

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



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UNDER ARTICLE 40 OF THE COVENANT

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Addendum

IRAN

[9 August 1977]

The International Covenant on Civil and Political Rights, as adopted by the General Assembly on 16 December 1966, was ratified by Iran on 24 June and entered into force in the country on 23 March 1976.

In its preamble, the Covenant recalls the general principles set forth in the Charter of the United Nations and the Universal Declaration of Human Rights; these principles are given pride of place in Iranian legislation. Most of the rights proclaimed in the articles of the Covenant are likewise guaranteed by the Constitution and other legal norms already in force before the application of the Covenant in Iran.

The entry into force of Covenant was clearly a major step towards the safeguarding and promotion of civil and political rights. At the national level, Iran has endeavoured, since March 1976 and as a party to the Covenant - whose provisions constitute a mandatory legal basis for Iran in accordance with the norms of international law - to supplement and expand its existing legislation through the formulation of new laws. Before describing the actual measures proposed and the progress achieved in Iran in the exercise of the rights covered by the Covenant since its entry into force, however, it would appear advisable first to refer to legislation pre-dating the Covenant in those spheres.

The development of Iranian legislation relating to the civil and political rights set forth in the Covenant can be divided into three stages:

Measures pre-dating the Charter of the United Nations and the Universal Declaration of Human Rights;

Measures adopted after the entry into force of the Charter of the United Nations but before 23 March 1976; and

Measures adopted after the entry into force of the International Covenant on Civil and Political Rights.

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In this way, it is possible to obtain a general picture of the situation as regards civil and political rights in Iran in accordance with the legal norms in force since the establishment of the constitutional regime and to describe in broad outline the development of those norms for the broader promotion of civil and political rights, on the basis of the principles contained in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

I. Measures pre-dating the Charter of the United Nations and the Universal Declaration of Human Rights

Before describing the domestic legislation, mention should be made of some of the international treaties relating to human rights to which Iran acceded before 1945:

The International Agreement for the Suppression of White Slave Traffic (to which Iran acceded on 4 May 1910);

The International Convention for the Suppression of the Traffic in Women and Children (accession on 28 March 1933); and

The International Convention for the Suppression of the Traffic in Women of Full Age (accession on 12 April 1935).

Domestically, the basic principles of civil and political human rights occupy a prominent place in the provisions of the Iranian Constitution and in other juridical norms in force in Iran before the Charter of the United Nations was drafted.

The right to life, referred to in article 6 of the Covenant, is mentioned in article 9 of the Supplementary Constitutional Law of 8 October 1907, which stipulates, inter alia, the inviolability of the individual.

Similarly, article 55 of the Penal Code refers to the right to pardon and commuted sentence as prerogatives of the Sovereign.

Compulsory labour, referred to in article 8 of the Covenant is a penalty imposed under the provisions of the Iranian Penal Code and article 1 of the Act concerning the Labour of Non-Political Prisoners only in cases where a person has been sentenced to imprisonment with forced labour. In the case of simple imprisonment, the obligation to work cannot be imposed on the prisoner, whose consent to the work must be obtained.

In the sphere of liberty and security of person (article 9 of the Covenant), article 12 of the Supplementary Constitutional Law stipulates that no penalty may be decreed or carried out except in accordance with the law, and article 2 of the Penal Code likewise expresses the principle that only acts defined as such by the law may be considered as offences.

Under the provisions of article 10 of the Supplementary Constitutional Law, no one may be summarily arrested, except in the case of serious offences, without an order signed by the President of the Court of Justice in conformity with the law. Even in this case, the accused must be informed at the latest within 24 hours of the charge against him.

Cases of arbitrary detention are severely punished by the law, particularly in implementation of articles 82 to 87 of the Penal Code.

Under the provisions of articles 34 to 39 of the Penal Code, young offenders are subject to regulations different to those for other offenders and are treated in conformity with their age and legal status.

Liberty of movement of individuals within the territory of a State, provided for in article 12 of the Covenant, is covered by article 14 of the Supplementary Constitutional Law, which states that no Iranian may be exiled or forbidden or compelled to reside in any particular place, except in cases specified by law.

The rights of aliens lawfully in the territory of a State (article 13 of the Covenant) are guaranteed by the Constitution (article 6 of the Supplementary Law) under which the lives and property of foreign nationals resident in Iranian territory are safe and protected, except as subject to the laws of the country, and by the Civil Code, article 961 of which stipulates that aliens shall enjoy the civil rights accorded to Iranians, subject to (1) express provisions of the law, (2) legislation concerning the personal status of individuals, in which the laws of the country of which the aliens are citizens shall apply, and (3) rights specifically established for the Iranian community.

Articles 71 to 89 of the Supplementary Constitutional Law, which deal with the powers of the courts, may be cited with respect to equality before the courts and the guarantees available to persons accused of a criminal offence. Inter alia, article 73 stipulates that legal tribunals shall be established in conformity with the law, and article 74 states that no court may be held contrary to the provisions of the law. Article 76 provides that the hearings of all courts shall be public except where publicity would be prejudicial to public order or morality, in which case the court shall declare the need for a hearing in camera.

The principle of non-retroactivity of laws governing criminal offences referred to in article 15 of the Covenant, is contained in article 4 of the Iranian Penal Code, which specifies that a person can be found guilty only under a law pre-dating the act constituting the offence.

Recognition of legal personality (article 16 of the Covenant) is laid down as a principle in article 956 of the Iranian Civil Code, under which such personality is accorded to an individual from birth and is retained until death.

The subject of article 17 of the Covenant, namely, the prohibition of arbitrary or unlawful interference with the privacy, domicile or honour of individuals, is referred to in article 9 of the Supplementary Constitutional Law, which protects and guarantees the person, property, domicile and honour of individuals and states that no one may be molested except in accordance with the provisions of the laws of the land. Freedom of correspondence is covered in article 22 of the Supplementary Constitutional Law, which lays down the principle of the inviolability of postal correspondence, which is immune from confiscation or disclosure except in accordance with the law. Violations of this provision are punishable under article 138 of the Penal Code.

Freedom of expression (article 19 of the Covenant) is provided for in article 20 of the Supplementary Constitutional Law, which stipulates that all publications are free under the provisions of the Press Law. These provisions relate, inter alia, to respect for the rights and reputations of others, and violations of such rights are punishable by law (articles 269, 270 and 271 of the Penal Code).

With respect to the right of peaceful assembly (article 21 of the Covenant) and the right to freedom of association (article 22 of the Covenant), article 21 of the Supplementary Constitutional Law stipulates that societies and gatherings which do not give rise to religious or civil disorders and are not prejudicial to public order are free throughout the country, but that their members may not carry arms and must obey the regulations laid down by the law on this subject.

Article 23 of the Covenant relates to protection of the family. In this connexion, article 1070 of the Iranian Civil Code lays down that the free consent of future spouses is a prerequisite for the validity of a marriage.

In the sphere of the rights of children and the protection to which they are entitled as minors (article 24 of the Covenant), articles 1168 to 1179 of the Civil Code deal with the custody and education of children. The Civil Code also specifies the conditions for registering and acquiring nationality.

The rights to vote, to be elected and to participate in the conduct of public affairs (article 25 of the Covenant) are the subject of numerous articles of the Constitution, the Supplementary Law and several constitutional amendments, as well as various national electoral laws.

The principle of equality and non-discrimination before the law (article 26 of the Covenant) is mentioned in article 8 of the Supplementary Constitutional Law, which stipulates that Iranians enjoy equal rights before the law of the State.

