

The Human Rights Council's appointment of a new United Nations Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Dr. Asma Jahangir, provides an opportunity for the international community to reflect on the successes of the Iran mandate and the Council's continued efforts moving forward. In this regard, the mandate remains a valuable tool for encouraging Iran to meet its obligations under the international human rights framework.

BACKGROUND

From 1984 to 2002, a Special Representative was appointed by the United Nations Commission for Human Rights to monitor the situation of human rights in the Islamic Republic of Iran. However, in 2002, the mandate was not renewed.¹ As a show of goodwill, Iran issued a standing invitation to the Special Procedures and offered the European Union and several states bilateral human rights dialogues. By 2005, following a brief window of cooperation, including visits by five thematic Special Procedures, Iran in effect closed its territory to Special Procedures and the EU dialogue ended without any noted success.²

In 2009, the contested Iranian presidential election and ensuing protests resulted in a widespread crackdown on civil and political rights, plunging the country into an acute human rights crisis. After six years of non-cooperation, UN bodies and the international community were ill equipped to react.³ In response, Iranian civil society groups and human rights defenders—including Nobel Laureate, Dr. Shirin Ebadi—partnered with international human rights organizations and began to encourage members of the Human Rights Council to reestablish a mechanism to specifically monitor the situation in Iran.⁴

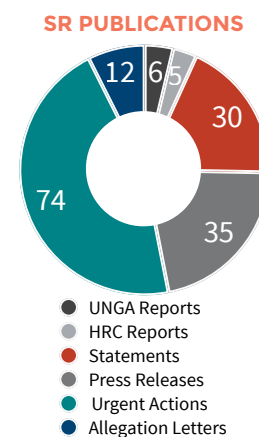
On 24 March 2011, following two years of concerted efforts by rights defenders, the Human Rights Council (“HRC” or “the Council”) established the mandate of a Special Rapporteur (“SR”) on the situation of human rights in the Islamic Republic of Iran.⁵ The former foreign minister of the Maldives, Dr. Ahmed Shaheed, was appointed and served as the Special Rapporteur from 2011-2016. Even before the appointment of Dr. Shaheed, the Islamic Republic of Iran quickly rejected the mandate as “illegitimate” and stated that it would not cooperate with the SR.

This pattern of non-cooperation with the UN and grave human rights abuses continues today, posing critical challenges to the ability of the UN to independently monitor the human rights situation in the country.⁶ Iran has not facilitated a country visit by the Special Procedure since 2005.⁷

POSITIVE IMPACT OF THE MANDATE

Despite the obstacles put before the mandate, the Special Rapporteur has achieved multiple successes, as outlined in the following areas:

RAISING INTERNATIONAL AWARENESS: The tenure of the last Special Rapporteur coincided with an era in which the serious human rights situation in Iran was overshadowed by other geopolitical concerns. The SR has been the primary mechanism by which the human rights situation has remained a key part of the international agenda. Rapporteur Dr. Shaheed produced **11** comprehensive biannual reports, and **153** other official statements and communications. His work integrated over **700** interviews with victims and witnesses of human rights abuses, as well as other primary sources.⁸ The SR covered a wide range of issues, including: the death penalty; women’s rights; freedom of expression, assembly and association; freedom of religion or belief; the impact of economic sanctions; and respect for economic, social, and cultural rights.

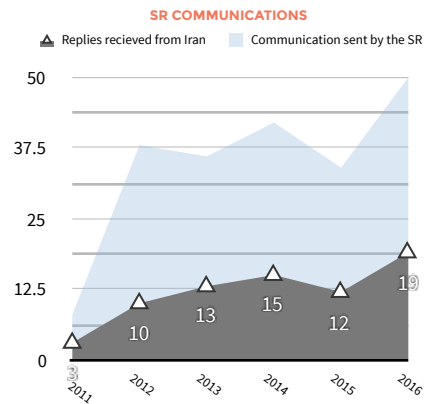


ENCOURAGING GRADUAL LEGAL REFORM: The Special Rapporteur helped encourage Iran to reconsider several problematic laws and draft laws. Nowhere is the impact of the SR’s work more evident than on the death penalty in Iran. The death penalty became a primary focus for the prior SR, especially as executions over drug offenses began to surge. As a result, the death penalty for drug offenses became a specific point of dialogue between the SR and the government of Iran. Realizing the international scrutiny that these executions have caused, Iranian officials began to openly debate their official position on whether drug-related executions were an integral part of their criminal justice approach. Currently, a draft law is under consideration by the parliament which, if passed, would reduce the punishment for many non-violent drug-related crimes from death to life imprisonment.⁹

POSITIVE INTERVENTION IN INDIVIDUAL CASES: The reports and statements of the Special Rapporteur have contributed to improving the situation of a number of victims of human rights abuses, such as those facing imminent executions, prisoners of conscience, and human rights defenders.

