

Concluding Observations Human Rights Committee CCPR/C/IRN/CO/3 para 17

Full recommendation:

The State party should ensure that arrest warrants contain the names of the accused and are based on a judge's review of material evidence. It should also release detainees who have been held on the basis of general and blanket arrest warrants, in the absence of evidence.

Assessment using Impact Iran human rights indicators¹

Article 32 of the Constitution stipulates that an individual must be immediately notified in writing of charges against them.² The new Iranian Code of Criminal Procedure (CCP) regulates the issuance of warrants and summons.³ Article 168 of the CCP requires that arrests be carried out on the basis of arrest warrants signed by the investigator and prohibits the investigator from arresting “an individual as an accused unless there exists sufficient reasons for the accusations”. Article 181 of the new CCP also provides that accused individuals are to be arrested pursuant to a warrant which specifies a reason for the arrest and provides details pertaining to this reason, signed by an investigating judge.⁴ However, there is no requirement to include a clear explanation of the legal provision under which an individual is being arrested, enabling arrests on the basis of vaguely defined terms, such as “national security”.⁵

Law enforcement officers may only arrest an individual without a magistrate-issued arrest warrant for so called ‘evident crimes’⁶, and in such circumstances the authorities may not detain the suspect for longer than 24 hours.

¹ CCPR.9.4.S.1; CCPR.9.2.S.1
CCPR.9.4.P.1; CCPR.9.2.P.1
CCPR.9.2.O.3

² Constitution of the Islamic Republic of Iran http://www.iranchamber.com/government/laws/constitution_ch03.php

³ Code of Criminal Procedure of the Islamic Republic of Iran (2015) original version <http://dotic.ir/print/5584>

⁴ Code of Criminal Procedure of the Islamic Republic of Iran (2015) as referenced in the joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran, Human Rights Activists in Iran, 2020,

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICS_IRN_42313_E.pdf

⁵ Amnesty International <https://www.amnesty.org/download/Documents/MDE1327082016ENGLISH.PDF>

⁶ New Code of Criminal Procedure, Articles 44 and 46. Under Article 45, a crime is “evident” when: a) it is committed within the sight of judicial officers; when the officers arrive in the crime scene immediately after the commission of the crime; and when they observe the evidence of the crime immediately after it has taken place; b) the victim, or two or more people who have witnessed the crime, identifies a specific individual as the offender while the crime is being committed or immediately after it; c) immediately after the commission of the crime, evident signs or evidence of the crime or the tools and instruments of the crime are found in the possession of the accused, or their belonging to the accused is established; d) the accused intends to abscond, is escaping, or is arrested immediately after the crime; e) the crime has been or is being committed in a home or in a residential place and the residents request the presence of the officers at the time the crime is being committed or immediately after it; f) the accused reports the crime and surrenders immediately after the crime; g) the accused is a vagrant and has a negative reputation in the area in question.

Article 46 of the CCP states that where law-enforcement officers observe a crime in progress and make an arrest, they must communicate charges and evidence in written form to the arrested person “immediately” and present relevant information to the Prosecutor’s Office as a matter of urgency.

Despite these legal safeguards, NGO reports suggest that arresting agents routinely fail to produce warrants when they should.^{7 8 9} Mass arrests without warrants are also reported, notably in conjunction with crackdowns on protest activity^{10 11 12 13} as well as blanket warrants issued for roundups of persons whose identity is not known in advance, notably drug users.¹⁴ Additionally, authorities reportedly regularly arrest and detain accused individuals and then attempt to gather a confession or any type of information that might prove their guilt.^{15 16 17 18}

As the access to legal counsel at all stages of a trial, including the investigation phase, is not guaranteed under Iranian law,¹⁹ many individuals arrested following general and blanket warrants lack access to a lawyer to challenge and appeal their arrests. In many reported cases, especially national security cases, defendants have reported seeing their lawyer for the first time on their day of trial.^{20 21} Prisoners reportedly remained incarcerated without proper access to legal representation during all stages of their trial process and lawyers were reportedly denied timely access to their clients’ legal files.^{22 23 24}

⁷ Omid memorial case of Said Baluchi, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7669/said-baluchi>)

⁸ Omid memorial case of Mohsen Nasiri, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7770/mohsennasiri>)

⁹ See more: Joint submission to the Human Rights Committee, Abdorrahman Center, Iran Human Rights Documentation Center (IHRDC), Impact Iran and Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fIRN%2f42313&Lang=en

¹⁰ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

¹¹ HRANA <https://www.en-hrana.org/motaleb-ahmadian-awaiting-trial-since-5-years-ago>

¹² HRANA <https://www.en-hrana.org/ali-zahed-still-awaiting-court-session>

¹³ HRANA <https://www.en-hrana.org/saeed-shirzad-still-waiting-appeal-courts-decision>

¹⁴ According to Tehran Province State Welfare Organization head Amin Shahrokhi, so-called “flagrant addicts” are arrested by police with a warrant from the judge and sent to Article 16 forced detoxification centers supervised by the State Welfare Organization (Tabnak, April 4, 2020 tabnak.ir/0044Ki)

¹⁵ HRANA, <https://www.amnesty.org/en/latest/news/2018/06/iran-sufi-bus-driver-executed/>

¹⁶ HRANA, <https://www.en-hrana.org/statements/amnesty-iran-tv-confessions-breach-suspects-rights>

¹⁷ HRANA, <https://www.en-hrana.org/2-civil-activists-cases-sent-back-primarily-court>

¹⁸ HRANA, <https://www.en-hrana.org/statements/human-rights-watch-halt-execution-child-offender>

¹⁹ See more: Joint submission to the Human Rights Committee, Abdorrahman Center, Iran Human Rights Documentation Center (IHRDC), Impact Iran and Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fIRN%2f42313&Lang=en

²⁰ Joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran, Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_IC_S_IRN_42313_E.pdf

²¹ HRW <https://www.hrw.org/news/2016/03/24/iran-detainees-denied-fair-legal-representation>

²² HRANA <https://www.en-hrana.org/arash-sadegh-golrokh-iraicis-lawyers-access-cases>

²³ HRANA <https://www.en-hrana.org/political-prisoner-denied-access-to-an-attorney>

²⁴ HRANA <https://www.en-hrana.org/court-prevents-lawyer-accessing-files-five-sunni-prisoners>

Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Parliament's Article 90 Commission (established under Article 90 of the Constitution, offering a mechanism to citizens to file complaint against the government) and the Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts, there is no evidence to suggest that complaints to these bodies are independently reviewed and investigated.²⁵ There have been an increasing number of reports of detainees being arrested without formal indication of the charges they face and held for weeks and sometimes even months.²⁶

In light of the above, the Islamic Republic of Iran has not ensured that arrest warrants contain the names of the accused and are based on a judge's review of material evidence. The Islamic Republic of Iran has not released all detainees who have been held on the basis of general and blanket arrest warrants, in the absence of evidence.²⁷

Recommendation Status:

This recommendation has **NOT** been implemented.

²⁵ Joint submission to the Human Rights Committee, Abdorrahman Center, Iran Human Rights Documentation Center (IHRDC), Impact Iran and Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCS%2fIRN%2f42313&Lang=en

²⁶ See more: Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf

²⁷ See more : Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf