

Legal justification for the use of violence by IRGC and Baseej forces

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Introduction

The inclusion and promotion of violence in a society is due to a number of different factors. One of the primary causes is the overwhelming support for and promotion of militarisation by the political system. In societies where the dominant political system is founded on both a specific ideology and arbitrary rule, the result is a rise in violence. This is due to the fact that such systems endeavour to secure their continuing existence through the use of military and paramilitary forces. Rules and laws provide the instruments for promotion of excessive militarism, resulting in violence. The Islamic Republic of Iran, as an ideological regime, provides institutional and legal support to military and paramilitary organisations such as the Islamic Revolutionary Guards Corps (IRGC) and its subsidiary the Baseej, which despite being operated by the state yield a great deal of political, administrative and economic influence within Iran. With regard to both agencies a good deal of research has been carried out¹ but none have addressed the legal grounds for their role in the creation and promotion of violence in Iranian society. Therefore, this brief article will examine the rules and laws that have opened the way for the IRGC and Baseej to propagate violence both inside and outside Iranian borders.

A brief history of the IRGC

The nucleus of the IRGC was formed in the early days after the 1979 revolution. Its goals were to maintain order in cities and villages, prevent incitement, conspiracy or disruption inside government or national agencies, public centres and embassies, prevent the influence of opportunist and anti-revolutionary elements among the public and to implement government orders and sentences issued by the Islamic extraordinary courts.²

Soon after, in an order issued on 24 August 1979 to the Islamic Revolutionary Council, Ayatollah Khomeini formally announced the formation of this institution.³ In addition, Article 150 of the Islamic Republic constitution formally recognised the Corps.⁴ This militant organisation that operates under the guidance of the Supreme Leader has played an important role in Iran's military, economy⁵, politics and culture.⁶ Since its inception it has not experienced many significant modifications to its structure until May 2008 when widespread changes began to take root. The following month saw structural changes. For instance, 31 provincial IRGC forces were inaugurated. Following the post-election upheavals in 2009, further extensive changes took place in the IRGC in light of security concerns. The formation of the intelligence agency was one such change.⁷

The IRGC is composed of five forces, the most important of which is the Qods force, a special section whose responsibility includes military activities outside of Iranian borders. This force was formed during military operations on Iraqi soil during the Iran-Iraq war. However, its military operations were not limited to Iraq, but included other countries. A number of terrorist activities outside Iran and obvious interference in the current Syrian conflict are among other instances of tasks carried out by the Qods forces.⁸

A brief history of the Baseej

The Baseej was formed under the supervision of the Ministry of Interior in April 1981.⁹ Two months later the Revolutionary Council described the function of this organisation and announced that it would operate under the supervision of the Supreme Leader in association with the office of the President.¹⁰ Then, through the amalgamation of a number of other military and paramilitary forces, it was expanded at the national level.¹¹ Eventually, in 1981, the parliament approved a bill entitled 'Integration of the national Baseej

¹ For example See: Ostovar, Afshon P. (2009). 'Guardians of the Islamic Revolution Ideology, Politics, and the Development of Military Power in Iran (1979–2009)' (PhD Thesis). University of Michigan.

² Mohsen Sazegara, IRGC and Three Deviations, Sazegara.net, July 2006, http://www.sazegara.net/persian/archives/2006/07/060723_154435.html

³ Islamic Revolution Document Centre, Formation of the Iranian Revolutionary Guards of the Islamic Revolution, April 1979, <http://www.irfdc.ir/fa/calendar/19/default.aspx>

⁴ Islamic Consultative Assembly Resource Centre, Constitution of Iran, http://rc.majlis.ir/fa/content/iran_constitution

⁵ Saeed Ghasseminejad, The Role of IRGC in Iran's Economy, Rooz Online, July 2010, <http://www.roozonline.com/persian/news/newsitem/article/-49b7caea7c.html>

⁶ Behrooz Khaliq, The Opportunities of IRGC and the Clerics in the Power Structure, Part III by Behrooz Khaliq, July 2006, <http://www.akhbar-rooz.com/article.jsp?essayId=4435> (see also <http://www.akhbar-rooz.com/article.jsp?essayId=4220>)

