who has the final political, religious, and military say. Furthermore, the Ayatollah's office is, by legal definition, exempt from regular checks and balances.

Although these facts may already be known to the distinguished members of the Committee, a brief mention of them may help us set realistic expectations while evaluating the President's performance and his accomplishments. The truth of the matter is, within the political dynamics of the Islamic Republic, the office of the president cannot be an engine of significant change, even at the best of times. On a bigger scale, it is neither realistic nor logical to expect a self-declared theocracy, such as the Islamic Republic of Iran, to function as a secular democracy. In Iran, it is clearly stated in the Constitution that Shiite Islam is the guiding principle of the political system and that all affairs concerning political, social, and economic life should comply with this principle, as expressed by the Supreme Leader, who is himself accountable to his peer clergymen.

This constitutional framing has an impact on the protection of human rights. Although Iran has ratified the two main human rights treaties (i.e., the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights), Iranian officials, including the head of the judiciary, have declared that the government will honor its international human rights obligations only to the extent that they are deemed, by the Iranian authorities, to be compatible with Islam.

Human Rights in Iran: One Year Later

Over the past twelve months, the human rights situation in Iran has demonstrated no significant improvement in comparison to the status of human rights under former President Ahmadinejad. The state has continued to carry out a high number of executions, including executions of political prisoners. Other instances of human rights violations that have been reported by multiple international human rights groups, including Amnesty International, Human Rights Watch, and the International Campaign for Human Rights in Iran, include extrajudicial arrests; unlawful long-term detention (including house arrest); mistreatment and torture of detainees; regular interference in the privacy of citizens by the morality police and religious militias; the shutdown of newspapers and the ban on free association; and the persecution of individuals based on their religious beliefs, political opinions, or membership of certain groups and associations.

These human rights abuses are happening against the backdrop of President Rouhani's public support for personal freedom, gender equality, and free speech, including his call for open access to the Internet and his pledge to draft a Citizens' Bill of Rights. The discrepancy between Rouhani's statements and the realities of life under his administration is such that some observers have concluded that Rouhani is trying to solidify the power of the ruling establishment in Iran through his attractive, yet empty, oratory.

Other experts, however, believe that President Rouhani is a pragmatic politician who is fully aware of the limitations of his power and the complexity of the system he is tasked with managing. Much like any president, one might say that Rouhani's first priority must be to protect the country's constitution, which takes its guiding principles from Shiite Islam. Within this framework, however, Rouhani does seem to have a liberal understanding of citizens' rights and freedoms within Islam, and appear to believe that Islam is compatible with modern democracy and civil discourse. This liberal reading of Islam almost lost Rouhani the presidential election and has meant that some clerics are against him.

A Glimpse of Hope

I am of course horrified by the human rights violations occurring in Iran, as I am horrified by human rights violations everywhere. That being said, I do believe that Rouhani's Presidency provides an opportunity for the Iranian people and the international community to successfully demand more freedom and rights for the people of Iran. Unlike his predecessor, Rouhani seems to believe in less government control, more international trade, and a stronger role for academic and professional communities. President Rouhani may not be a human rights advocate by American standards, but the vision he expresses of governance and personal freedom would, if implemented, be conducive to a more open and vibrant society.

Rouhani's credential as a clergyman and his proven track record as a "revolutionary" have made it difficult for his opponents to dismiss him as "yet another agent of the West." By positioning himself as a "centrist" politician, President Rouhani seeks to unite forces from both sides of the political spectrum, hoping to gain support from all. As a self-styled "unifier," President Rouhani claims that he hopes to promote a culture of fostering political dialogue and national reconciliation in an Islamic theocracy.

Assessing the broader regional dynamics teaches us an important lesson about the value of moderate politicians who try to bring change from within. Iran's neighboring countries, specifically Iraq, Kuwait, and Afghanistan, certainly have more modern constitutions. Unfortunately though, none can serve as a role model for democracy or a successful promoter of values such as free speech, freedom of religion, and personal rights. More tragically, two of these countries - Iraq and Afghanistan - are nearing civil war, with failed governments that can hardly protect the safety of their citizens or uphold the rule of law.

