"Where is My Vote?": Democratizing Iranian Election Law Through International Legal Recourse

Tanya Otsuka
“WHERE IS MY VOTE?”: DEMOCRATIZING IRANIAN ELECTION LAW THROUGH INTERNATIONAL LEGAL RE COURSE

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Abstract: In 2009, massive demonstrations ensued in response to the allegedly fraudulent reelection of Iranian president Mahmoud Ahmadinejad. The Iranian government met these protests with violence, imprisonment, and death. Yet, given the Iranian government’s structure and election law, the ability to resolve election disputes through domestic legal means is virtually non-existent. Many provisions of Iranian election law are democratically flawed, even though Iran is a party to numerous international agreements requiring free and fair elections. This Note examines the availability of international legal recourse for the provisions of Iran’s election law that fail to live up to these standards. The Note suggests that the international community apply multi-lateral political pressure to encourage Iranian election reform.

INTRODUCTION

As thousands of Iranians took to the streets, the world watched as a nation experienced its largest protest since the 1979 Islamic Revolution. Iran’s 2009 presidential election, a contest primarily between two leading candidates, incumbent Mahmoud Ahmadinejad and reformist candidate Mir Hossein Mousavi, illustrated the dichotomy between traditional, conservative Iranians and an invigorated wave of progressive, reform-oriented voters. After Iran’s Interior Ministry announced Ahmadinejad the winner, Iranians discontent with the election outcome participated in numerous demonstrations disputing an allegedly fraudulent election that did not represent the true voice of the people. For the protesters,

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3 See id.
the phrase, “Where is my vote?,” became the battle cry of the movement.4

Following his reelection, Ahmadinejad and the Iranian government initiated violent efforts to quell protests.5 This led to hundreds of injuries and arrests, prison rape and torture, and even deaths.6 Ahmadinejad demanded that opposition leaders be tried for their actions, exemplifying the government’s harsh line against peaceful protest.7

The Iranian government’s actions against peaceful protesters clearly violate the International Covenant on Civil and Political Rights (ICCPR) to which Iran is a party.8 The extent to which Iran’s election laws violate the ICCPR, however, is less than clear. President Ahmadinejad celebrated his reelection as “glorious and fully democratic.”9 Yet given Iran’s uniquely structured government, claiming to be both a theocracy and a democracy, its election laws and the role of the Guardian Council also reflect this often contradictory theme.10

Part I of this Note provides a synopsis of some of the unique features of the Islamic Republic’s government relating to elections. Part II discusses the extent to which Iran’s presidential election law conforms to the ICCPR. Part III analyzes the availability of international legal recourse for provisions that do not comply with the ICCPR, specifically through United Nations (U.N.) institutional and multilateral mechanisms. Although problems of enforceability abound, there should ultimately be some organized international effort to influence domestic transformation of undemocratic elections without infringing on state sovereignty.

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4 See Nazila Fathi, A Recount Offer Fails to Silence Protests in Iran, N.Y. TIMES, June 17, 2009, at A1.
5 See Erdbrink, supra note 2.
7 Id.
I. Background

A. Unique Features of the Iranian Government

In understanding the democratic underpinnings of Iranian election law, it is necessary to briefly discuss some of the unique mechanisms of Iranian government.\textsuperscript{11} As a theocratic democracy, or self-proclaimed “Islamic Republic,” the democratic aspects of Iranian government are intertwined with, and often trumped by, Islamic law.\textsuperscript{12} First, sovereignty is sanctioned by God and delegated to the Supreme Leader, an Islamic cleric who has absolute power in determining whether legislation and political actions conform to Islam.\textsuperscript{13} In 1989, the Assembly of Experts, a body of clerics elected by the people and charged with monitoring the Supreme Leader, appointed Iran’s current Supreme Leader, Ayatollah Ali Khamenei.\textsuperscript{14} The Supreme Leader is the highest-ranking political and religious official in the government.\textsuperscript{15} With much more power and influence than the president or Parliament, he authorizes domestic and foreign policy, serves as head of the military, has broad appointment power, and has the sole power to declare war.\textsuperscript{16}

