



FREEDOM NOW

FREEDOM NOW – INDIVIDUAL SUBMISSION TO THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

UNIVERSAL PERIODIC REVIEW (“UPR”): IRAN 34th SESSION HUMAN RIGHTS COUNCIL – UPR WORKING GROUP

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Introduction

1. Freedom Now submits this report to assist the UN Human Rights Council in its review of the policies and practices of the Government of the Islamic Republic of Iran (“Iran”). Freedom Now is a non-partisan, non-governmental organization dedicated to protecting the rule of law and eliminating arbitrary detention by providing legal and advocacy support to prisoners of conscience, reporting on the systemic causes of arbitrary detention, and offering capacity support to victims of human rights abuses.¹
2. This report documents the Iranian government’s use of arbitrary detention and politically-motivated prosecutions in violation of international law, as well as touching on some of the related violations of due process and freedom from torture. Throughout the last reporting period Iran has silenced a broad cross-section of civil society through abuse and wrongful criminal detention, a pattern documented by numerous human rights organizations and international institutions, including the UN Working Group on Arbitrary Detention and the UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran (“UN Special Rapporteur on Iran”). Such practice violates the government’s obligations under the International Covenant on Civil and Political Rights (“ICCPR”) and the Universal Declaration of Human Rights (“UDHR”).

History of Arbitrary Detention in Iran

3. Iran has a long and well-documented history of arbitrary detention that has targeted lawyers, minority rights activists, women’s rights activists, environmental activists, students, trade unionists, and journalists. Concern regarding arbitrary detention of government critics and laws restricting fundamental freedoms was addressed in the most recent UPR of Iran in 2014.² During that review, it was recommended that Iran “release all persons detained solely for peaceful political activities; inquire into all cases of alleged torture in detention facilities and bring those responsible to justice.”³ Iran was also encouraged to “repeal all legal provisions that infringe the

¹ Freedom Now served as international *pro bono* counsel to Iranian prisoners of conscience Behnam Ebrahimzadeh, Golrokh Ebrahimi Iraee, Abdolfattah Soltani, and Nasrin Sotoudeh.

² *Report on the Working Group on the Universal Periodic Review of the Islamic Republic of Iran*, UN Human Rights Council (Dec, 22, 2014), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/248/22/PDF/G1424822.pdf?OpenElement>.

³ *Id.*, ¶ 138.184.

freedoms of expression, assembly, and association.”⁴ Iran did not accept either of these recommendations or any related to arbitrary detention.⁵

Continued Use of Arbitrary Detention

4. Under President Hassan Rouhani, Iran has made apparent overtures toward reform. In December 2016, President Rouhani issued a Charter on Citizens’ Rights,⁶ and in November 2017, several legislators established a new Civic Rights Faction with the intention of monitoring ongoing legal cases.⁷
5. Notwithstanding reform measures, during the reporting period Iran’s violations of fundamental human rights continued unabated. In the months preceding the May 2017 presidential elections, the UN Special Rapporteur on Iran observed a significant deterioration in the situation of persons exercising their right to freedom of opinion and expression, which lead to “large-scale arbitrary arrests and detentions.”⁸ The Special Rapporteur was unable to determine the number of arrests, characterizing the reports she received as “just the tip of the iceberg.”⁹ In 2018 alone, civil society organizations catalogued more than 7,000 arrests of lawyers, minority rights activists, women’s rights activists, environmental activists, students, trade unionists, journalists, and other critics.¹⁰ Hundreds were sentenced to lengthy prison terms and at least nine protestors died in custody under suspicious circumstances.¹¹ The US-based organization United for Iran estimates that at least 900 prisoners of conscience are detained in 202 prisons across Iran.¹²
6. In her prior report, the UN Special Rapporteur on Iran noted an emerging pattern involving the arbitrary detention of dual or foreign nationals.¹³ Since the last reporting period, Iran has arrested at least 14 dual or foreign nationals, most often individuals who the government perceives to have links to Western governments. Those imprisoned include Iranian-American art curators Karen Vafadari and Afarin Neyssari, American doctoral student Xiyue Wang, and Iranian-British nonprofit worker Nazanin Zaghari-Ratcliffe.¹⁴

⁴ *Id.*, ¶ 138.227.

⁵ *Responses to Recommendations & Voluntary Pledges*, UPR Info, available at https://www.upr-info.org/sites/default/files/document/iran_islamic_republic_of/session_20_-_october_2014/recommendations_and_pledges_iran_2014.pdf.

⁶ *Charter on Citizens’ Rights*, The Islamic Republic of Iran, (Dec. 2016), available at <http://epub.citizensrights.ir/CitizensRightsEN.pdf>.