An Iranian lawyer told me earlier this year that many Iranians are grateful that their country has not turned into another Syria or Iraq. Make no mistake: the political stability that the Islamic regime has offered is oppressive. And no one can, or should, mistake President Rouhani for a champion of human rights. However, he appears willing to make piecemeal improvements and seems to have the political and social capital to do so.

Moreover, he is a clergyman-turned-politician who publicly invites people to denounce violence and hatred, to respect the rights of minorities, and to create more opportunities for women. Rouhani's administration may not succeed in implementing most of his rhetoric, but the President's vision has given hope to many people.

The United States of America should continue to urge the Iranian government to adhere to the norms of international human rights. The United States also has a moral obligation to provide opportunities and resources for the Iranian people in order to give them broader access to information about human rights standards, the rule of law, and personal freedoms. We should also be clear that the population in Iran is no monolith: many tirelessly work to promote values such as tolerance, respect for others, and peaceful coexistence. The political opening created by Rouhani's election should be utilized through significant investment in public awareness and outreach. The United States and other Western countries are in a unique position to make a difference in the future of Iran and in the surrounding region, through supporting programs and campaigns that counter the notion that human rights are incompatible with Iranian traditions and values.

International Partnership to Promote Human Rights

Perhaps a successful example of an effort to promote human rights in Iran is the creation of the Office of the Special Rapporteur for Human Rights on Iran by the United Nations Human Rights Council. This effort was supported by civil society both in and outside of Iran. Since its inception in 2011, the Office of the UN Special Rapporteur on Iran has played a vital role in outlining the systematic abuse of human rights in Iran as well as Iran's obligations under international law. This is especially important, because the Iranian regime, which has a history of dismissing human rights as a "Western political conspiracy," has found it increasingly costly and difficult to ignore or dismiss human rights, as imperatively expressed through the UN Special Rapporteur on Iran, Dr. Ahmad Shaheed. I would like to thank the U.S. government for its unconditional support for the mission of the UN Special Rapporteur on Iran, and I sincerely hope that the distinguished members of the House view the Obama Administration's policy on supporting such international mechanisms as a step in the right direction.

Another area where the international community might successfully engage the government of Iran on the issue of human rights is through bilateral and regional ties. Given that the government of President Rouhani is pursuing expanded political and economic ties with the international community, Western countries, including the United States, can and should make the protection and promotion of human rights a central theme in on-going conversations with Tehran. It is important for the authorities in Tehran to know that the West is not merely interested in its "bottom line" or lucrative oil business. They need to know that the international community cares about the human rights records of Iran and to take notice of positive and negative developments in that regard. More importantly, human rights protection should not be a footnote or in the fine print of bilateral and regional negotiations. The United States and the West should speak loudly and clearly about the importance of human rights and make sure to discuss this topic in every conversation.

Gender, Sexuality and Lesbian, Gay, Bisexual, and Transgender (LGBT) Rights in Iran

Although same-sex practice, cross-dressing, and gender non-conformity have been documented throughout Iran's history, Iranian officials, including former President Ahmadinejad and Iran's current Supreme Leader, deny the existence of lesbian, gay, and bisexual people. The criminal law notes that adult same-sex sexual acts are punishable by death. These legal provisions are based on a reading of religion that considers any sexual act outside heterosexual marriage to be impermissible. The punishment is severe, and this view continues to be expressed in the public spheres of many countries, including the United States. In today's Iran, any open conversation or discussion about sexual rights, gender equality, and homosexuality is met with violent reaction from both the judicial and law enforcement bodies.