Second, the Iranian Constitution mandates another powerful institution that assures laws are compatible with Islam.\textsuperscript{17} The Guardian Council, composed of six clerics and six lawyers appointed by the Supreme Leader and the judiciary, has the power to interpret the constitution, veto parliamentary resolutions, and supervise presidential and parliamentary elections.\textsuperscript{18} For example, the Guardian Council must approve all prospective presidential candidates before they are allowed to run for office, and election results are not official until the Guardian Council certifies them.\textsuperscript{19}

\begin{enumerate}
\item[12] Bouroumand & Bouroumand, \textit{supra} note 10, at 132–33.
\item[13] Id.
\item[15] See id.
\item[16] See id.
\item[19] Bouroumand & Bouroumand, \textit{supra} note 10, at 133.
\end{enumerate}
Third, the president’s role in the Iranian government is executive in nature, but his powers extend only to those not reserved for the Supreme Leader.\(^\text{20}\) He also shares executive power with the Council of Ministers, a cabinet selected by the president and confirmed by Parliament.\(^\text{21}\) While the president’s actual political power vis-à-vis other institutional bodies is limited, he does serve as the liaison between each branch of government.\(^\text{22}\) The president manages Iran’s economic policy and plays some role in foreign policy and national security, though his actions and political decisions are ultimately subject to the Supreme Leader’s approval.\(^\text{23}\)

**B. Electing the President**

The Guardian Council plays an extremely important role in the election process.\(^\text{24}\) The constitution requires the Guardian Council to supervise national elections and to approve all prospective candidates for president.\(^\text{25}\) According to the constitution, presidential candidates must not only be of Iranian origin and nationality, but must also meet certain religious and moral standards.\(^\text{26}\) In many elections, this greatly curtails the number of people who may actually run as official candidates for the office.\(^\text{27}\) For example, hundreds of potential candidates may register, but the Guardian Council may choose to select far fewer for the final slate.\(^\text{28}\)

In order to vote, Iranians must present their national identifications, or shenasnameh, at any polling location in the country.\(^\text{29}\) Since there is no national electoral registry, electoral officers stamp voters’ national identifications with an ink seal, certifying that the voters have not already voted in the current election.\(^\text{30}\) Ballots have a detachable slip that is removed before a voter enters the voting booth.\(^\text{31}\) The voter

\(^{20}\) Schirazi, supra note 18, at 16.

\(^{21}\) See Hoch, supra note 14.

\(^{22}\) Schirazi, supra note 18, at 16.

\(^{23}\) Schirazi, supra note 18, at 16.


\(^{25}\) Bouroumand & Bouroumand, supra note 10, at 133.

\(^{26}\) Qanuni Assassi Jumhuri’i Isla’mai Iran arts. 99, 118; Bouroumand & Bouroumand, supra note 10, at 133.


\(^{28}\) See id.

\(^{29}\) See id.

\(^{30}\) See id.

\(^{31}\) See id.
manually writes the name of his desired candidate and deposits the remaining portion of the ballot into the ballot box.32 Once the Interior Ministry, charged with overseeing election procedures,33 counts the ballots and announces the results, the Guardian Council certifies the election.34 Finally, the Supreme Leader officially declares the winning candidate by issuing a presidential decree.35 This is an important provision to note, especially in the 2009 election.36 Once the Supreme Leader declares the winner, protesting the results is an affront not only to the election itself, but also to the authority of the Supreme Leader.37

These voting procedures provide the most opportunity for fraud.38 The speed with which officials counted the ballots in the 2009 election is a strong indicator of foul play, but there is no hard evidence of actual fraud.39 At each polling station, electoral officers count and record votes on a form approved by candidate representatives, the Interior Ministry, and the Guardian Council, though the information on the forms is kept secret.40 The Interior Ministry then compiles these forms and reports the final results.41 In the 2009 election, however, government officials counted half of the over forty million hand-written paper ballots within three hours of the polls closing, an extremely unrealistic feat.42