⁷ *Iran Parliamentarians Form Citizens’ Rights Faction*, Radio Farda (Nov. 6, 2017), available at <https://en.radiofarda.com/a/iran-parliament-citizen-rights/28837617.html>.

⁸ *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, UN Office of the High Commissioner for Human Rights (Aug. 14, 2017), ¶ 110, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/256/24/PDF/N1725624.pdf?OpenElement> (hereinafter *Report of the Special Rapporteur on Iran*).

⁹ *Id.*

¹⁰ *Iran’s ‘year of shame’: More than 7,000 arrested in chilling crackdown on dissent during 2018*, Amnesty International (Jan. 29, 2019), available at <https://www.amnesty.org/en/latest/news/2019/01/irans-year-of-shame-more-than-7000-arrested-in-chilling-crackdown-on-dissent-during-2018/>.

¹¹ *Id.*

¹² *Iran Prison Atlas*, United for Iran, available at <https://ipa.united4iran.org/en/>.

¹³ *Report of the Special Rapporteur on Iran*, ¶¶ 43-48, *supra* note 8.

¹⁴ *Iran: Targeting of Dual Citizens, Foreigners*, Human Rights Watch (Sep. 26, 2018), available at <https://www.hrw.org/news/2018/09/26/iran-targeting-dual-citizens-foreigners>.

7. Vague and broad national security laws are often applied to detain regime critics. Most prominent among these laws is Article 500 of the Islamic Penal Code of Iran, which states, “Anyone who engages in any type of propaganda against the Islamic Republic of Iran in support of opposition groups and associations, shall be sentenced to three months to one year of imprisonment.”¹⁵ During the reporting period, the UN Working Group on Arbitrary Detention weighed in on at least two cases involving convictions under this provision and concluded that the detention of both individuals was arbitrary.¹⁶
8. The Iranian Constitution provides that the judiciary is an independent institution,¹⁷ but in practice it is subject to political influence from the Supreme Leader and does not properly enforce safeguards that guarantee all the rights associated with fair trials.¹⁸ For example, the judiciary has been known to consistently violate the presumption of innocence. The UN Working Group on Arbitrary Detention deliver opinion on five cases in Iran during 2017. In two cases it found the presumption of innocence standard to be violated.¹⁹ The judiciary has also taken steps to greatly reduce access to legal representation. In June 2018, the head of the judicial system, Sadeq Amoli-Larijani, published a list of 20 lawyers who had sole approval of the judiciary to defend clients accused of national security offenses.²⁰
9. Prisoners are often subjected to inhuman and degrading conditions in detention facilities. A member of Iran’s parliament admitted that there are 400,000 prisoners in prisons originally built for only 140,000 individuals.²¹ Overcrowding and shortage of medical supplies has contributed to the spread of infectious diseases such as HIV and hepatitis. Prisoners do not have immediate access to doctors and must sometimes wait months to see a specialist or dentist.²² Disturbingly, a number of prisoners have died under suspicious circumstances. Kavous Seyed-Emami, a prominent Canadian-Iranian environmentalist, died in February 2018 while in Evin Prison. The government claims he committed suicide, but no independent autopsy was performed to corroborate this claim.²³

¹⁵ *Islamic Penal Code of the Islamic Republic of Iran – Book Five*, Iran Human Rights Documentation Center (July 18, 2013) art. 500, available at <http://iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html>

¹⁶ *Opinion No. 25/2016 concerning Mohammed Hossein Raftee Fanoodeh*, UN Office of the High Commissioner for Human Rights (Sep. 21, 2016), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/208/88/PDF/G1620888.pdf>; *Opinion No. 48/2017 concerning Narges Mohammadi*, UN Office of the High Commissioner for Human Rights (Sep. 22, 2017), available at https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_48_EN.pdf.

¹⁷ *Constitution of the Islamic Republic of Iran*, art. 156, available at <http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf>

¹⁸ *Rule of Law in Iran: Independence of the Judiciary, Bar Association, Lawyers and Iran’s Compliance with International Human Rights Organizations*, University of Essex (March 2014), pgs. 21-24, available at <https://www1.essex.ac.uk/hri/documents/rule-of-law-in-iran.pdf>.

¹⁹ *Opinion No. 48/2017 concerning Narges Mohammadi*, *supra* note 16; *Opinion No. 92/2017 concerning Ahmadsheza Djalali*, UN Office of the High Commissioner for Human Rights (Dec. 20, 2017), available at https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session80/A_HRC_WGAD_2017_92_EN.docx.

