

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/69/356 para 105

Full recommendation:

[The Special Rapporteur] further repeats his call for substantive engagement and cooperation between the Government and the United Nations human rights mechanisms, including compliance with the findings of the Working Group on Arbitrary Detention, which has identified a number of cases of arbitrary detention. He appeals for the unconditional release of all those detained for the peaceful exercise of their rights to freedom of expression, assembly and association, conscience and political opinion, in particular journalists, human rights defenders, adherents of recognized and unrecognized religions and the leaders of the Baha'i faith.

Assessment using Impact Iran human rights indicators¹

A. The Special Rapporteur repeats his call for substantive engagement and cooperation between the Government and the United Nations human rights mechanisms, including compliance with the findings of the Working Group on Arbitrary Detention, which has identified a number of cases of arbitrary detention.

Since 2016, the Working Group on Arbitrary Detention (WGAD) has found at least 38 cases of detention arbitrary in the Islamic Republic of Iran. Despite these opinions, many remain in detention as of December 2020.² Individuals found to be arbitrarily detained in the Islamic Republic of Iran by the WGAD include but are not limited to: Mr. Arash Sadeghi (Opinion no. 19/2018),³ Ms. Golrokh Ebrahimi Iraee (Opinion no. 33/2019),⁴ Ms. Atena Daemi (Opinion no. 83/2018).⁵

Additionally, the WGAD “has repeatedly found a practice in the Islamic Republic of Iran of targeting foreign nationals for detention.”⁶ Despite the Working Group opinions concluding that their detention is arbitrary, foreign and dual nationals Mr. Siamak Namazi⁷ and Mr. Mohammad Bager Namazi⁸ (Opinion no. 49/2017) remain in detention as of February 2021. Ms. Nazanin

¹ CCPR.19.1.S.1; CCPR.19.2.S.1; CCPR.21.1.S.1; CCPR.22.1.S.1; CCPR.21.1.P.2;

CCPR.21.1.O.2; CCPR.21.1.O.3; CCPR.22.1.O.2;

² See more: United for Iran, <https://ipa.united4iran.org/en/prisoner/>

³ Working Group Arbitrary Detention,

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session81/A_HRC_WGAD_2018_19.pdf

⁴ Working Group Arbitrary Detention,

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session85/A_HRC_WGAD_2019_33.pdf

⁵ Working Group Arbitrary Detention,

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session83/A_HRC_WGAD_2018_83.pdf

⁶ Working Group on Arbitrary Detention, Opinion No. 52/2018, para 82.

⁷ United For Iran, <https://ipa.united4iran.org/en/prisoner/2157/>

⁸ United For Iran, <https://ipa.united4iran.org/en/prisoner/2400/>

Zaghari-Ratcliffe⁹ (Opinion no. 28/2016)¹⁰ was released having completed her sentence but currently faces new charges.¹¹ Mr. Ahmad Reza Djalali whose detention was found arbitrary by the WGAD in 2017,¹² face imminent execution.¹³ Mr. Robert Levinson, whose detention was found arbitrary by the Working Group in 2016,¹⁴ reportedly died in Iranian custody.¹⁵

Many political prisoners and prisoners of conscience remain in detention in the Islamic Republic of Iran.^{16 17 18}

The Islamic Republic of Iran has not complied with the findings of the Working Group on Arbitrary Detention.

B. The Special Rapporteur appeals for the unconditional release of all those detained for the peaceful exercise of their rights to freedom of expression, assembly and association, conscience and political opinion, in particular journalists, human rights defenders, adherents of recognized and unrecognized religions and the leaders of the Baha'i faith.

Article 27 of the Constitution of the Islamic Republic of Iran¹⁹ ostensibly protects the right to freedom of peaceful assembly, however only if it is not “in violation of the fundamental principles of Islam.” There is no clear definition or criteria that define what can be considered “fundamental principles of Islam,” therefore, granting the State with significant leeway to restrict the rights that contain such condition. Similar restrictions can also be found under Article 2 of the Law on Political Crimes, adopted in 2016, where stipulated that participation in an unauthorized assembly, even if it is peaceful, can effectively be considered a political offence.²⁰

Similarly, the right to freedom of expression, recognized under Article 24 of the Constitution is restricted if “deemed harmful to the principles of Islam or the rights of the public.” Article 40

⁹ United For Iran, <https://ipa.united4iran.org/en/prisoner/2481/>

¹⁰ Working Group on Arbitrary Detention, Opinion no. 28/2016, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/WGAD/2016/28

¹¹ The Guardian, <https://www.theguardian.com/news/2021/mar/07/nazanin-zaghari-ratcliffe-reportedly-freed-but-may-face-new-charges>

¹² Working Group on Arbitrary Detention, Opinion no. 92/2017, <https://www.ohchr.org/EN/Issues/Detention/Pages/Opinions80thSession.aspx>

¹³ United For Iran, <https://ipa.united4iran.org/en/prisoner/3126/>

¹⁴ Working Group on Arbitrary Detention, Opinion no. 50/2016, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/WGAD/2016/50

¹⁵ United For Iran, <https://ipa.united4iran.org/en/prisoner/3488/>

¹⁶ See more: United for Iran, <https://ipa.united4iran.org/en/prisoner/>

¹⁷ OHCHR News, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25803&LangID=E>

¹⁸ UN News, <https://news.un.org/en/story/2020/10/1074722>

¹⁹ Constitution of the Islamic Republic of Iran, English translation, <https://irandatportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

