

## **(1) Submitting Organisation**

The International Centre for Trade Union Rights (ICTUR) was founded in 1987 in order to defend, extend, and raise awareness of trade union rights and their violations worldwide. ICTUR was founded in response to ‘an attack on trade union rights by transnational employers’ and ‘to take up the struggle for liberation from neo-colonialist and transnational corporation exploitation’. ICTUR is a network of unions, lawyers and human rights organisations.

ICTUR has consultative (roster) status with the UN ECOSOC and it is accredited to the ILO Special List of INGOs, since 1993. ICTUR’s main activities include monitoring labour rights, letter writing, trial observations, research and publishing. ICTUR provides information to international human rights processes and assists trade unions in this work. ICTUR publishes: *International Union Rights* journal (since 1993, 4 editions per year); the *World Map of Freedom of Association* (6<sup>th</sup> edition, 2019); and the reference book *Trade Unions of the World* (7<sup>th</sup> edition, 2016).

## **(2) Our concerns**

Our primary concerns with respect to trade union rights in The Islamic Republic of Iran are:

- **Almost total restrictions on all trade union rights**
- **Failure to ratify ILO Conventions on freedom of association**
- **Arrests and sentencing of trade unionists**
- **Harassment and violence against trade unionists**

### **(3) International Human Rights Obligations**

The Universal Declaration of Human Rights makes it clear that “everyone has the right to form and to join trade unions for the protection of his interests” (Article 23(4)). The Islamic Republic of Iran is a founding member of the United Nations. It signed both the International Covenant on Economic, Social and Cultural Rights (ICCPR) and the International Covenant on Civil and Political Rights (ICESCR) on 4 April 1968 and ratified those instruments together on 24 June 1975. Both instruments establish extensive protection for freedom of association. ICCPR contains extensive protection for trade union rights under Article 22. The ICESCR similarly contains extensive protection for trade union rights under Article 8. The ICESCR further requires safe and healthy working conditions, a decent living for workers, and sufficient periods of rest, with other protections for labour rights under Article 7.

The Islamic Republic of Iran is a founding member of the International Labour Organization. The Islamic Republic of Iran has ratified 14 ILO Conventions including five of the eight core Conventions (covering the elimination of forced labour, child labour and discrimination), though not Conventions 87 or 98 on freedom of association and collective bargaining. The Government is, however, obliged to recognize and respect the principles of freedom of association by virtue of its adherence to the Constitution of the International Labour Organization<sup>1</sup>. This obligation was re-emphasised in 1998 with the proclamation of the ILO Declaration on Fundamental Principles and Rights at Work<sup>2</sup>.

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<sup>1</sup> ILO Constitution, and *Freedom of Association: Compilation of decisions of the Committee on Freedom of Association*, ILO, 6th Edition, 2018. paras. 1-9.

<sup>2</sup> ILO Declaration of Fundamental Principles and Rights at Work, Article 2 (‘all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining’)

#### **(4) Previous UPR cycle**

Within the previous UPR cycle:

There were calls for The Islamic Republic of Iran to work to improve compliance with and awareness of international human rights and treaty obligations, to develop awareness of these principles, and to establish a national human rights institution. Encouragingly, The Islamic Republic of Iran accepted many of these recommendations (A - 138.25 through A - 138.44, also A – 138.49 and A – 138.51). However, The Islamic Republic of Iran did not accept Recommendation N - 138.54, that it should ‘Fully comply with its binding international human rights obligations in the light of Iran’s commitment towards improving the overall human rights situation in the country’ (New Zealand). Nor did it accept Recommendation N - 138.227, that it should ‘Repeal all legal provisions that infringe the freedoms of expression, assembly and association, as guaranteed by the International Covenant on Civil and Political Rights’ (Belgium).

The NGO FIDH said: ‘independent trade unionists engaged in peaceful activities have suffered as a result. Many of them have faced charges related to national security or other anti-state activities and have been sentenced and arbitrarily detained after facing unfair trials in Islamic Revolution Courts’, and noted that ‘the Teachers Association of Iran and its members have greatly suffered. Several members, including members of its Board, are currently serving long prison sentences, and some other Board members are also facing long prison sentences’. FIDH added that ‘several independent labour unions have been formed in the past few years but they have all faced heavy crackdown, including arrests, prosecution and imprisonment of their members’.

Human Rights Watch (HRW) called for The Islamic Republic of Iran to ‘lift restrictions preventing political opposition parties, independent trade unions, student groups, rights groups and other civil society organizations from legally operating in the country’ and to ‘unconditionally release all persons detained solely for peaceful political activities and peacefully exercising their rights to free expression, association, and assembly; charge and

bring before a court whose proceedings meet international fair trial standards persons suspected of actual criminal offenses'. While Amnesty International noted that 'the revised Islamic Penal Code, signed into law in May 2013, imposes further limits on freedom of expression, association and assembly. It criminalizes many acts that amount to legitimate exercise of human rights, retaining vaguely-worded "crimes" such as "spreading propaganda against the system" and "insulting the holy sanctities" which the authorities use to arbitrarily detain peaceful critics'.

