

**Civil Society Action for Good Association Law:  
The Case of Iran**

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## **I. Introduction**

Iran has a long and rich history of humanitarian and voluntary work, which draws its strengths from national values, traditions and religious belief. Along with men, Iranian women have been very active in disaster management, humanitarian work and the delivery of social services. Voluntary work has been performed through civil organizations, voluntary associations and other group activities. However, the shape of voluntarism in Iran has changed with new social, political and economical development trends. Citizen groups have consistently filled gaps in services to the poor and provided for the unmet needs of the people, particularly under circumstances where government has been unable to do so or has lacked the political will to cope with such challenges.

Historically Iran's political system, like most other countries of the Middle East, has been marked with despotism and top-down centralized government administrations that have, at best, been paternalistic and not necessarily sensitive to the needs and aspirations of all citizens. Such circumstances have not been conducive to the healthy growth of civil society.

Certain trends are emerging in Iran that show new prospects and opportunities for people's participation, democratic development and growth of civil society. These trends have become more manifest in recent years, during local and national elections. The new mood of the Iranian people, who participated in overthrowing the Monarchy and replacing it with the Islamic Republic, is mirrored in the following recent policy declarations:

- More tolerance of opposition, political pluralism and democracy;
- Respect for basic human freedoms;
- Development through people's participation;
- The Rule of Law;
- Improvement of the status of women;
- Decentralization; and
- Civil society development.

President Khatami won a landslide victory by capturing the new mood of the Iranian people and building his election platform on the above agenda. Elections to the local city and village councils and more recently the parliamentary elections have given Khatami's reform mandate a boost. His supporters have won most of the seats to local councils and to the Islamic Legislation Assembly.

Despite these positive trends, Iran faces daunting challenges in its strive to achieve greater democracy, develop a strong civil society and empower NGOs. Khatami and his government declare progressive policies everyday. Yet, old legal barriers are still in place. Even worse, is the negative attitude of senior officials in the executive, judicial and legislative branches that need to be overcome. The process of political change faces many hurdles and constraints.

This paper will address legal barriers to NGOs working as development partners.

## **II. The Legal Context**

There is an extensive body of legislation addressing the registration and the scope of work carried out civil society organizations, especially NGOs. These range from the Constitution of the Islamic Republic to specific laws governing the foundation of non-governmental organizations, cooperative societies, and philanthropic societies, among others.

The Constitution of the Islamic Republic of Iran provides clear provisions for upholding human freedoms, respect for human rights and participation of people through formation of associations. These rights are enshrined in principles 2,3,26 and 56 of the Constitution.

The Constitution of the Islamic Republic of Iran also contains several principles, which allow for and even encourage the establishment of civil society organizations as a right of the people. Some of these articles are highlighted below:

- Principle Seventy-six recognizes freedom for formation of political parties, societies and political and professional associations and associations for Islamic and religious minority groups;
- Principle Twenty- seven stipulates the right to freely form associations and hold meetings;
- Principle Forty- four stipulates that the foundations of the economic system of the Islamic Republic of Iran are based on the public, private and cooperatives sectors; and
- Principles 100 to 106 stress the importance of people's participation through elected local city and village councils.

The problem starts with legal instruments created to apply the principles of the constitution. The law “Activities of Political Parties, Societies, Political and Professional Associations and Islamic and recognized Minority Religious Associations,” which was ratified by the Islamic Legislative Assembly in 1981, lays out the procedures for the establishment, registration and operation of civil society organizations, NGOs and political parties. The law, through its operational procedures, prohibits societies and associations from involvement in any type of political activity. Leaders of the former regime and those deprived of social rights by law are prohibited from forming associations or political parties. Nevertheless, with this law, the work of NGOs is grouped with and treated like the work of political parties. The First chapter of the Law deals with definitions. The confusion is compounded by rigid definitions, which practically excludes NGOs. Some of the articles of the this law are highlighted below, in example:

**Article 1:** This Article addresses political parties, societies and associations: Political bodies are organizations that have mission statements and articles of association, formed by groups made up of individuals who believe in certain aspirations and policies. The goals, plans and conduct of the organization should, in some ways, relate to the general principles for governing the State and to the overall strategies of the regime of the Islamic Republic of Iran.