As regards the cultural and religious rights of minorities, (article 27 of the Covenant) reference may be made, in addition to article 8 of the Supplementary Law and constitutional provisions under which the four principal minorities each have a representative in Parliament, to the Law of 22 July 1932 concerning respect by the courts for the personal status of non-Shi'ite Iranians; this law advocates and regulates respect by the courts for the rules and customs normally followed in the religion of these non-Shi'ite Iranians with respect to questions relating to personal status and successoral and testamentary rights of succession.

II. Measures adopted after the entry into force of the Charter of the United Nations but before 23 March 1976

The adoption of the Charter of the United Nations and, later, of the Universal Declaration of Human Rights gave special significance to problems relating to human rights, particularly in the civil and political spheres. The promotion of human rights at the international level was bound to have an impact in Iran.

During this period, Iran acceded to several multilateral treaties concerned with human rights, including the following, listed in chronological order of Iran's accession:

The Convention on the Prevention and Punishment of the Crime of Genocide (accession on 14 August 1956);

International Labour Convention No. 29 concerning Forced or Compulsory Labour (accession on 10 June 1957);

International Labour Convention No. 104 concerning the Abolition of Penal Sanctions for Breaches of Contract of Employment by Indigenous Workers (accession on 13 April 1959);

International Labour Convention No. 105 concerning the Abolition of Forced Labour (accession on 13 April 1959);

The Protocol amending the International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic, and the International Convention for the Suppression of the White Slave Traffic, signed at Paris on 4 May 1910 (accession on 30 December 1959);

The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (accession on 30 December 1959);

International Labour Convention No. 111 concerning Discrimination in Respect of Employment and Occupation (accession on 30 June 1964);

The International Convention on the Elimination of all Forms of Racial Discrimination (accession on 29 August 1968); and

The Convention against Discrimination in Education (accession on 17 October 1968).

All these international instruments relate, in varying degrees, to civil or political rights. In view of the cause and effect relationship between the various fundamental human rights and the need first to guarantee economic and social rights in order to ensure the full exercise of civil and political rights, however, mention may also be made, as a step towards the realization of civil and political rights, of Iran's accession on 3 January 1976 to the International Covenant on Economic, Social and Cultural Rights.

Various measures have also been taken at the national level to ensure the promotion of civil and political rights.

In this connexion, in addition to the various amendments to the Iranian Constitution, the following may be mentioned:

With regard to article 6 of the Covenant concerning the right to life, the Act providing for more severe punishment for kidnappers, ratified in March 1975, and the Act of 14 March 1976 on pardons or commuted sentences for individuals found guilty by civil or military courts and fulfilling the conditions laid down by that law;

With respect to the prohibition of cruel, inhuman or degrading treatment (article 7 of the Covenant), the 1965 Act on the abolition of flogging;

In connexion with the abolition of forced labour (article 8 of the Covenant), the Labour Act of 1959, article 62 of which lays down the penalties for contravention of International Labour Conventions Nos. 29 and 105;

In the sphere of humane treatment of prisoners and young offenders (article 10 of the Covenant), the Regulations of 10 July 1935 concerning prisons, which incorporates almost all the standard minimum rules for the treatment of prisoners as approved in Economic and Social Council resolution 663 (XXIV).

Mention may also be made in this connexion of the Regulations concerning the implementation of the Act of November 1966 establishing courts for children;

With respect to the principle laid down in article 11 of the Covenant that no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation, the Act of October 1973 prohibiting imprisonment for non-payment of a debt or non-fulfilment of financial obligations;

With respect to free and equal access to courts (article 14 of the Covenant), the Act of 1965 establishing houses of equity for the rural population, and the Act of 1966 establishing arbitration councils by progressive stages in every town; these two laws facilitate legal recourse and promote decentralization of the judicial system;

In the sphere of the prohibition of any advocacy of national, racial or religious hatred (article 20 of the Covenant), the Press Act of 1955, article 23 of which provides for the imprisonment or fining of anyone who, through the Press, offends religious minorities or racial communities residing in Iran with the intent of creating discord, hostility or division among the population of the country, or who incites to hatred and to racial or religious hatred;