### **(5) Freedom of association in law**

The law of the Islamic Republic of Iran establishes three basic forms of workplace organisation / representation.

Islamic Labour Councils are nominally bi-partite (providing seats for worker and employer representatives)<sup>3</sup>. These entities are, however, heavily vetted by the Government<sup>4</sup>, which also 'supervises' the election of representatives<sup>5</sup>. Those selected are also legally required to subscribe to certain state ideologies<sup>6</sup>. They can only be established in the small minority<sup>7</sup> of workplaces that have more than 35 employees (excluding large State-owned employers)<sup>8</sup>. At the national level the Khaneh Kargar (Workers' House: also known as the Supreme Islamic Labour Council of Iran) coordinates their activities. This organization is not independent, even in formal terms, as its statutes provide a formal position for State representatives within its structures.

Trade Associations ('guild associations') are another organisational model, but are similarly subject to tight controls of their form and activities. They must use a

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<sup>3</sup> Law for the Establishment of Islamic Labour Councils of January 1985, Art. 1

<sup>4</sup> Ibid, Art. 2, note 3, and Art. 21. The human rights NGO, International Federation for Human Rights, has described the process under which candidates for ILC elections are vetted by a board that is controlled by members of the government (see *Right to Work, Labour Rights & Trade Unions in Iran: submission to the UN CESCR*, March 2013 p21)

<sup>5</sup> Law for the Establishment of Islamic Labour Councils of January 1985, Art. 21.

<sup>6</sup> Ibid, Art 1

<sup>7</sup> *Right to Work*, p20

<sup>8</sup> Law for the Establishment of Islamic Labour Councils of January 1985, Art. 15

government approved constitutional document<sup>9</sup>. They are not permitted to elect those critical of the Government to their boards<sup>10</sup>, their elections are supervised by the Government<sup>11</sup>, and they are required, by law, to be apolitical<sup>12</sup> (which, in practice, means to support the Government). These associations are regional organisations that issue vocational licences and help members to find jobs. Their membership is open to the self-employed, as well as to the employed. All guilds must register with the Minister of Labour.

The third form of representation is the position of Worker's Representatives. However, candidates to these positions are vetted by local government<sup>13</sup>, and they are legally required to be apolitical<sup>14</sup>. In practice this means that they should support government policies and ideology and that they must not oppose or challenge government policies or behaviour.

All of these models are fundamentally flawed due to legally mandated government vetting and political restrictions governing candidates. There is no formal mechanism in law for genuine worker-led trade unions to be formed. These formal models in no way meet the State's international obligations to uphold the principles of freedom of association.

## **(6) Trade union rights in practice**

Outside of this prescriptive legal framework, a number of unions do operate. However, their status as formal legal entities is unclear, and there are no mechanisms for their formal engagement with employers in bargaining or for other forms of formal workplace representation. Furthermore, they cannot lawfully own property, operate bank accounts, etc, and their activities are frequently repressed. These organisations have won

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<sup>9</sup> Trade association rules 1993 (as amended in 2010) Art. 9

<sup>10</sup> *Ibid*, Art. 9

<sup>11</sup> *Ibid*, Art. 14

<sup>12</sup> *Ibid*, Art. 21

<sup>13</sup> *Ibid*, Art. 5

<sup>14</sup> *Ibid*, Art. 3

international respect from the global trade union and human rights movements. However, those workers who establish, lead, and join such organisations often pay a high price, and face the risk of dismissal, harassment, arrest, and other forms of repression. Sentences levelled against them can be severe. Their assemblies and demonstrations have at times been violently dispersed, and several trade unionists have been prosecuted and sentenced to prison terms.

Examples of violations of trade union rights against specific groups recorded by ICTUR in recent years include:

#### *Miners*

In May 2016, seventeen workers from the Agh Dareh gold mine in the northwestern city of Tikaab were publicly flogged, after they protested against the firing of 350 of their colleagues. Their employer filed a complaint against them for the protest action, and the sentence was carried out by the security services.

#### *HEPCO workers*

Fifteen employees of the Heavy Equipment Production Company (HEPCO) were sentenced to prison and flogging in retaliation for striking. HEPCO workers took part in the strike in May 2018 to protest wage arrears, a decline in occupational safety and uncertainty surrounding continued production. In October 2018 the 106 Branch of the criminal court of Arak sentenced the workers to between a year to two and a half years in prison and 74 lashes for ‘disrupting public order’ and ‘instigating workers via the internet to demonstrate and riot’.

#### *Truck drivers*

On 22 September 2018, a nationwide strike by truck drivers took place to protest low wages and living standards, as well as wages unpaid for several months. After taking industrial action, over 250 were arrested and detained. Several public statements were then made by members of the judiciary calling the action ‘criminal’ conduct and

proposing the death penalty, prompting intervention from international union leaders<sup>15</sup>.