**Article 2:** This Article addresses associations, societies, professional federations and other like organizations: Associations, societies, professional federations and other like organizations that are formed by holders of professions or by those conducting a specific trade. The goals and objectives and plans should be within the scope of the special interests of members of the professional group.

**Article 3:** Addresses Islamic Associations: The Islamic Association, attached to an administrative, educational, professional, industrial or agricultural unit, is an organization made up of volunteers from the same unit whose goal is to understand and to promote understanding of Islam, provide guidance and propagate the Islamic Revolution.

**Article 4:** Addresses Religious Minority Associations: Religious Minority Associations, referred to in article 13 of the Constitutional Law, is an organization made up of volunteer members of the same religion, pursuing the goal of studying and resolving the specific religious, cultural, social and welfare problems of the said minority.

**Article 8:** This Article authorizes the Ministry of Interior to register groups and issue licenses, within the framework of this law.

**Article 10:** Establishes a Commission, made up of representatives from the State Prosecutor General's Office, High Judicial Council, the Ministry of Interior and two representatives identified by the Islamic Consultative Assembly. The Commission is charged with approving the issuance of licenses to applicants and oversees the activities of various groups, which are affected by the said law.

**Article 16:** This Article stipulates other prohibitions, including:

- a) Engaging in activities that contravene the independence of the Country;
- b) Any kind of contact, exchange of information, conspiracy with foreign embassies, missions, government organs or political parties at any level and in any manner that is damaging to the liberty, independence, national unity and interests of the Islamic Republic of Iran;
- c) Receiving any kind of financial or logistical assistance from aliens;
- d) Violation of the legitimate liberties of others;

- e) Making false accusation, defamation and rumor mongering;
- f) Contravening national unity and participating in activities designed to contribute to disintegration of the country;
- g) Undertaking efforts to create and intensify differences in the ranks of the people by abusing the existing cultural, religious and ethnic diversity in Iranian society;
- h) Violation of the Islamic principles and undermining the foundations of the Islamic Republic;
- i) Anti-Islamic propaganda and dissemination of offensive publications and material; and
- j) Concealing and keeping unauthorized weapons.

**Article 17:** This Article lays down penalties, which can be imposed by the commission described in Article 10. These penalties include:

- 1- Written notices
- 2- Warnings
- 3- Suspension of license
- 4- Requesting the court to dissolve the organization

Despite the fact that all applications should be approved by the Commission, approval is still subject to security clearance. This step of the process however is not transparent and includes its own cumbersome processes.

Besides the Ministry of Interior, NGOs can seek registration and license from several other agencies. The approval of their licenses is subject to clearance by the Commission and the Ministry of Interior, which issues security clearances. The result, as outlined in the following table, is a multitude of agencies, responsible for issuing licenses in overlapping areas of activity, creating much confusion and a cumbersome, unclear, bureaucracy.

The following table provides a bird's eye view on the range of legal instruments and institutions dealing with registration and the type of activities coming under the purview of each agency.

**III. Review of Legal Structures and Laws Pertaining to Civil Society Organizations**  
 Legal Institutions and Government Bodies dealing with NGOs are outlined in the following table:

No.	Authority Issuing Permits	Legal Base and Instruments	Types of NGOs	Type of Activities
1	Supreme Leader	Approval of Leader	Baseej Cooperative Foundation (Includes 5 Institutions)	Art and cultural activities, science and education, housing, loans, health and supply of consumer goods
2	Ministry of interior	Commission dealing with Article 10 consisting of representatives of the three powers of the State: Legislature, Judiciary, and Executive.	Potential parties and associations, guilds, Islamic Societies and recognized religious minority groups	Political, professional and religious activities related to Article 26 of the Islamic Constitution
3	Ministry of Labor and Social Affairs	Article 131 of Labor Law ratified in 1990 and relevant regulations and procedures approved by the Cabinet in 1992 and 1998.	Islamic Labor Council, Presidential Associations and relevant syndicates and representatives of labor.	Art and Cultural Work
4	Ministry of Culture and Islamic Guidance	General guidelines for setting-up art and cultural centers and supervising their activities approved by the Joint Commissions 1 and 2 of the High Council for Islamic Cultural Revolution	Art and Cultural Centers, associations and institutions Throughout the country	Art and Cultural Activities
5	High Council for Islamic Cultural Revolution	Rules and procedures No. 265 of 1991 approved by the Council for Islamic Cultural Revolution	Islamic organizations, unions, and federation of student bodies, scientific councils, High Youth Council, High State Scientific Council, Women's Cultural and Social Council, etc.	Deals with all Islamic, political, social, education, cultural and scientific activities
6	Universities and institutions for	Approved in the 400 <sup>th</sup> Session of 1997 of the	Private and public centers	Education and learning activities