Election fraud is not a problem specific to Iran; even highly democratized countries like the United States suffer from charges of election fraud.43 Nevertheless, what is especially problematic about the 2009 Iranian presidential election is the relation between the inability to contest fraudulent results and the anti-democratic nature of the election struc-

32 See id.
33 Erdbrink, supra note 2.
34 Bouroumand & Bouroumand, supra note 10, at 133.
37 See id.
39 Id.
40 Id.
41 Id.
42 Id.
ture. Multilateral institutions such as the United Nations have attempted to establish standards for democratic elections through the adoption of Article 21 of the Universal Declaration of Human Rights (UDHR). Similarly, Article 25 of the ICCPR broadly calls for the will of a nation’s people to be expressed through universal and equal suffrage. While it may be difficult to enforce these definitions, they provide a framework for analyzing the democratic weight of Iranian election law. As a U.N. member nation and signatory to the ICCPR, Iran is obligated to abide by the provisions governing free and fair democratic elections.

II. Discussion

A. Criteria for Free and Fair Elections

Article 25 of the ICCPR establishes the right to free and fair elections, stating that:

Every citizen shall have the right and the opportunity . . . to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; to have access, on general terms of equality, to public service in his country.

These principles are specifically reaffirmed and endorsed by the Inter-Parliamentary Union’s (IPU) Declaration on Criteria for Free and Fair Elections (Election Criteria), to which Iran is also a signatory. Though the IPU mainly focuses on maintaining relationships between parliamentary governments, it provides an in-depth framework by which member nations should abide in any election.

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44 See Shirin Ebadi, Keynote Address: Islam, Human Rights, and Iran, 23 Emory Int’l L. Rev. 13, 19 (2009); Kar, supra note 11, at 161.
47 See U.N. Charter art. 2.
48 See ICCPR, supra note 46, art. 25.
This framework expands on the general election rights under the UDHR, explicitly stating the requirements for an election to be free and fair.\textsuperscript{51} One important provision entitles voters the right to equally weighted votes, which is particularly relevant in cases of election fraud.\textsuperscript{52} The Election Criteria also include the right to an equal opportunity to run for political office.\textsuperscript{53} Moreover, individuals or political parties whose candidacy rights are restricted “shall be entitled to appeal to a jurisdiction competent to review such decisions and to correct errors promptly and effectively.”\textsuperscript{54}

The IPU also sets forth the rights and responsibilities of states in running free and fair elections.\textsuperscript{55} It advises states to establish election frameworks in accordance with their national constitutions, but also “in accordance with their obligations under international law.”\textsuperscript{56} National governments should enact measures reflecting impartial and transparent election systems, such as monitoring ballot counting and preventing fraud.\textsuperscript{57} Particularly significant in the context of Iranian elections, the IPU urges states to “ensure that violations of human rights and complaints relating to the electoral process are determined promptly within the timeframe of the electoral process and effectively by an independent and impartial authority, such as an electoral commission or the courts.”\textsuperscript{58}

\textbf{B. Conformity to International Law and Democratic Norms}

The fact that Iran has an established election system is important, especially given the theocratic elements of its government.\textsuperscript{59} Yet it is unclear that all of its election provisions meet even the broadly defined standards set forth in the ICCPR.\textsuperscript{60} Some of these provisions, such as requirements that candidates are of Iranian nationality and are elected by absolute majority, are uncontroversial and generally comply with normative democratic principles.\textsuperscript{61} The Guardian Council’s role in the

\begin{flushright}
52 See id.
53 See id.
54 Id.
55 Id.
56 Id.
57 See Inter-Parliamentary Union, supra note 51.
58 See id.
59 See \textit{Schirazi}, supra note 18, at 14.
60 See \textit{Election Process}, supra note 49.
61 See \textit{Goodwin-Gill}, supra note 50, at 54.
\end{flushright}
administration of elections, however, is one of the most troubling aspects of Iranian election law.62