⁷ Shahb Nikzad, IRGC and Its Structural Changes to Security Arrangements, BBC Persian, December 2012, http://www.bbc.co.uk/persian/iran/2009/10/091028_op_sn_sepah.shtml

⁸ Iraq in the Claws of General Violence by Saeed Bayani, October 2011

⁹ See Keshvar Rooznameh number 10280-24-3-1359

¹⁰ Majmu'eh Ghavanin Saal 1980 pp. 184-286

¹¹ Ibid. P. 294

organisation into the Islamic Revolutionary Guards Corps¹² and in light of the commonalities between the two organisations, renamed it the Baseej Resistance Force and placed it under the supervision of the IRGC. Currently, based on Article 3 of the Corps Employment Regulations¹³, the Baseej is one of the subsidiaries of the IRGC.

Promotion of theocracy

Based on Article 1 of the constitution of the IRGC approved in 1982¹⁴ 'The Islamic Revolutionary Guards Corps is an organisation under the command of the Supreme Leader for the purpose of guarding the Islamic revolution in Iran and its achievements and efforts aimed at the realisation of Divine goals and the expansion of the rule of Divine laws in accordance with the Islamic Republic of Iran, and reinforcement of its defence forces through cooperation with other armed forces, military training and organisation of the militia.'¹⁵

As the above text demonstrates, one of the aims of the Corps is the expansion of theocracy. In light of the fact that the Corps is an armed and cohesive force of the Iranian government, the expansion of theocracy can be achieved through use of these armed forces. Attention to this goal, as included in the IRGC constitution, sheds light on a number of challenges. First, does a political regime, as in Iran, have the legitimacy to expand its theocracy throughout the globe? Second, what is meant by theocracy? Based on principles of law, terminologies must be as clear and concise as possible in order to avoid varied and false interpretations. Therefore, the question remains, what is the exact definition of theocracy? How is theocracy to be implemented? Following the ideology dominant among the Guard Corps and other sections of the political leadership, is there a danger of misinterpretation or preferred interpretation of theocracy? It seems that inclusion of this aim can legitimise expansion efforts by the Corps inside and outside of Iran, along with acts of violence and terror justified in the name of the expansion of theocracy. This same justification also applies to the second article of the IRGC constitution. It explains that one of the aims of the Corps is to combat 'anti-revolutionary' efforts, a vague reference which is open to interpretation and can be used as a means of legitimising the use of violence against critics or opponents of the political establishment in Iran.

In addition, the inclusion of military forces in political arenas in the name of protecting the revolution and the republic, can in and of itself lead to more violence in between the different political wings of society. This is what we witness in Iran today. In this regard it should be mentioned that Article 47 of the IRGC constitution¹⁶ bans its members from interference in political affairs, however, in practice this Article is ignored.

Iranian laws also provide the grounds for the Baseej Resistance Force to seek violence. The first Article of the Bill for the Formation of the National Baseej,¹⁷ approved in 1981, identifies the foundation for the formation of Baseej as defence and jihad against violators and those who stand in the way of the full establishment of an Islamic order on the path to God. This Article, inspired by the teachings of Shia jurisprudence based on combat against unbelievers, is in and of itself a cause for ideological violence. Jihad with the aim of establishing an Islamic order is a guarantee for the promotion of violence and terror in the name of raising an Islamic world order. In addition, with Article 159 of the Third Development Plan¹⁸ charging the Baseej with the promotion of a culture of jihad martyrdom, is another example of the legal grounds for the promotion of violence in Iranian laws.

Membership of non-Iranians and violence outside Iranian borders

In light of Article 145 of the constitution of the Islamic Republic¹⁹, it is illegal for non-Iranians to serve in the regular armed forces. However, no other laws restrict the Guards Corps or the Baseej from recruiting non-Iranians. Therefore, the Guards Corps forces continue to employ foreign forces for violent actions carried out overseas, a measure against legal norms. Furthermore, the inclusion of the above-mentioned goals for the IRGC and the Baseej can, when misinterpreted, provide legal grounds for the involvement of non-Iranians in IRGC and Baseej in creation of violence outside of Iranian borders. Although it should be noted that this Article and aims such as 'promotion of God's rule' cannot be legitimate grounds for such activities

¹² See Keshvar Rooznameh number: 71624-29-11-1359

¹³ Islamic Consultative Assembly Resource Centre, Employment Regulations of the IRGC, <http://rc.majlis.ir/fa/law/show/91961>

