



High Council for Human Rights of  
the Islamic Republic of Iran

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# **An Elucidating Report on: Examination of Preventive Components, Legal Distinctions, and Analysis of Media Narratives**

**The High Council for Human Rights  
of The Islamic Republic of Iran**

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*In the Name of GOD*

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## **Executive Summary**

Following the social developments in 2026 in Iran, the issue of detentions and their nature became a central topic in legal and social discussions. This report adopts an analytical-legal approach to systematically examine the concept of detention, distinguish between its legal and arbitrary forms, explore judicial oversight mechanisms, and critically assess media narratives surrounding the phenomenon of “mass detentions.” Findings indicate that Iran’s legal framework, with an emphasis on “temporary detention” as a preventive measure with clearly defined temporal and procedural safeguards, seeks to differentiate between lawful and arbitrary measures. However, the practical application of this framework in crisis situations, alongside the sometimes contradictory media narratives, consistently requires careful attention to the principles of fair trial and the promotion of greater transparency.

### **1. Introduction: Addressing the Issue of Detention in the Context of Social Developments**

Broad social developments have always served as a test for the legal and judicial systems of countries. In such circumstances, balancing the maintenance of public order with the protection of individual freedoms becomes a complex challenge. Detention, as one of the most severe forms of state intervention in personal liberty, lies at the heart of this tension. Events such as those that occurred in January 2026 are often portrayed in the media and public discourse under the broad label of “arbitrary and repressive detentions.” However, the Criminal Law of Iran, like many legal systems worldwide, recognizes lawful and legitimate forms of detention, particularly for purposes of crime prevention or the preservation of investigations. The aim of this report is to move beyond prevailing clichés and provide a structured analytical approach that, through precise conceptual distinctions, examination of legal standards, and assessment of judicial oversight, clarifies the difference between lawful and arbitrary detention. This analysis is grounded not only in domestic law but also considers Islamic and international standards prohibiting arbitrary detention.

## **2. Theoretical Foundations: Distinguishing Arbitrary Detention from Legal Detention**

Before analyzing domestic laws, it is essential to clarify the criteria for identifying arbitrary detention. In international human rights instruments, the prohibition of detention is not absolute; rather, only “arbitrary” detentions are explicitly forbidden. However, the concept of “arbitrary” goes beyond mere “illegality.” According to interpretations by international bodies, it encompasses elements such as disproportionality, unfairness, unpredictability, and lack of reasonable justification. In other words, even if a detention appears to comply with a law, if it lacks reasonable and logical grounds or is applied in an unfair manner, it may still be considered arbitrary.

Compared to international instruments, which primarily focus on individual rights, the Islamic legal system seeks to strike a balance between individual liberty and social security. In this perspective, social security is not merely equivalent to the security of rulers, but rather a public good, and the instances of lawful detention are largely limited to cases of its violation. This balanced approach can provide a framework for assessing the legitimacy of preventive measures in situations of social crisis.

## **3. Legal Framework of Detention in Iran: Focus on Pretrial Detention**

In the Iranian legal system, the primary and most structured form of detention prior to the issuance of a final judgment is pretrial detention, which is comprehensively regulated under the Code of Criminal Procedure. Pretrial detention (temporary detention) is a criminal precautionary measure that is issued by decision of a judicial authority (the prosecutor’s office or the court) and under very strict conditions and regulations.

## - **Conditions and time limits of pretrial detention**

Inspired by international standards, Iranian legislators have explicitly emphasized the limited duration of pretrial detention.

A key point is the judicial authority's duty to conduct periodic reviews. According to the law, if a defendant's case does not reach a final decision at the prosecutor's office within a specified period (one or two months, depending on the type of crime), the investigating judge is obliged to either revoke or reduce the detention order. Any extension of detention requires the articulation of justified reasons and notification to the defendant for potential objection. This mechanism serves as an important tool for judicial oversight and for preventing prolonged detention without trial.

## - **Objectives and justifications of pretrial detention as a preventive measure**

Pretrial detention is fundamentally an exceptional and preventive measure, not a punishment. Its main legal justifications include:

- **Preventing the escape of the accused:** when there is strong evidence indicating a risk of escape.
- **Preventing collusion or destruction of evidence:** to avoid tampering with evidence or influencing witnesses.
- **Preventing the commission of further crimes:** in cases where there is a strong likelihood that the defendant may reoffend.
- **Maintaining public order:** in particularly severe crimes that cause significant public unrest.

In the context of widespread social developments, such as those occurring in January 2026, invocation of the need to preserve public order and to prevent the continuation of violence may, from the standpoint of judicial authorities, serve as a legal basis for the issuance of temporary detention orders against certain individuals. The legality of such invocation is contingent upon the establishment

of the statutory prerequisites, the proportionality of the measure to the gravity of the perceived risk, and strict compliance with legally prescribed time limits.