The official interpretation of Islam, as reflected in the country's legal codes, codifies a vision of women as inferior to men. According to Iranian laws, women can only inherit half of what their male siblings can, their testimony in a court of law is only granted half as much weight as that of a man, they do not have the right to travel overseas without the permission of a male custodian (usually a husband or father), they must cover themselves with a headscarf when outside their home, and are, by law, not allowed to run for certain positions, including for Cabinet minister, Judge, or the presidency.

Such a narrow reading of gender roles and sexual rights has adversely affected millions of Iranian citizens, regardless of their sexual orientation or gender identity. As such, any engagement on the human rights situation in Iran must pay specific attention to sexual rights and gender equality. No government, including the government of Iran, has the right to monitor or regulate intimate acts between consenting adults or to curtail freedom of expression (including clothing) arbitrarily. The Iranian government's regulations that require men not to wear shorts or women to wear a mandatory headscarf is a direct violation of every citizen's rights to bodily autonomy, freedom of expression, and freedom of thought, religion, and conscience.

Furthermore, the legal discrimination embedded in the Iranian system deepens stereotypes about both men and women and is used as a justification for social discrimination and even violence against women, as legal dress codes label transgressors as criminals or immoral. Every year, many women fall victim to acts of domestic violence, committed by their male relatives in the name of protecting the family's honor. Such so-called "honor crimes" do not only target women. The International Gay and Lesbian Human Rights Commission has documented acts of violence against gay men and trans individuals by immediate family members and neighbors. These crimes are more often than not neither investigated nor prosecuted.

We believe that any meaningful change in the fight for gender equality and sexual rights can only be accomplished through extensive and continuous education and outreach—in Iran and everywhere. Many scholars have argued that damaging stereotypes about the roles of men and women predate Islam and are not inherent to Islam. The decoupling of this narrow understanding of gender from religious and cultural values requires a long-term cultural effort with substantial social investment. The mere transfer of power from one group to another, either through an election or by military force, will not in and of itself result in a change of gendered stereotypes and discrimination.

Freedom of Information

Over the past three decades, the government of Iran has gone to great lengths to limit Iranians' access to free flowing information, attempting to keep the population in the dark about issues that can raise social expectations inside Iran, such as free elections, varied gender expression, and women's equality.

It continues to be a crime to own and watch satellite TV, to listen to any music not authorized by the government, and to publish, distribute, or even own books that are not approved by the censorship office. Internet use is heavily regulated and is subject to wiretapping and restriction by the Iranian government. While access to online social networks is banned or is extremely limited for average Iranians, top government officials – including Iran's Supreme Leader, President, and Foreign Minister – have an extensive presence on these networks and use the Internet's technology as an effective international propaganda tool. Over the past few years, the Iranian police force has formed a dedicated unit to monitor Iranian citizens' online activities, especially on social networks, and to crack down on any online activity that is deemed to be a political threat or in violation of the country's so-called morality laws.

Despite these efforts, many Iranian citizens risk arrest by using circumvention technology that allows them to bypass the government's digital roadblocks. I would especially like here to acknowledge and thank the U.S. government's investment in developing such circumvention technologies.

I hope that the government of the United States continues its investment in more affordable and easy-to-use technologies that would allow individuals anywhere to have unrestricted access to the wealth of information and knowledge available online. The U.S. government, with the help of Congress, can also allocate more resources for content development and dissemination of material in Persian and other languages used by Iranian citizens. In a country in which expression of personal opinion can land journalists in jail and result in the closure of newspapers, access to independent and professional media outlets online with uncensored information and opinion pieces in Persian is essential to the growth of democratic space.