THE CASE OF YUCEF NADARKHANI: At the Special Rapporteur’s interactive dialogue at the 19th Session of the HRC in 2012, the SR prominently raised the case of Youcef Nadarkhani, a pastor who was sentenced to death for apostasy. The Iranian delegation responded defensively to this reporting.¹⁰ Several months later, authorities dropped Nadarkhani’s apostasy charge and released him from prison.¹¹

INCREASED UN ENGAGEMENT: While the Islamic Republic of Iran continues its pattern of non-cooperation with the Special Procedures, it has incrementally increased its engagement with the Iran mandate as the mechanism was renewed annually. The SR met with the Iranian Missions regularly in New York and Geneva, even sending a delegation to Geneva from the judiciary to discuss executions for drug offenses. Iran’s rate of replies to the SR’s communications also gradually increased.¹² Iran even discussed enhancing cooperation with thematic rapporteurs. In 2015, Iran invited the SR on the right to food, and in 2016 granted a request to visit the country by the SR on the impact of unilateral and coercive measures on the enjoyment of human rights, although both of these invitations were conditioned on monitoring human rights issues caused by internationally imposed sanctions and not Iran’s own violations.¹³



A SPARK FOR CIVIL SOCIETY PARTICIPATION: Iran has a strong—albeit severely repressed—civil society that was integral to the establishment of the mandate. Indeed, it is not surprising that despite obstacles in accessing the country, the Special Rapporteur was still able to engage with the country in part through its civil society. In order to substitute for the lack of country access, the SR conducted “fact-finding missions” in neighboring countries and engaged with a wide network of Iranian civil society both inside and outside the country.¹⁴ The SR’s reports were based on interviews with witnesses to human rights abuses, including lawyers of juveniles facing executions, minorities who had been expelled from university, and activists who were tortured in detention.¹⁵

RENEWED CALL FOR THE MANDATE

The Special Rapporteur remains the only UN independent mechanism with the mandate to continually address human rights issues throughout the Islamic Republic of Iran. Renewal of the mandate would send a strong signal to Iran that its human rights situation is of concern to the international community and that it must constructively engage with the SR and other UN human rights mechanisms. Moreover, it would convey to the Iranian people that the international community is genuinely invested in human rights advancement in Iran.

WHY DO WE NEED THE SPECIAL RAPPORTEUR ON IRAN?

TO MONITOR A DETERIORATING HUMAN RIGHTS SITUATION: Despite a few positive steps under the Rouhani administration, Iranian authorities continue to disregard human rights standards on a grave and systematic level. Iran continues to hold the highest per-capita execution rate worldwide, with at least 530 executions reported in 2016.¹⁶ The widespread use of arbitrary detention continues to target human rights defenders, lawyers, journalists, activists, religious minorities, and more. In 2016 alone, at least 500 prisoners of conscience were detained in Iran.

Officials routinely use torture to extract false confessions and disregard fair trial safeguards. Discrimination against women, religious, ethnic, and sexual minorities is ingrained in law and practice and is even worsening in key areas.

According to Iranian journalist and anti-stoning activist Asieh Amini, “The establishment of the special mechanism will not undo the gross injustices experienced by Iranian people over the [past], but it will at least demonstrate international concerns and demand accountability from the Iranian government.”¹⁷

The Special Rapporteur is needed to monitor the alarming human rights situation on an ongoing basis and communicate concerns in urgent and dire cases.

TO ENCOURAGE CONSTRUCTIVE DIALOGUE: The Special Rapporteur’s reporting triggers debate both domestically and internationally on key human rights concern in Iran. The mandate holder is able to engage in constructive dialogue with Iran and the international community with an eye toward possible solutions. The Special Rapporteur can influence the state to reconsider emerging policies and draft laws that would further curtail human rights protections. The SR is able to regularly follow up with authorities on recommendations addressed to Iran by the UN Special Procedures, Secretary-General, treaty bodies, and recommendations accepted by Iran in the framework of its its Universal Periodic Review.

For example, the SR is the best way to encourage reforms in Iran's drug laws that would mitigate the use of capital punishment. Through dialogue, communications, and monitoring, the SR can help ensure the current bill becomes law and is implemented.

Additionally, bilateral human rights dialogues between Iran and other states can be strengthened by the work of the SR, its monitoring capacities, and the incentives it gives to Iran to make progress. As such, bilateral dialogues and the work of the SR can mutually reinforce each other.

TO INCENTIVIZE COOPERATION WITH THE UN SYSTEM: Created as a response to lack of cooperation with the UN, the Iran mandate acts as a benchmark for Iran’s cooperation with the Special Procedures. A visit by the SR is the best metric by which to measure Iran’s steps towards cooperation. The goal is regular country visits by all Special Procedures. Already, the mandate holder has moved the relationship of the Islamic Republic of Iran and the Special Procedures in the right direction, paving the way for the possibility of substantive reforms. Iran increasingly understands that it is expected to cooperate with the UN system if it is to be regarded as a constructive member of the family of nations. Yet, Iran is still testing the international community to see if its resolve will dissipate, in hopes that the mandate will be discontinued without a clear demonstrated shift in cooperation. Iran’s emerging realization needs to be translated into substantive and reliable behavior, which requires more time and attention from the Council. Moreover, codifying procedural cooperation into a pattern of acting on the UN’s substantive recommendations will require the SR’s sustained attention.