²⁰ *Lowering The Bar: Tehran ‘White List’ Excludes Most Lawyers From Politically Charged Cases*, Radio Free Europe/Radio Liberty (June 6, 2018), available at <https://www.rferl.org/a/lowering-the-bar-tehran-white-list-excludes-most-lawyers-from-politically-charged-cases/29276192.html>.

²¹ *Report of the Special Rapporteur on Iran*, ¶ 81, *supra* note 8.

²² *‘I wonder if we are in a prison or a torture chamber’: summer is hell in Iran’s Evin jail*, The Guardian (Aug. 3, 2015), available at <https://www.theguardian.com/world/iran-blog/2015/aug/03/iran-evin-prison-like-torture-chamber>.

²³ *Iran’s History of Suspicious Deaths in Prison*, The Atlantic Council (Feb. 21, 2018), available at

10. The use of physical and mental torture to coerce confessions reportedly remains a widespread practice in Iran. Amputation, blinding, flogging, the use of prolonged solitary confinement, and the denial of access to proper medical care are all methods regularly used by the police and prison authorities.²⁴ The government has also targeted alleged victims of torture for arbitrary detention. In November 2018, trade union activist Esmail Bakhshi was arrested after participating in labor protests. He alleges he was subjected to violent physical torture while detained. He was released from prison in December 2018. On January 6, 2019, the Deputy Speaker of the Parliament publicly called on the Ministry of Intelligence to investigate Bakshi's allegations.²⁵ Two weeks later, Bakhshi was arrested again.²⁶

Iran's Abuses Exemplified

11. Behnam Ebrahimzadeh is a labor rights and child rights' activist. He was arrested in June 2010 and accused of participating in a demonstration, which he denied. After a trial without his lawyer present, Ebrahimzadeh was sentenced to 20 years of imprisonment, which was reduced to five years on appeal. In December 2014, towards the end of his sentence and while still in jail, Ebrahimzadeh was charged with new offences, including communicating with the UN Special Rapporteur on Iran. Ebrahimzadeh was found guilty of "gathering and colluding to commit crimes against internal and external security of the country" and sentenced to nine years and four months. On appeal, this was reduced to approximately seven years and a fine. While detained, he claims he was subjected to indiscriminate beatings by both prisoners and guards, denied medical treatment, and physically threatened by security agents. He was released from prison on May 1, 2017.²⁷ However, he was arrested again on December 12, 2018 and sentenced to 18 months in prison on charges of propaganda against the state.²⁸

12. Golrokh Ebrahimi Iraee is a writer and political activist. She was arrested on September 6, 2014 with her husband Arash Sadeghi. After this arrest, authorities violently ransacked the couple's home without a search warrant. During the search they uncovered Iraee's personal diary which contained a fictional handwritten story in which a female character burns the Qur'an in protest of the practice of stoning. Iraee was sentenced in July 2015 to six years in prison for "insulting Islamic sanctities" and "spreading propaganda against the system." However, she was released from detention and did not begin serving her sentence until October 2016. At that time, Sadeghi, who had been sentenced to 15 years in prison on separate charges, began a hunger strike to pressure authorities to release his wife. In response to the strike, authorities granted Iraee leave on January 3, 2017 in exchange for a bail payment. She was re-arrested on January 22, 2017 on her way to visit Sadeghi in the hospital.²⁹ In January 2018, Iraee faced additional charges for

<https://www.atlanticcouncil.org/blogs/iransource/iran-s-history-of-suspicious-deaths-in-prison>.

²⁴ *Report of the Special Rapporteur on Iran*, ¶ 75, *supra* note 8.

²⁵ *Activist's Torture Complaint Raises Sensitivity, Mobilizes Some Politicians In Iran*, Radio Free Europe/Radio Liberty (Jan. 6, 2019), available at <https://en.radiofarda.com/a/iran-labor-activist-torture-complaint-gets-traction-bakhshi/29694210.html>.

²⁶ *Iran: Labour rights activists at imminent risk of further torture*, Amnesty International (Jan. 22, 2019), available at <https://www.amnesty.org/en/latest/news/2019/01/iran-labour-rights-activists-at-imminent-risk-of-further-torture/>.

²⁷ *Labor Activist Freed From Rajaei Shahr Prison After Serving Seven Years Behind Bars*, Center for Human Rights in Iran (May 4, 2017), available at <https://www.iranhumanrights.org/2017/05/labor-activist-freed-from-rajaei-shahr-prison-after-serving-seven-years-behind-bars/>.