No.	Authority Issuing Permits	Legal Base and Instruments	Types of NGOs	Type of Activities
	Higher Education	High Council for Cultural Revolution and Committee for Reviewing the competence of student bodies	for Higher Education and relevant federations and unions	
7	Islamic Open University	Mandates provided by Board of Governors	Youth Research Club	Scientific Research and improving the knowledge of students and talented youth
8	Ministries of Labor and Industries	Article 131 of the Labor Law and the procedures ratified by the High Administration Council, late 1998	Specialized associations of homogenous industries, provincial industrial laws	Mobilization of public participation, reduction of the scope of government interventions and prevention of healthy competition
9	Crusade for Construction Ministry	Law approved by Islamic Legislative Assembly in 1998 and operational procedures approved by council of Ministers	Crusade for development, Crusade for Victory, Crusade for Independence and self-sufficiency	Construction and Development
10	Ministry of Cooperatives	Law of 1991 pertaining to the Cooperative Sector of the Islamic Republic and the operational proceeding approved by the Cabinet in 1992	Cooperatives throughout the country, federation of cooperatives, cooperatives' chambers, etc	Undertaking economic activities in the cooperative sector
11	Mosques and Endowments	Sharia Laws	Charities, funds, mosques, etc.	Humanitarian, charity works, welfare, relief and protection services
12	Department of Environment and Interior Ministry	Commission for dealing with Article 10 of Law pertaining to political parties and associations	Green Front, Association of Women Against Environment Pollution, etc.	Protecting the environment and promoting sustainable development
13	Ministry of Culture and Islamic Guidance, Office for Registration of Companies	Amending the Trade Law approved in 1969, Law for establishment of the Ministry of Culture and Higher Education	Non-government research and Education Centers set up as "Special Corporations"	Educational and Research
14	Sports Organization	Laws concerning sports organizations, public and NGO bodies coming	Amateur Sports Federations	Athletic and Sports

No.	Authority Issuing Permits	Legal Base and Instruments	Types of NGOs	Type of Activities
		under the purview of Article 5 of the State Public Audit Law		
15	Office for Registration of Companies attached to the Ministry of Justice	Trade Law approved in March 1969	Institutions and bodies, which are functioning temporarily as non-profit companies pending processing of their formal permits	Service delivery, education, research, cultural activities, etc.

It should be noted that legally none of these permits allow the NGOs to pursue political activities. To engage in any political activity prior approval of the Commission described in Article 10 for formation of political parties is required.

A study group commissioned by the Iran NGO Initiative Project Management, using the “work process” methodology, has mapped out the process, timetable and relevant stakeholders in a number of government institutes that issue permits to NGOs. In the case of the Ministry of the Interior twenty steps are required before the process is completed and registration approved. Some of the steps take up to two years for the Ministry to complete. There are instances when the license seeker has refused to be discouraged and has spent seven to eight years to get a permit.

Standard forms are provided, to which most NGOs object. Only in very rare instances and only with considerable political effort can the standard format be made more flexible. These formats are very inflexible and detract from the NGOs’ capacity to work independent of the Government or to undertake pioneering work. Every minor change in the composition of the Board or in the Articles of Association of the NGO has to be reported to the Ministry of the Interior and clearance for the changes must be obtained.

The major stumbling block is the Approving Commission (Article 10), made up of the Representatives of the State Prosecutor’s Office, the Judiciary and the Islamic Legislative Assembly. Political leanings tend to influence decisions. Such a structure, which includes decision makers at varying levels, with a range of ideologies, who often do not share the new progressive perspectives of high officials at the Ministry of the Interior, create many problems. The Security Unit also has its own procedures that often need expending of considerable energy. Despite all these problems, cases of prompt approval have been reported. Such exceptions need very high level leveraging with people in positions of power. A number of Ministers promoting NGOs have faced considerable constraints like other people.

The Ministry of Cooperatives, the Ministry of Culture and Islamic Guidance and the Ministry of Culture and Higher Education have a more positive approach to NGOs seeking registration.