Freedom of Assembly

The Iranian political machinery has shown little interest in protecting the human right to free association. Only groups, associations, and assemblies that pledge their loyalty to the government and its religious ideology are given permission to operate. Membership to unauthorized groups and associations is illegal and can land individuals in jail. Even the formation of professional associations (such as those of journalists, lawyers, and artists) is subject to intense scrutiny and pressure by the police, the Intelligence Ministry, and regulatory bodies such as the Ministry of Culture and Islamic Guidance. The Ministry of Intelligence has a pronounced role in "regulating" and "licensing" religious associations, hence determining who has the right to worship. Members of religious minority groups, including Sufis, Sunnis, Baha'is, Christian converts, and Shiite groups who do not subscribe to the Supreme Leader's vision of Islam, are banned, having been deemed as "unauthorized groups and associations." Similarly, any social or political group considered a risk to the official religion is outlawed.

As an extreme example, members of the Baha'i faith are frequently subject to harassment, confiscation of property, and exclusion from education and economic opportunities. The Baha'i faith does not allow followers to conceal their religion, making it harder to avoid abuse. Similar restrictions are also imposed on members of the Sufi faith, as well as Sunni Muslims. The law disallows conversion from Islam to other religions, and the state's intelligence forces often harass individuals who have embraced other religions.

The international community can play a constructive role by providing opportunities for members of marginalized groups to gain access to education and to social opportunities outside of Iran. Another meaningful step by the U.S. government can be to provide resources for groups and associations that promote tolerance, civil rights, and equality before the law within Iran.

Cruel and Unusual Punishments

Iran has one of the highest rates of executions worldwide, including the execution of children under eighteen, comparable only to China and Iraq. The Iranian legal system prescribes the death penalty for many infractions, from sex outside marriage (sexual activity between a Muslim woman and a non-Muslim man results in the execution of the non-Muslim man) to consensual same-sex intercourse between two adult men. The Iranian Penal Code also requires the death penalty for those “spreading corruption and immorality in the society.” Broadly defined, this pertains to anyone found guilty of repeated theft and to those who use abusive language against sacred figures of the Shiite faith.

The government of Iran regularly imposes the death penalty on those who are involved in trafficking drugs, as well as political activists who are seen to be a threat to the establishment, using the vague provisions in the law as cover. Although Iranian authorities frequently have denied the execution of political prisoners, human rights activists have documented cases of execution of political activists who have been arrested based on their political beliefs, their peaceful expression of opinions, and/or their membership in banned groups.

Due to the opaque nature of Iran's court system, the frequent use of unlawful and extrajudicial arrests, the routine confiscation of property by law-enforcement officers and the Basiji religious militia, the widespread use of cruel, inhumane, or other degrading treatment to obtain confessions from detainees, the lack of access to lawyers during criminal trials for many defendants, and the blanket refusal of the Iranian Judiciary to allow independent observers to attend trials, it is often impossible to verify decisions of the court regarding the guilt or innocence of defendants.

The Iranian Penal Code continues to recommend cruel, inhumane, and degrading types of punishments, including stoning (for adultery), amputation of fingers, arms, and legs (for robbery), lashing (for same-sex relations among women, pimping, and accusing someone of committing adultery and/or sodomy), and crucifixion (for armed robbery and drug trafficking). Iran's judiciary has argued that these forms of punishment are meant to protect the society and preserve social order. Although many groups and activists, including ones within Iran, have voiced their opposition to the punishments mandated in the Penal Code, sources close to Iran's Supreme Leader portray these regulations as part of Islamic law and accuse opponents of insulting the religious beliefs of the population. President Rouhani's voice has been largely absent in this public debate, which falsely pits protected moral order against lawlessness.

Based on my conversations with lawyers and legal professionals in Iran, I believe that only a non-politicized approach to the issue of legal reform in Iran can bring about desirable outcomes. The need for legal reform in Iran should not be portrayed as a choice between religious beliefs and the rule of law, nor should it be linked to the level of diplomatic ties between Tehran and Western capitals. Instead, dialogue should include information about the judicial guarantees that are part of the human rights obligations accepted by the Iranian state. Protecting society does not require the deployment of violent and extrajudicial methods, regular violations of inmates' rights, or brutal punishments for acts that can accurately be described as the exercise of human rights.