Although the Guardian Council supervises elections in an administrative context, its role in approving all prospective candidates conflicts with democratic norms.63 First, the Guardian Council excludes candidates because of certain political ideologies, especially if they drastically conflict with the ideology of the Guardian Council or election officials.64 Because the Islamic Republic bans independent political parties, the Interior Ministry disqualifies candidates on this basis even before they reach the Guardian Council.65 For example, the Interior Ministry automatically disqualifies candidates who have participated in or sympathized with nationalist, democrat, or socialist parties.66

Second, candidates must meet a religious and moral standard, which the Guardian Council decides and subjectively administers.67 Even after the Ministry of Information investigates a candidate’s political “legitimacy,” the Guardian Council evaluates his beliefs and behavior.68 For instance, it determines whether women in his family wear a chador, whether the candidate attends religious services, whether he participates in events supporting the regime, and whether he has criticized the government or the Supreme Leader.69

During this process, the Guardian Council is not required to justify its decisions and is accountable only to the Supreme Leader.70 Candidates and other citizens must appeal to the Guardian Council itself if they are dissatisfied with the final list of candidates or the results of the election.71 This lack of accountability makes it highly unlikely that an appeal will be successful, given the lack of oversight by other governmental bodies, such as the judiciary or Parliament.72 In 2009 for example, Mousavi, the favored but losing candidate, disputed the results of the election and called for its annulment.73 The government refused to

62 See Election Process, supra note 49.
63 See id.
64 See id.
65 Bouroumand & Bouroumand, supra note 10, at 134.
66 Id.
67 See id.
68 See id.
69 Id.
70 Id.
71 Bouroumand & Bouroumand, supra note 10, at 134.
72 Id.
73 See Shoamanesh, supra note 8.
invalidate the election, and after a speedy partial recount the Guardian Council reaffirmed its initial decision.\textsuperscript{74}

Thus, the legal provisions governing the Guardian Council’s role violate the principle that citizens have an "equal opportunity to become a candidate for election" established in the IPU’s Election Criteria.\textsuperscript{75} Although Iranian citizenship requirements can be applied objectively, the religious and moral fitness requirement leaves enormous discretion to the unelected Guardian Council in essentially cherry-picking candidates to its own liking.\textsuperscript{76} As an ideological barrier to political participation, this criterion violates not only Article 25 of the ICCPR, but also Article 19, which guarantees freedom of expression.\textsuperscript{77} This outcome has anti-democratic consequences for the people of Iran as well as for the candidates themselves.\textsuperscript{78} Because the group of candidates for which citizens may vote is pre-selected by the Guardian Council, Iranians are deprived of the full ability to freely choose their representatives.\textsuperscript{79} Practically, of course, a State may narrow down its list of candidates to make the final choice more feasible, or restrict candidates by age or residence.\textsuperscript{80} The fact that the candidate selection process is run by an unelected body, however, detracts from the election as a full expression of the will of the people.\textsuperscript{81}

Rather than compare a nation’s election laws to a broad international normative standard, some international election specialists contend that “evaluations should be made within the historical and political context of the country in question.”\textsuperscript{82} The Iranian people played a critical role in the creation of the Islamic Republic through the 1979 Revolution, after a long history of thwarted attempts at democracy because of external interference and dictatorial rule.\textsuperscript{83} In this vein, therefore, the current government and its laws must at least to some extent be taken seriously.\textsuperscript{84}