²⁰ The 2016 Law on Political Crimes, available at: <https://rc.majlis.ir/fa/law/show/968421>

further allows for restrictions of rights, including peaceful assembly, if their exercise is deemed “injurious to others” or “detrimental to public interests.” Similar provisions restrict the right to freedom of expression online through the criminalization of vaguely worded offences such as the “dissemination of lies” and what is deemed to offend “public morality and chastity.”²¹ The 1986 Press Law and its subsequent amendments also significantly obstructs the right to freedom of expression, in particular for the media.²² The law mentions that publications should “duly [observe] Islamic criteria and the best interests of the community.” It also provides twelve conditions under which the press might be censored, including “publishing heretical articles,” “spreading fornication and forbidden practices,” and “propagating and spreading overconsumption.”²³

These restrictions are reiterated in the revised version of the Islamic Penal Code,²⁴ adopted in 2013. For instance, those participating in peaceful unauthorized assemblies can be sentenced to prison terms on the charges of “gathering and colluding to commit crimes against national security” (Article 610 of the Islamic Penal Code),²⁵ “forming a group composed of more than two people with the purpose of disrupting national security,” (Article 498)²⁶ and/or “membership of a group with the purpose of disrupting national security” (Article 499). Other criminal charges include “spreading propaganda against the system,”²⁷ conspiracy against the State,²⁸ encouragement to “violate public morals”²⁹ as well as satire.³⁰ Similar vaguely worded provisions criminalize acts such as swearing at³¹ or insulting³² “the Great Prophet of Islam” as well as “sowing corruption on earth”³³ with the death penalty.

All the restrictions aforementioned fail to meet requirements of international standards, including the principles of legality and that limitations must be necessary, proportionate and in pursuit of

²¹ “Islamic Republic of Iran: Computer Crimes Law,” ARTICLE19, 2012. <https://bit.ly/1RecP6R>

²² The Press Law and its subsequent amendments up until 2002 is available at : <http://irandataportal.syr.edu/press-law>

²³ Iranian Press Law, Article 6.

²⁴ The Islamic Penal Code available at: http://rc.majlis.ir/fa/law/print_version/845048

²⁵ The new Islamic Penal Code was introduced in 2013 for an experimental period of five years and was revised in 2016. See the most updated version of the Islamic Penal Code here on the website of the Iranian parliament: http://rc.majlis.ir/fa/law/print_version/845048

²⁶ Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

²⁷ Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

²⁸ Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

²⁹ Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

³⁰ Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

³¹ Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

³² Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

³³ Article 286 Islamic Penal Code 2013.

one of a limited number of narrowly-drawn legitimate aims.³⁴ Consequently, the current Iranian legal framework grants authorities' significant discretion to impose overbroad and vague restrictions on individuals' rights in contravention of the Iran's international human rights obligations.

Iranian authorities frequently resort to the aforementioned legal provisions in order to intimidate, arrest and prosecute individuals who peacefully exercise their rights to freedom of expression, association and assembly including journalists and media workers, trade unionists, lawyers, environmental and abolitionist activists.^{35 36 37 38} reportedly targeting disproportionately members of minorities.^{39 40} These include adherents of recognized and unrecognized religions,⁴¹ including members and leaders of the *Baha'i* faith.^{42 43}

In his July 2020 report, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran raised serious concerns over recurrent arrests and detentions of HRDs solely for carrying out their legitimate work.^{44 45 46} The Special Rapporteur also stated that he was "alarmed at the ongoing repression of women human rights defenders who object to compulsory veiling."⁴⁷

Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Article 90 Commission of the parliament (established based on Article 90 of the Constitution, offering a mechanism to citizens to file complaint against any of

³⁴ Article 19, International Covenant on Civil and Political Rights

³⁵ See more : ARTICLE 19, Small Media, Human Rights Activists in Iran, Impact Iran, Human Rights Committee, 129th session (Geneva) 29 June – 24 July 2020,

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42315_E.pdf

³⁶ See more: Iran Human Rights, <https://www.iranhr.net/en/reports/23/>

³⁷ See more: Iran Human Rights Documentation Center, <https://iranhrdc.org/controlled-and-pursued-labor-activism-in-contemporary-iran/>

³⁸ See more: Ensemble Contre la Peine de Mort, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

³⁹ See more: Association for the human rights of the Azerbaijani people in Iran, <http://www.ahraz.org/association-for-the-human-rights-of-the-azerbaijani-people-in-iran-ahrazs-repot-regarding-the-current-situation-of-the-azerbaijani-arrestees-that-are-arrested-during-the-recent-protests-nove/>

⁴⁰ See more: Kurdistan Human Rights Geneva, <https://kmmk-ge.org/sd/annual-report-2020/>

⁴¹ See more: United For Iran, <https://ipa.united4iran.org/en/prisoner/>

⁴² Center for Human Rights in Iran, <https://iranhumanrights.org/2020/10/more-bahais-begin-serving-prison-sentences-in-iran-simply-for-their-beliefs/>

⁴³ 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

⁴⁴ Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf

⁴⁵ See more: United for Iran, database of Iran's prisons and political prisoners available at <https://ipa.united4iran.org/en/>

⁴⁶ See more: EN-Human Rights Activists News Agency, <https://www.en-hrana.org/?s=activists>

⁴⁷ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf

the three branches of power) 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.⁴⁸ Additionally, as the State relies on the Iranian legal framework to repress the rights to freedom of expression, assembly and association, access to justice is particularly limited.

The Islamic Republic of Iran has not unconditionally released all those detained for the peaceful exercise of their rights to freedom of expression, assembly and association, conscience and political opinion, in particular journalists, human rights defenders, adherents of recognized and unrecognized religions and the leaders of the Baha'i faith.

Recommendation Status:

This recommendation has **NOT** been implemented.

⁴⁸ 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