²⁸ *A Daily Overview of Human Rights Violations in Iran for December 12, 2018*, Human Rights Activists News Agency (Dec. 12, 2018), available at <https://www.en-hrana.org/a-daily-overview-of-human-rights-violations-in-iran-for-december-12-2018>; Source on file with author.

²⁹ *Petition to the UN Working Group on Arbitrary Detention*, Freedom Now and Dechert LLP (April 17, 2018), pgs.

allegedly insulting Supreme Leader Ali Khamenei and reciting a political poem. She was subsequently beaten by prison guards and transferred to Gharchak Prison after she refused to go to court.³⁰ After an 81 day hunger strike, she was returned to Evin Prison where she remains.

13. Nasrin Sotoudeh is a journalist, human rights activist, and lawyer. She spent three years in prison between 2010 and 2013 for representing political activists and highlighting Iran's execution of juveniles. Sotoudeh was arrested again in June 2018 and sentenced to five years in prison.³¹ It is unclear what led to her arrest, but in the months prior Sotoudeh engaged in several activities that criticized the government, including representing young women who peacefully protested the compulsory hijab rule in Tehran; publicly opposing a judiciary-approved list of lawyers to represent individuals accused of national security, political, and media offenses; and calling for a UN-sponsored referendum on a new system of government in Iran. Her husband, Reza Khandan, was arrested in September 2018 and sentenced to six years in prison in January 2019 for "conspiring against national security" and "propaganda against the system."³²

Conclusion and Recommendations

14. As a party to the ICCPR and as bound by the UDHR, Iran is obliged to respect its citizens' rights to freedom of expression and to a fair trial and freedoms from arbitrary detention and torture. Iran must ensure that those who remain in detention arbitrarily are immediately released; that the widespread practice of torture within the judicial system is stopped; the laws which enable repression are amended or repealed; and that the government takes steps to address past abuses.

15. Freedom Now recommends that the Islamic Republic of Iran:

- Immediately and unconditionally release and rehabilitate the civil and political rights of all individuals detained under pre-textual charges for exercising their fundamental human rights, including the rights to freedom of expression, association, and peaceful assembly, and allow them to peacefully promote the cause of human rights in accordance with the rights guaranteed to them in international human rights treaties without fear of mistreatment, including arbitrary detention.
- Ratify the Convention Against Torture and its Optional Protocol.
- Review and update laws pertaining to the freedoms of speech, association, assembly, and religion and freedom from torture to ensure compliance with international obligations.
- Provide human rights training to the judiciary, police, and security forces to ensure that human rights protections in domestic and international law are guaranteed throughout the entire legal process.
- Thoroughly investigate all cases of arbitrary detention, fair trial abuses, torture, and killings that have occurred in relation to protests, as well as other rights abuses directed at journalists, opposition leaders, and other government critics. Ensure that perpetrators of such abuses are held accountable and that victims are appropriately rehabilitated and compensated.

9-16, available at <http://www.freedom-now.org/wp-content/uploads/2018/04/WGAD-Petition-Iraee-04.17.2018.pdf>.

³⁰ *Atena Daemi and Golrokh Ebrahimi Iraee on hunger strike, facing violence from prison guards*, Front Line Defenders (Feb. 7, 2018), available at <https://www.frontlinedefenders.org/en/statement-report/atena-daemi-and-golrokh-ebrahimi-iraee-hunger-strike-facing-violence-prison-guards>.

³¹ *Iranian human rights lawyer Nasrin Sotoudeh arrested*, The Guardian (June 13, 2018), available at <https://www.theguardian.com/world/2018/jun/13/nasrin-sotoudeh-arrested-iran-human-rights-lawyer-islamic-headscarf>.

³² *Iranian Rights Activist Reza Khandan Gets Six-Year Prison Sentence*, Radio Free Europe/Radio Liberty (Jan. 23, 2019), available at <https://www.rferl.org/a/iranian-rights-activist-reza-khandan-gets-six-year-prison-sentence/29726991.html>.

- Ensure prison conditions meet international standards, particularly with regards to access to medical care, prisoner capacity, nutritious food and clean water, regular access to attorneys and family members, and freedom from abuse. Promptly and independently investigate all allegations of abuse or deaths in custody, provide adequate compensation and rehabilitation to victims and their families, and hold perpetrators accountable.
- Ensure detainees' prompt access to legal counsel of their choosing, that confessions are not obtained through torture or other undue pressure and that no such tainted evidence is introduced at trial, that presumption of innocence is respected, and that all other procedural rights are respected and guaranteed.
- Immediately end all censorship or harassment of journalists, human rights defenders, opposition political leaders and other civil society or religious leaders and protect their ability to freely continue their work.