\textsuperscript{75} See Inter-Parliamentary Union, \textit{supra} note 51.
\textsuperscript{76} See Goodwin-Gill, \textit{supra} note 50, at 55.
\textsuperscript{77} See id.
\textsuperscript{78} See Ebadi, \textit{supra} note 44, at 19.
\textsuperscript{79} See ICCPR, \textit{supra} note 46, art. 25.
\textsuperscript{80} See Goodwin-Gill, \textit{supra} note 50, at 54–55.
\textsuperscript{81} See ICCPR, \textit{supra} note 46, art. 25; Bouroumand & Bouroumand, \textit{supra} note 10, at 134.
\textsuperscript{82} Alvarez et al., \textit{supra} note 45, at 2.
\textsuperscript{83} See Schirazi, \textit{supra} note 18, at 291–92.
\textsuperscript{84} Alvarez et al., \textit{supra} note 45, at 2.
In similar fashion to the 1979 uprising, the Iranian people demanded action from their government after the 2009 presidential election. The allegations of an undemocratic presidential election initially came from the Iranian people, rather than from an external source. More importantly, because of the Guardian Council’s dominant role in elections, Iranians disconcerted with the results, fraudulent or not, have no de facto legal recourse. The Guardian Council, rather than the courts, reviews all election challenges. Appealing to the very government body that approves presidential candidates and refuses to disclose official ballot reports is effectively meaningless. While there are valid concerns about the role of international law in disputed domestic elections, there must be some international support for the citizens of a government that belongs to numerous international treaties but fails to abide by them.

III. Analysis

A more democratic, appealable election structure should ultimately be the product of internal reform. There are, however, opportunities for the international community to significantly impact Iranian domestic legal change without drastically interfering with sovereign authority. Disputes with Iran over nuclear proliferation and security concerns make the international community more cautious in dealing with Iran. Acting in a way that reaffirms a commitment to fair elections without delving too deeply into Iran’s internal affairs is particularly important.

85 See Erdbrink, supra note 2.
86 See id.
87 See Bouroumand & Bouroumand, supra note 10, at 134.
88 See id.
89 See id.
90 See Shoamanesh, supra note 8.
94 See Goodwin-Gill, supra note 50, at 27.
A. International Political Pressure: An Analogy to Human Rights Advocacy

In light of the Iranian government’s recalcitrance vis-à-vis its international legal obligations, the international community should exert political pressure on Iran to reform its election laws. Although political pressure may not immediately convince the government to amend its election laws or administer elections more carefully, it may at minimum force the government to engage in dialogue on the subject of its election laws. In reality, the government does alter its behavior in response to external pressure, even as it announces its absolute resistance to international demands. This tactic is used to help release political prisoners and often has positive results. As Iranian human rights lawyer and Nobel Laureate Shirin Ebadi articulates:

On the surface, the Iranian government shows that it will not take action based on the concerns raised by the international community. But the truth is different. For 15 years . . . experience has shown me that when the world voices its concern over the arrest of a political prisoner, it puts a lot of pressure on the government. It has to react in some way.

Haleh Esfandiari’s release from Iran’s Evin Prison demonstrates that broad international support can be a successful means of influencing the Iranian government. In 2006, Iranian authorities arrested Esfandiari, Director of the Woodrow Wilson International Center for Scholars’ Middle East Program, for alleged crimes against Iranian national security. Esfandiari’s release came after multilateral international appeals to Iranian government officials. For example, Wilson Center President and former U.S. Congressman Lee H. Hamilton successfully appealed to Supreme Leader Khamenei after failed attempts

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95 See Shoamanesh, supra note 8.
96 See Ebadi, supra note 78, at 22.
97 Id.
98 See Maziar Bahari, Four Months Inside an Iranian Prison, Newsweek, Nov. 30, 2009, at 41 (explaining that international pressure to free Bahari from prison influenced his eventual release); Ebadi, supra note 78, at 22; cf. Robin Wright, Iran Frees U.S. Scholar from Prison, Wash. Post., Aug. 22, 2007, at A10 (stating that American social scientist Kian Tajbakhsh and others are still detained for alleged roles in postelection protests).
99 See Ebadi, supra note 78, at 22.
100 See Haleh Esfandiari, My Prison, My Home: One Woman’s Story of Captivity in Iran 205–07 (2009) (explaining that international efforts hastened her release from prison); Wright, supra note 98.
101 Wright, supra note 98.
102 Id.
to contact other Iranian leaders. Additionally, former U.N. Secretary General Kofi Annan, European Union foreign policy leader Javier Solana, and diplomats from more than 20 governments appealed to Iranian officials and the foreign ministry. By Esfandiari’s own account, she knew her release was imminent when her jailer informed her that then-Senators Barack Obama and Hillary Clinton issued statements about her detainment.