With regard to trade union freedom (article 22 of the Covenant), the Decree of November 1955 concerning the establishment of professional associations, and the Labour Act of 17 March 1959, article 26 of which provides for the formation of trade unions; and

With respect to the protection of the family by society and the State (article 23 of the Covenant), the 1967 and 1975 Family Protection Acts;

On the protection of children (article 24 of the Covenant), in addition to the two laws mentioned above, the Labour Act of 1946 prohibiting the employment of children under the age of 12 and night work for children under the age of 16, and providing for the establishment of day-nurseries for the use of working mothers; the Act of 3 February 1969 increasing the penalties for persons employing children under 12 years of age in carpet-weaving factories; and the 1972 Act concerning the Provision of Education for the Children of Workers, article 4 of which provides for the establishment of a fund to help provide for the education of workers' children;

In the sphere of the right to vote (article 25 of the Covenant), the decree of 7 March 1963 granting women the right to vote; and

With respect to equality and non-discrimination before the law (article 26 of the Covenant), the Women's Social Services Act of 1968, which provides, inter alia, for equal wages for both sexes, and the amendment of 5 January 1975 to that Act, which makes certain changes in favour of women.

III. Measures adopted after the entry into force of the International Covenant on Civil and Political Rights

The following are among the international instruments to which Iran has recently acceded and whose provisions relate in some way to civil or political rights:

The Protocol relating to the Status of Refugees (to which Iran acceded on 28 July 1976).

The Convention relating to the Status of Refugees (to which Iran acceded on 26 October 1976).

Among the domestic measures adopted to give effect to the provisions of the Covenant are:

The Act of July 1976 on the registration of personal status indicating the procedure to be followed in registering births, marriages, divorces and deaths of Iranians and aliens residing in Iran. The implementation of this Act constitutes the application of the measures provided for both in article 16 of the Covenant concerning recognition of legal personality and in article 14, which specifies the need to register all children;

The Decree of September 1976 on regulations concerning journalists and reporters which emphasizes (in accordance with article 17 and article 19, paragraph 3 of the Covenant) the need for journalists and reporters to gather information which conforms strictly to the truth and to refrain from interference in the private and family life of individuals; and

The draft law on the suppression of racial propaganda, which contains two articles and condemns any propaganda or the promotion of propaganda in favour of racial, colour, or ethnic discrimination of any kind. Article 2 of this draft law provides that any person who establishes or directs an association the aim of which is to incite to hatred or hostility or to create racial or ethnic dissension shall be imprisoned or fined.

[17 August 1977]

Supplementary Report^{*/}

As regards those accused of crimes against the security of State who are being prosecuted, the Government has instructed the State Organization for Intelligence and Security to transmit the files of the accused, immediately upon the termination of their interrogations, to the Department of Military Justice for judicial action.

Salient points of the amendments to the armed forces penal code submitted to the Parliament are the following:

- (1) The accused may choose one or two persons from among the legally qualified military personnel, whether in active service or retired, to act as his defence counsel. Civilian defendants may make their choice from among civilian defence attorneys.
- (2) Defence counsels enjoy complete freedom in defending their clients before military tribunals and are not liable to prosecution in the discharge of such duties.
- (3) According to the old law, the accused and his counsel had five days to review the file and prepare the necessary defence petition, but in the new draft law this has been increased to two weeks.
- (4) The proceedings of the military tribunals are always public, except in very exceptional cases where the prosecutor requests for - and the tribunal sanctions - the holding of Court sessions in camera.

The prerequisite for this, however, is that the prosecutor should put forward his reasons and it is up to the tribunal to find them acceptable or otherwise. Previously, prosecutors enjoyed certain discretionary power in this respect, although no use of such power had ever been made.

These amendments further stress impartiality and complete freedom of action by judges.

^{*/} Added to the initial report at the request of the Permanent Mission of Iran to the United Nations Office at Geneva, by note verbale dated 17 August 1977.