### *Teachers*

On 7 October 2016, the general secretary of the Iranian Teachers' Trade Association (ITTA), received a confirmation of a six-year prison sentence for 'assembling and colluding against national security'.

A member of the board of directors of ITTA Tehran was arrested in March 2018 and held until April, when he was released, only to be re-arrested in May, when a peaceful gathering organised by the ITTA-Tehran was attacked by security forces and undercover government agents. Fourteen other protestors were also arrested but released the next day. His detention was reportedly under harsh conditions, and he did not receive medical treatment for injuries sustained during his arrest.

On 4 August 2018, a leader of the ITTA was sentenced to ten years in prison and 74 lashes for his participation in a peaceful protest.

In October, in the days preceding nationwide strikes and sit-ins organised by the Coordinating Council of the ITTA, several arrests were made. On 11 October 2018, a teacher and ITTA member was arrested at his home in Mashhad by security agents who raided his house, confiscated his personal belongings and took him to an undisclosed location. On 13 October 2018, an ITTA leader and another teacher were arrested.

On 14 and 15 October the strikes were held. Two days later, on 17 October 2018, an ITTA member was arrested by Intelligence Ministry agents in Saqqez and held without charge. On 23 October 2018, a leader of the Mashhad Teachers Union went missing after publishing a letter on social media praising the striking teachers and criticising the government. He was later located being held and given forced treatment in a psychiatric facility. He was released on 10 November 2018 following public protest.

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<sup>15</sup> ITUC and four global union federations, letter to Ayatollah Sayed Ali Khamenei, Leader of the Islamic Republic (17 October 2018)

## **(7) Context and analysis**

The ILO's Committee on Freedom of Association ('CFA' / 'the Committee') has commented on the situation in The Islamic Republic of Iran that: '...the situation obtaining in the country may be characterized by regular violations of civil liberties and a systematic use of the criminal law to punish trade unionists for engaging in legitimate trade union activities', such that the Committee was 'compelled to express its deep concern with the seriousness of the trade union climate in the Islamic Republic of Iran and calls the Governing Body's special attention to the situation' (Case No. 2566 (Report No 351)).

On the arrest of trade unionists, generally, the CFA has stated that 'no one should be deprived of their freedom or be subject to penal sanctions for the mere fact of organizing or participating in a peaceful strike'; the arrest and detention of trade unionists 'for reasons connected with their activities in defence of the interests of workers constitutes a serious interference with civil liberties in general and with trade union rights in particular' (Freedom of Association: Compilation of decisions of the Committee on Freedom of Association, ILO. 6th Edition, 2018. paras. 120-6, 970-4). In particular, the arrests of strikers 'on a large scale involve a serious risk of abuse and place freedom of association in grave jeopardy' (Freedom of Association, para. 975).

In cases where trade unionists are arrested or deprived of their liberty it is 'incumbent upon the government' to show that such measures are 'in no way occasioned by the trade union activities of the individual concerned' (Freedom of Association, para. 158). As has been recorded in the Committee's 2017 Report on the repression of teacher trade unionists in The Islamic Republic of Iran, the government is under an obligation under international law 'to ensure that the charges against trade unionists relating to their legitimate trade union activities are immediately dropped, that their sentences are

annulled and that the detained workers are released and fully compensated for any damages suffered as a result of the convictions' (Committee on Freedom of Association, Report No 383, Case No 2566, October 2017, para. 54).

And on the duty to protect trade unionists from physical harm, and on the obligation to ensure a robust response to the murder of trade unionists, the CFA has found that: 'the rights of workers can only be 'exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected' (Freedom of Association, para. 84). The Committee has further noted that an independent judicial inquiry should be instituted immediately to investigate assaults on the physical or moral integrity of individuals, in order to determine responsibility, punish those responsible and prevent repetition (Freedom of Association, para. 94). Failure to hold guilty parties to account creates a culture of impunity, 'which reinforces the climate of violence and insecurity, and which is extremely damaging to the exercise of trade union rights' (Freedom of Association, para. 106).

## **(8) Recommendations**

ICTUR calls on the government:

- to permit freedom of association in its territory and to enact a new labour law that gives full protection to trade union rights
  
- to allow operation of existing trade unions and recognise their rights: to represent their members in negotiations with employers and management; to monitor health and safety at workplaces; to train and educate workers about their rights; and to be provided facility time and resources to organise, represent, and communicate with their members.

- to address the cases of those arrested for peaceful participation in trade union activities and to ensure the immediate release of all workers and trade unionists detained for exercising and defending their rights, to make sure that charges against them are dropped, and that any existing convictions quashed.

- to ratify ILO Conventions 87 and 98

- to increase engagement with the ILO supervisory bodies and technical assistance to enable it to meet its international obligations to respect freedom of association