International criticism of the Iranian government’s civil rights record will also influence the level of its domestic support. The current regime is noticeably concerned with its image, exemplified by its attempt to deflect attention from the election. For this reason, the international community must be persistent in pressuring the Iranian government to abide by ICCPR election standards. Shortly after the 2009 election, for example, President Ahmadinejad repeated his infamous anti-Semitic statements. An outraged international community castigated him for his insensitive and blatantly incorrect comments. Nonetheless, Ahmadinejad succeeded in avoiding the hard questions about the election and subsequent rights violations in Iran at the U.N. General Assembly.

International criticism against Iran for its disregard of the ICCPR and other treaties is especially important at a time when citizens are defiant of the government’s rule. This timely pressure would demonstrate to Iranians the international community’s support for and commitment to fair and democratic elections, not just its reactions to Ahmadinejad’s “provocative rhetoric.”

103 Id.
104 Id.
105 Esfandiari, supra note 100, at 152–54.
107 See id.
108 See Shoamanesh, supra note 8.
109 Parsi, supra note 106.
110 Susman, supra note 9.
111 See Mark Landler & Nazila Fathi, President of Iran Defends His Legitimacy, N.Y. Times, Sept. 24, 2009, at A14.
112 See Parsi, supra note 106.
113 Id.
B. Internal Influence Through External Means

1. General Assembly Resolution and Multilateral Support

Political pressure should be applied primarily in the form of a U.N. General Assembly resolution because there is a legal basis for implementing provisions of the U.N. Charter and the ICCPR. The United Nations can justify its position with legally binding documents that secure the formal political rights of citizens, rather than merely engaging in arbitrary criticism. Similarly, the United Nations has a specific division that assists in organizing and observing elections and is equipped to advise the General Assembly. The Electoral Assistance Division is a structured election unit with well-established rules and guidelines for election laws. From 1989 to 2005, the Electoral Assistance Division provided electoral assistance in ninety-six countries with expertise in various areas, such as election administration and electoral laws.

A General Assembly resolution reaffirming the election rights set forth in the ICCPR and requesting that Iran provide a meaningful election appeals process is also preferable to a Security Council resolution. The General Assembly’s duties and powers are more closely aligned with the maintenance of civil and political rights, whereas the Security Council’s role is more focused on maintaining peace and security. More importantly, it is unlikely that China or Russia will agree to a resolution. China, for example, objects to U.N. election monitoring in a sovereign state as a violation of Article 2(7) of the U.N. Charter. Iran may also reduce a Security Council resolution to a threat from the United States alone, defeating the purpose of organized international action. A General Assembly resolution, however, allows political pressure to come from a more multilateral front, composed of representa-

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114 See U.N. Charter arts. 11, 13; ICCPR, supra note 46, art. 25.
116 Pierre Cornillon, Foreword to Goodwin-Gill, supra note 50, at vii.
118 See U.N. Electoral Assistance Div., supra note 117.
120 See U.N. Charter arts. 12, 13, 26.
122 See Goodwin-Gill, supra note 50, at 18.
123 See Shoamanesh, supra note 8.
tives from all 192 member states.\textsuperscript{124} It is also more likely to pass, given the prior passage of General Assembly resolutions reaffirming the value of free and fair elections and proscribing electoral assistance.\textsuperscript{125}