State of the standing invitation: Iran's standing invitation to Special Procedures remains on paper only. Indeed, despite the invitation issued in 2002 and at least 7 outstanding visit requests, there have been no country visits since 2005.¹⁸ Since the mandate was established in 2011, the Islamic Republic has said it was open to allowing country visits by thematic Special Procedures. Thus far, however, they have only mentioned ones that would look at the human rights impact of economic sanctions, which, while a valid concern, are policies of other states affecting people inside Iran. The HRC should expect a visit by the Iran SR as the minimum gesture of cooperation by the Islamic Republic.

RECOMMENDATIONS TO THE HUMAN RIGHTS COUNCIL AND UN MEMBER STATES:

- ▶ Support and renew the mandate of the Special Rapporteur on human rights in Iran until significant changes can be observed in situation in the country and authorities cooperate with the UN human rights bodies.
- ▶ Call on Iran to cooperate substantively with all UN human rights mechanisms, with priority on the country mandate.
- ▶ Encourage Iranian authorities to implement recommendations from the UN Special Procedures, Secretary-General, treaty bodies, and recommendations accepted within the framework of the Universal Periodic Review.

ENDNOTES

- ¹ “Iran: U.N. Fails to Condemn Rights Abuses.” *Human Rights Watch*. 21 April 2002. hrw.org/news/2002/04/21/iran-un-fails-condemn-rights-abuses
- ² “A History of United Nations Special Representatives and Rapporteurs in Iran.” *Iran Human Rights Documentation Center*. iranhrdc.org/files/pdf_en/UN_Reports/Table-of-UN-Special-Rapporteurs-and-Representative-involvement-in-Iran.pdf.
- ³ “Statement from Impact Iran in Response to the Islamic Republic of Iran's Announcement to Allow Two UN Rapporteurs into the Country.” *Impact Iran*. 24 November 2014. impactiran.org/statement-impact-iran-response-islamic-republic-irans-announcement-allow-two-un-rapporteurs-country.
- ⁴ “Unfolding of Iran Resolution: What was Not Mentioned in the News” *The Center for Human Rights in Iran*. 24 March 2011. iranhumanrights.org/2011/03/unfolding-of-iran-resolution-vote-what-was-not-mentioned-in-the-news/
- ⁵ “Situation of human rights in the Islamic Republic of Iran: resolution/adopted by the Human Rights Council.” (A/HRC/RES/16/9). *UN Human Rights Council*. 8 April 2011. refworld.org/docid/4dc1018e2.html
- ⁶ Mohammad Javad Larijani, United Nations Press Conference, “Press Conference: Human Rights and Regional Development.” 16 November 2011. unmultimedia.org/tv/webcast/2011/11/press-conference-human-rights-and-regional-development.html.
- ⁷ Shaheed, Ahmed, and Rose Parris Richter. "Coping Mechanisms for State Non-cooperation." *The United Nations Special Procedures System*. Ed. Aoife Nolan, Rosa Freedman, and Thérèse Murphy. Vol. 6. Leiden: Brill Nijhoff, 2017. 153-87. Print. Nottingham Studies on Human Rights.
- ⁸ Ibid. (p. 173)
- ⁹ “Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.” (A/71/418, p. 7, #16) *UN General Assembly*. 30 September 2016. refworld.org/docid/5829cf1f4.html
- ¹⁰ "Member States at 19th Session of UN Human Rights Council Support Work of UN Special Rapporteur on Iran." *Iran Human Rights Documentation Center*. Mar. 2012. iranhrdc.org/english/news/press-statements/1000000071-2012-03-13-19th-session-of-un-human-rights-council.html.
- ¹¹ “Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.” (A/HRC/22/56, #23) *UN Human Rights Council*. 28 February 2013. ohchr.org/Documents/Countries/IR/A-HRC-22-56_en.pdf.
- ¹² “Communications reports of special procedures.” Office of the High Commissioner of Human Rights. ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx
- ¹³ “Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.” (A/71/418). *UN General Assembly*. 30 September 2016. documents-dds-ny.un.org/doc/UNDOC/GEN/N16/304/01/PDF/N1630401.pdf?OpenElement
- ¹⁴ Shaheed, Ahmed, and Rose Parris Richter. "Coping Mechanisms for State Non-cooperation." *The United Nations Special Procedures System*. Ed. Aoife Nolan, Rosa Freedman, and Thérèse Murphy. Vol. 6. Leiden: Brill Nijhoff, 2017. 153-87. Print. Nottingham Studies on Human Rights.
- ¹⁵ Ibid. (p. 173)
- ¹⁶ Abdorrahman Boroumand Foundation. 2017. iranrights.org
- ¹⁷ “Human Rights Council Votes 2 to 7 to Establish Special Rapporteur.” *The Center for Human Rights in Iran*. 24 March 2011. iranhumanrights.org/2011/03/hrc-rapporteur-res-passed
- ¹⁸ “Country and other visits by Special Procedures Mandate Holders since 1998 F-M.” *UN Office of the High Commissioner for Human Rights*. ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsF-M.aspx