#### **4. Procedural Distinction: Pretrial Detention, Charge, and Conviction**

One of the most critical distinctions for a proper understanding of detention is the separation of the three stages: pretrial detention, formal charging, and final conviction. Confusing these stages is the source of many misconceptions regarding “arbitrary detention.”

- **Pretrial detention (preliminary investigation stage):** This stage occurs prior to the establishment of guilt and is based on strong suspicion and sufficient evidence (not conclusive proof). At this stage, the individual is a suspect or accused, not a convicted offender. The presumption of innocence remains in effect, and detention serves as a tool to ensure the legal process, rather than as a punishment.
- **Formal charge (indictment issuance):** Upon completion of the preliminary investigation, if the prosecutor gathers sufficient evidence, the charges are formally and precisely defined. Following the issuance of an indictment, the case is then referred to the court for trial.
- **Conviction (final court judgment):** Only after a fair trial in court and upon establishing guilt beyond a reasonable doubt is an individual formally deemed a convicted offender. The punishment of imprisonment is enforced only after this stage.

Accordingly, the mere fact that an individual is in detention does not imply criminality. Systematic violation of this distinction (such as prolonged detention without clear charges or without trial within a reasonable time) may itself constitute arbitrary detention under international standards.

## 5. Judicial and Administrative Oversight Mechanisms over Detentions

Iranian legislators have established mechanisms to monitor and control pretrial detention in order to prevent arbitrariness:

- a) **Hierarchical oversight:** The investigating judge's decision to issue or extend pretrial detention requires the prosecutor's approval, and in case of disagreement, the matter is resolved by the competent court.
- b) **Right of the defendant to object:** Any detention order or its extension must be formally notified to the defendant, who may appeal to the competent court within 10 days from the date of notification. This right constitutes a crucial safeguard for a fair trial.
- c) **Administrative and system-based oversight:** Nowadays, Systems for Judicial Case Management (such as SAMP) are designed to enhance transparency, manage case process, and facilitate monitoring of detention durations and procedures. Although the implementation of these systems may face challenges, in theory, they provide a tool to prevent unlawful detention.
- d) **Civil liability of the state:** Under the law, if an individual's detention is found to be unlawful or unjustified, they are entitled to compensation. This remedy is recognized both in the legal system of Iran and in international instruments, often with more detailed provisions.

## 6. Critique of the Media Narrative: Mass Detention in Reality, Ambiguity, and Fabrication

In times of social unrest, media outlets and social networks play a decisive role in shaping public narratives about detention. During the events of January 2026, the narrative of "mass and arbitrary detention" rapidly spread through opposition media and social media platforms. A multifaceted critique of this narrative includes:

- **Lack of transparent and official information:** In many instances, official institutions were slow in providing timely and clear data regarding the number of detainees and the reasons for their detention. This information gap created fertile ground for rumors and exaggerated narratives. Reports on limited journalist access to the scene further exacerbated the problem.
- **Production and dissemination of fake news:** In a charged environment, the creation of fake news (combining sensational headlines, incomplete narratives, and elements of fear or anger) becomes relatively easy. Videos or reports from protests occurring in other countries or at different times may be repurposed as “evidence” of mass detentions in the recent developments in Iran.
- **Ideological and discursive biases:** Certain media outlets are predisposed to interpret any judicial action as “repression” within a predetermined framework, without distinguishing between the lawful detention of an armed individual and the arbitrary detention of a peaceful protester. Conversely, government-aligned media may, instead of addressing the issue’s complexity, focus solely on a narrative of foreign design or the terrorist nature of the protests, overlooking the fact that such a narrative cannot fully account for all societal question.



## **7. Summary and Conclusion: Seeking Balance in Light of Law and Transparency**

The events of January 2026 and the phenomenon of detention during this period reflect the persistent tension between security and freedom. The Iranian legal system, through the establishment of pretrial detention, judicial oversight mechanisms, and time limitations, has sought to define a legal framework for the lawful restriction of individual liberty in necessary circumstances. A fundamental point, often overlooked in public discourse, is the distinction between detention as a preventive and precautionary measure during the investigative stage and imprisonment as a punishment following a final conviction.

However, the mere existence of a legal framework does not by itself guarantee the prevention of arbitrary detention. It is the application of these laws in real-world conditions, particularly under social and security pressures, that tests the legitimacy of governmental actions. Strict adherence to legal deadlines, prompt and precise notification of charges, guaranteed access to legal counsel, the genuine possibility of appeal, and the avoidance of collective or discriminatory practices are all factors by which the Judiciary's performance in such crises should be evaluated.

On the other hand, a tense media environment, saturated with contradictory information, has itself become a factor that exacerbates the crisis and hinders accurate legal analysis. Responsibility for this situation lies both with non-transparent official media outlets and with producers and disseminators of fake or extreme news. Ultimately, the articulation and promotion of a correct and balanced understanding of lawful detention, one that recognizes both society's right to security and the individual's right to liberty and a fair trial, is an essential step toward resolving disputes and strengthening the foundations of the legal order.