Individual nations should also engage in continuous political pressure alongside a General Assembly resolution, especially as the international focus drifts away from the elections to Iran’s nuclear program.\textsuperscript{126} As the human rights examples illustrate, political pressure is most effective when invoked continuously.\textsuperscript{127} Pressure from countries with substantial diplomatic or economic ties with Iran, such as France, Germany, Italy, and Brazil, may also be particularly effective.\textsuperscript{128} Shirin Ebadi has suggested that the European Union disengage in political dialogue with Iran “until the violence stops and fresh elections are held.”\textsuperscript{129} Yet, in light of global concerns over the development of Iran’s nuclear capabilities, many nations will view cutting off communication with Iran as an impractical strategy.\textsuperscript{130} A more moderate approach would be to include discussion about the election in negotiations with Iran regarding its nuclear program.\textsuperscript{131} Foreign diplomats should pressure Iran to answer its citizens’ calls for democratic elections while still maintaining a firm hand on the nuclear energy issue.\textsuperscript{132}

To be clear, this Note does not argue that the United Nations or other countries should demand a drastic government restructuring in order to make Iranian election laws more democratic. Elections are arguably “matters which are essentially within the domestic jurisdiction” of the State, in which the U.N. Charter prohibits international interference.\textsuperscript{133} The United Nations has recognized that the international community is not to evaluate a nation’s compliance with international

\textsuperscript{126} See Basu et al., supra note 93.
\textsuperscript{127} See Ebadi, supra note 78, at 22; Parsi, supra note 106; Wright, supra note 98.
\textsuperscript{128} See Shoamanesh, supra note 8.
\textsuperscript{129} See Dream, supra note 121, at 54–55.
\textsuperscript{130} See Basu et al., supra note 93.
\textsuperscript{131} See generally id.; Hamid Dabashi, Commentary: Huge Risks in Iran Sanctions, CNN, Aug. 5, 2009, http://www.cnn.com/2009/WORLD/meast/08/05/dabashi.sanctions.iran/index.html (noting that the international community has refocused its attention to Iran’s nuclear program and away from the legitimacy of its regime, even though Iranians who view the election as invalid nevertheless support Iran’s pursuit of a peaceful nuclear program); Dream, supra note 121, at 54–55.
\textsuperscript{132} See Dabashi, supra note 131; Wright, supra note 98.
\textsuperscript{133} See U.N. Charter art. 2(7).
norms based on its choice to adopt a certain type of election system or political structure. But Iran has ceded some of its sovereignty by voluntarily becoming a member of the United Nations and party to the ICCPR. When election procedures clearly limit the will of the people in violation of the ICCPR, the United Nations is justified to respond within its legal bounds.

2. The Failure of Economic Sanctions

Economic sanctions are another means to achieve an international policy objective. While widely used and currently in place against Iran, imposing sanctions with regard to Iranian election laws would be unproductive. Economic sanctions have a sizably negative effect on Iranian citizens but little to no impact on the Iranian government’s policies. U.N. Security Council sanctions, for instance, largely affect the most economically and politically vulnerable members of society. As a result, sanctions become counterproductive, because the government uses the adverse impact on its citizens to bolster its own position against the international community.

Furthermore, it would be impractical to issue sanctions based on a failure to comply with ICCPR and democratic standards for elections. Although there is legal precedent for the imposition of sanctions to encourage free and fair elections, such as the Security Council’s application of sanctions against Haiti in 1993, there are at least two problems associated with placing additional sanctions on Iran. First, as discussed above, it is unlikely China will agree to sanctions for what it per-
ceives as a domestic issue.\textsuperscript{145} Second, given Iran’s resistance to U.N. sanctions in the closely-scrutinized area of nuclear energy, it is doubtful that sanctions regarding domestic elections will have a stronger effect.\textsuperscript{146} Despite the 1737 sanction regime issued in 2006,\textsuperscript{147} Iran continued to build its nuclear program.\textsuperscript{148} Today, its nuclear capability remains a pressing and unresolved international issue.\textsuperscript{149}

\section*{C. Looking to the Future: Election Assistance and Support for Domestic Initiatives}

