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His Excellency Ayatollah Ali Hosseini Khamenei,  
Supreme Leader of the Islamic Republic of Iran  
The Office of the Supreme Leader  
Tehran Province, Tehran, District 11,  
Islamic Republic of Iran

7 June 2019

## **Open letter to His Excellency, Ayatollah Ali Hosseini Khamenei, Supreme Leader of the Islamic Republic of Iran, from the International Bar Association's Human Rights Institute**

Your Excellency,

We are writing to you on behalf of the International Bar Association's Human Rights Institute (IBAHRI) to express our grave concern over the proposed amendment to the Code of Criminal Procedure announced on 6 May 2019.

The International Bar Association, established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. It has a membership of over 80,000 individual lawyers, and 190 bar associations and law societies, spanning over 170 countries. The IBAHRI, an autonomous and financially independent entity, works with the global legal community to promote and protect human rights under a just rule of law and to preserve the independence of the judiciary and the legal profession worldwide.

It has come to the attention of the IBAHRI that the proposed amendment to Iran's Code of Criminal Procedure will allow prosecution and judicial authorities to deny detainees facing charges of 'national security', 'terrorism' or 'financial crimes' the right to a lawyer for a period of 20 days during the investigation phase. Authorities would be able to extend this 20-day period by issuing an order 'prohibiting the presence of a lawyer'. The amendment thereby effectively undermines the right to counsel, as well as to have adequate time and facilities for the preparation of one's defence and to communicate with counsel, which are essential elements to the meaningful exercise of the right to a fair trial.

We are further concerned that the absence of counsel during interrogations greatly increases the likelihood of the violation of other rights of arrested and detained persons. These include the rights to presumption of innocence, not to be compelled to testify against oneself or to confess guilt, and not to be subjected to torture and other ill-treatment.

The IBAHRI is also alarmed by the likely effects of the proposed amendment on the integrity of the judiciary. To our knowledge, the amendment fails to specify which officials have authority to extend

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the initial 20-day period. Furthermore, the amendment does not set out the criteria or procedure for the extension of this period.

We remind your Excellency that, as a signatory and party to the International Covenant on Civil and Political Rights (ICCPR), the Islamic Republic of Iran has an obligation to ensure that individuals facing charges have prompt access to legal counsel of their choosing and that individuals are informed of this right.<sup>1</sup> The right to counsel is also enshrined in Article 35 of the Iranian Constitution. Article 35 provides that '[i]n all courts of law, the opposing parties to a dispute have the right to choose an attorney for themselves. If they cannot afford to hire an attorney, they should be provided with the means to do so.'<sup>2</sup>

We respectfully urge Your Excellency to ensure that lawmakers in the country respect and meet Iran's obligations, both under Article 35 of the Iranian Constitution and the ICCPR, to uphold the rights to counsel and to fair trial.

We also remind Your Excellency of the letter sent to your office in March of this year regarding the arbitrary arrest and detention of human rights lawyers. We remain deeply concerned about interferences with fair trial rights and the resulting erosion of the rule of law in Iran.

We would be grateful to receive your assurances that you have received our letters and that our concerns will be addressed.

Yours sincerely,



**The Hon Michael Kirby AC CMG**  
IBAHRI Co-Chair



**Anne Ramberg, Advocate, Dr jur hc**  
IBAHRI Co-Chair

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<sup>1</sup> ICCPR, Art 14, 4 April 4 1968, 999 UNTS 170 (ratified 24 June 1975).

<sup>2</sup> Iran Constitution, Art 35.