A special feature of the above Table is the decision-making power of the Supreme Leader and the High Council for Cultural Revolution. Decisions can be made at this level that would otherwise require legislation.

The situation can become more complex at the provincial level. Lack of clarity leaves much scope for diverse and often contradictory interpretations by authorities issuing permits. In some cases the local authorities make the decision, while in other cases, after subjecting the license seeker to considerable red tape, the application is referred to Tehran. A number of creative NGOs have learned to lobby successfully with Friday Prayer Leaders, and the provincial governors to obtain faster results.

Leaders of all types of NGOs have been expressing their dissatisfaction with the legal system that seriously impedes their work.

The opportunity for NGOs to tackle this problem systematically was presented in an NGO Consultation Workshop.

#### IV. The NGO Consultation Process

In late 1997, with support of the Population Council, an informal consultation process was initiated, targeting particularly more modern Iranian NGOs, which had participated and had been involved in the World conferences, sponsored by the UN in the 1990s. These included NGOs working on Population (ICPD), Environment Protection (Earth Summit) and Women and Development (FWCW). These cluster meetings were organized in September 1997. All NGOs consulted highlighted the legal barriers as one of the key factors constraining their work. Many of these NGOs, who spoke out frankly and critically of the government, were labeled as government-sponsored NGOs. These informal consultations led to a more formal dialogue of NGOs with Government Officials in February 1998. This landmark meeting held in Bushehr (South Iran) was attended by representatives from the UN agencies, academics, and INGOs. The problems discussed informally were highlighted. These included the need for:

- Law Reform;
- Capacity building;
- Information and data systems development, including internet connectivity;
- Networking locally and internationally; and
- Taking the dialogue beyond Tehran to NGOs in the provinces and CBOs operating at the grassroots levels.

A Steering Committee was set up to follow-up the recommendations through to its implementation stages. The Population Council assisted by the Ford Foundation and the UN agencies provided support to the Steering Committee in the implementation of

activities designed to address the recommendation, through a project entitled the “Iran NGO Initiative”.

## **V. Interventions to Address Legal Barriers**

Two interventions of the Steering Committee are relevant to the theme of this paper:

### **1. Consultation with NGOs in the provinces:**

The Family Planning Association of the Islamic Republic of Iran and the Population Council have helped organize NGO consultation meetings in five regions covering the whole country. NGOs were selected on the basis of the following criteria:

- Geographic and gender balance;
- Representation from different clusters;
- Inclusion of both modern and traditional NGOs;
- Inclusion of minorities; and
- Ability of NGOs to convey the results of the consultation to other NGOs in their province and to sustain the momentum generated at national and regional levels.

Law reform was identified, during this process, as a top priority area necessary to create the legal environment conducive for NGOs to act as effective partners in national and local development efforts. In each province two NGO representatives have been identified (one male and one female) as focal points for networking. In this way the seeds of an informal NGO federation is emerging from below.

At the national level, NGOs are being supported in their efforts to form thematic networks, clusters or coalitions. Both at national and local levels, the pressure for changing the constraining legal framework is gradually emerging. With the gains made by the reformist groups in entering the Islamic Legislative Assembly, future prospects for change are seen to be bright.

### **Constraints**

The problems listed by the NGOs through the consultation process are outlined below:

- Absence of clear definitions of NGOs and linking the process of registration of NGOs with the same process that governs formation of political parties. There is no clear definition of NGOs in the entire body of legal institutions that currently exist. Legal institutions provide definitions for political parties, Islamic and professional associations and minority community organizations. This lack of clarity leaves the process of registration open to diverse interpretations by bureaucrats from wide range of government institutions, who rarely have a positive attitude towards NGOs;
- Prevalence of procedures and regulations that are indicative of negative security orientations that treat any association of people with mistrust and suspicion;

- Multiplicity of decision making centers that are not coordinated, leading to long drawn out procedures that are exhausting, time consuming and wasteful;
- Heavy government pressure in all stages of organized volunteer work that tends to stifle initiative and discourage creativity and community mobilization;
- Restrictions on international cooperation by NGOs;
- Some of the government agencies, like the Ministry of Interior, provide model articles of association, which are against the spirit of volunteerism, independence and self-reliance of NGOs. Initiative and pioneering work is stifled and community mobilization is discouraged;
- Existing legal institutions are basically designed to create constraints on the scope of work of NGOs and places limitations and restraints on their ability to interact internally with communities, and externally with potential international partners.