At the request of a member state, the United Nations can organize, supervise, or verify elections, as accomplished in Namibia, Nicaragua, and Haiti.\textsuperscript{150} U.N. involvement of this magnitude is rare and requires a specific General Assembly mandate.\textsuperscript{151} Nevertheless, the United Nations may also support international observation and election assistance through analysis, advice, or training, which are more accepted levels of involvement.\textsuperscript{152} The current Iranian government will likely oppose U.N. election assistance, but in many ways it may be in Iran’s interest.\textsuperscript{153}

Considering the Iranian government’s diminished domestic support, it would be beneficial to the current regime to restore confidence in its citizens.\textsuperscript{154} As discussed, the government is furtively concerned that it lacks widespread domestic approval.\textsuperscript{155} In response to the protests, the government used force to squelch a potential uprising through the use of imprisonment, death sentences, and accusations of foreign-backed protests.\textsuperscript{156} The current regime has set the stage for defiance by its people, and even by a few leading clerics.\textsuperscript{157} Concerns loom that continuing in this direction will lead to negative consequences for the government.\textsuperscript{158} Inviting international bodies to evaluate the elections will le-

\begin{footnotesize}
\begin{enumerate}
\item See Goodwin-Gill, supra note 50, at 18.
\item See Farrall, supra note 137, at 458–59.
\item Id. at 458.
\item Id. at 17–18.
\item See Basu et al., supra note 93.
\item See id. at 18–19.
\item Id.
\item See id. at 18–19.
\item Id. at 17–18.
\item Id. at 458.
\item See Dream, supra note 121, at 54–55.
\item See Dream, supra note 121, at 54–55; Parsi, supra note 106.
\item Prosecute Opposition Leaders–Iranian President, supra note 6.
\item See The Iranian Question; The G8 Leaders Have Been Too Slow to Respond to the Crackdown by Tehran, Times (London), July 9, 2009, at 2.
\item See id.
\end{enumerate}
\end{footnotesize}
gitimize the regime and the election system itself and potentially appease the opposition movement. If the government wants to remain in power, it cannot exclude its citizens from popular sovereignty to such a grave extent that they have no other option but to revolt.

Until there is a U.N. mechanism for individual citizens or other states to submit complaints or request election investigations, these requests must come from the Iranian government itself, an option it will likely reject. Another possibility, however, is for the international community to support any domestic initiatives established to modify Iranian election laws. Following the election, for example, many reformists called for initiatives to “make the Iranian political system transparent and respectful of the law.” If in the future Iranian citizens establish a grassroots campaign to amend election laws, the United Nations and international community should provide assistance.

Conclusion

Diplomacy with Iran is complex. This Note does not favor political pressure to reform election laws at the expense of other concerns. The international community can and should, however, pressure the Iranian government to address flaws in its election law, as it does in confronting Iran’s human rights violations and nuclear program. These issues are closely intertwined with the anti-democratic provisions of Iranian election law. A different election outcome could have resulted in a more open foreign policy to the benefit of both Iran and the international community.

Given the extreme power of Iran’s unelected leaders, especially the Supreme Leader, electing a president is one of the few opportunities for Iranians to participate in the political process. Regardless of whether the Iranian people are correct about a rigged election, their calls to create a more transparent election process should not be ignored. Demanding the ability to appeal election decisions to other branches, rather than to the Guardian Council, is duly justified under international and Iranian law.

By the same token, the Guardian Council’s influence over Parliament in passing new laws is strong, just as it is in other aspects of gov-

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159 See Bouroumand & Bouroumand, supra note 10, at 142.
160 See id. at 136; Esfandiari, supra note 154; Kar, supra note 11, at 161.
161 See Goodwin-Gill, supra note 50, at 16–18; Shoamanesh, supra note 8.
162 See id.
163 See id.
164 See id.
ernment. Iranians who favor an election law structure reflecting democracy and transparency will meet steadfast resistance from the Guardian Council and current regime. Despite this likelihood, inaction is not the proper solution. Many Iranians have demonstrated their dissatisfaction with the status quo. In light of the hostile domestic political environment, Iranians will be better equipped to transform elections with the knowledge that they have international support behind them.