## **2. Law Reform**

The second intervention supported by the Iran NGO Initiative is a law reform project. Participants at the Bushehr Workshop recommended a two-track approach:

- a) Assessing existing laws and regulations governing NGO-Government relations and providing user-friendly guidelines for registration; and
- b) Drafting a new law in collaboration with NGOs to create a more enabling legal climate for NGOs.

## **VI. Opportunities and Future Prospects**

Despite the structural constraints and the wide range of problems faced by Iran's civil society organizations, including NGOs, recent developments have created exciting and challenging opportunities for non-governmental organizations.

- Recent elections have created opportunities for giving concrete shape to the will and aspirations of the people, which places civil society development high on the political agenda. The changing mood of the people was manifested in the landslide vote for Khatami and his reform program. Elections for local councils and the recent parliamentary elections have resulted in both the legislature and the executive being dominated by those committed to Khatami's popular reform program. In this way, many obstacles to legal change for engaging NGOs as development partners have been removed. These trends have contributed to a more open society.
- Iranian decision-makers have been participating in the major political meetings on challenges of the 21<sup>st</sup> century. These include Children's World Summit (1990) Earth Summit (1993), ICPD (1994), FWCW (1995), etc. Iran has participated in these global events and gradually involved its fledging modern NGOs. More

international exposure has been helpful to understanding the need for giving more space to NGOs and also projecting a better image of Iran to the outside world.

- Women, the media and youth have been in the forefront of facilitating change and transformations. Women and youth voters were influential in loosening the hold of conservatives over the Iranian political system, especially the parliament. In the absence of credible political parties a very lively and daring press has provided outlets for freer expression. Talented individuals, particularly from civil society, have become more involved in the national debate on critical issues.

The advocates of legal change and law reform designed to empower NGOs feel more optimistic and confident for the future of civil society in Iran. The text of the “Third Five-Year Development Plan Law” gives credence to this optimism.

### **NGOs and the Third Development Plan Draft Law**

After extensive consultations and debate, President Khatami presented the draft law of the third Five-Year Development Plan of Iran to the Legislation Assembly, September 1999.

In the process of reviewing the draft plan, the parliament, dominated by conservatives introduced considerable changes in the text of the president’s proposal. Yet, it seems even the conservative deputies yielded to the new look to the NGOs. A number of articles on NGOs approved in the first and second reading are presented below:

- The draft law prioritizes policies addressing the needs of the deprived, changing the role of the state from that of provider to facilitator and encouraging local bodies, including NGOs, to play a greater role in development activities.
- Decentralization and people’s participation is promoted, particularly in the field of humanitarian work.
- The plan provides for funding support of government and the public to NGOs active in the fields of development addressing the issues of youth, women, and environmental protection.
- The plan also calls on the government to produce legislation to expand the role of civil society in areas of service delivery so that the government can focus its energies on addressing national issues.

### **VII. Conclusions**

The Bushehr Consultation Workshop and subsequent consultations have laid the ground for national and local NGO networks. These thematic and regional networks will address the critical needs and problems of NGOs, including the challenge of drafting a new law in cooperation with executive, judicial and legislative branches. Already the consultation process has initiated a participatory exercise in designing a code of conduct to govern standards for NGOs. This code will draw on a work plan that involves:

- Organized involvement of NGOs;
- Study and analysis;
- Consultation workshops at local level and at central level with various branches of the State;
- International comparative analysis;
- Development of alliances with supporters of law reform in civil society, academics, government, etc.; and
- Knowledge dissemination and consensus building.

The outputs of this exercise will be:

- a) A user friendly guideline for NGOs planning to register under existing laws;
- b) A draft law for empowering NGOs produced through a consensus building, partnership consultation process; and
- c) A “code of conduct” for the Iran NGO community.

Iranian Civil Society as well as CSOs in other countries of the Middle-East region are grappling with laws that stifle initiative and discourage the spirit of volunteerism.

Through a process of networking and experience exchange, dialogue with governments, state authorities, international organizations, and bilateral donors, we can collectively contribute to awareness creation and domestic public pressure for change. International development partners can assist by supporting the local initiatives and using their existing channels of communications with decision-makers to facilitate change through dialogue and cooperation.