¹⁴ Islamic Consultative Assembly Resource Centre, IRGC Constitution, <http://rc.majlis.ir/fa/law/show/90595>

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Keshvar Newspaper Nr. 1359/05/20 10328 <http://www.rooznamehrasmi.ir>

¹⁸ Third Plan for Economic, Social and Cultural Development of the Islamic Republic of Iran, Ghavanin.ir Iranian Law database, March 2000, <http://www.ghavanin.ir/detail.asp?id=12310>

¹⁹ Islamic Consultative Assembly Resource Centre, Islamic Republic Constitution, http://rc.majlis.ir/fa/content/iran_constitution

and therefore, violent activities overseas by the IRGC are not based on legal grounds but are carried out arbitrarily.²⁰

The 1994 explosion at the Amia Jewish Community Centre in Argentina by Lebanon Hezbollah forces associated with the IRGC and the uncovering of their role²¹, the 1983 attack on the US-French military base in Beirut by Hezbollah forces linked to the IRGC²², the 1996 Khobar tower bombing in Saudi Arabia by the Qods forces of the IRGC²³, the attack on the Israeli Embassy in India by forces linked to the IRGC in 2012²⁴, recruitment of Iraqi Shia forces and their involvement in terrorist activities²⁵ and their role in the Syrian civil war and support for the Syrian regime in suppression of the opposition²⁶, are all examples of IRGC involving non-Iranians in inciting violence at a global level.

Suppression of social movements

Through the arbitrary and abusive misinterpretation of laws and rules that legitimise the suppression of the public, the Baseej and Guards Corps forces²⁷ play a significant role in barring social movements in Iran. Iranian laws approve regulations that allow the IRGC and the Baseej to combat external and internal threats, suppress activities against the Islamic Republic of Iran and safeguard the achievements of the Islamic revolution in the name of spreading God's rule and establishing Islamic Order and open the way for violence in oppressing social movements. It was the IRGC and Baseej forces that carried out attacks on the Tehran and Tabriz Universities in 1999²⁸ and took part in the suppression of the student movement and the subsequent mass demonstrations.²⁹ Furthermore, the IRGC and the Baseej played a pivotal role in suppressing and killing demonstrators during the 2009 post-election uprising.³⁰ The clampdown on the demonstrations in Iranian Azerbaijan that raised concerns about the environmental hazards threatening Lake Oroumiyeh is another example of IRGC and Baseej collaboration in oppressing social movements.³¹

Surveillance and inspection

Baseej and Guards Corps street surveillance and inspection of citizens are other examples of the promotion of violence and lack of security in Iranian society. These forces, acting in the name of the protection of security, frequent the streets and interfere in the daily lives of citizens, undoubtedly causing disturbance to individuals that leads to the violation of their civil rights. It is obvious that the failure of judicial authorities to prevent such efforts implies their cooperation in creating a sense of insecurity in society at large. The inquisition of citizens regarding their clothing, inspection of automobiles or body searches are examples of invading individual space and the violation of civil rights at the hands of the IRGC and Baseej forces. It is obvious that Islamic Republic policy makers on the one hand endow these forces with the task of opposing internal and external threats and promoting jihad on the path of God³² through the approval of regulations such as the Justice Act of Baseej³³ which provides limited rights for both organisations to interfere in opposing the media. On the other hand, the judicial authorities' failure to bar these forces for violating their limited jurisdiction, share ultimate responsibility with policy makers for creating insecurity in society.

Intelligence activities

The performance of intelligence activities by Guards Corps and Baseej forces are among those cases that violate the privacy of members of society and cause a sense of psychological insecurity. Based on Article 8 of the Guards Corps constitution³⁴, one of the duties of the Corps includes collaboration with national

²⁰ Behrooz Karbalaie, Activities of the IRGC from Planning to Implementation, September 2013, <http://www.rahesabz.net/story/75410/>

²¹ BBC News Channel, Iran charged over Argentina bomb, October 2006, <http://news.bbc.co.uk/2/hi/americas/6085768.stm>

²² Radio Zamaneh, Iraqi Generals in the grip of terror, October 2011, <http://archive.radiozamaneh.com/politics/2011/10/24/7845/>

²³ Ibid.

²⁴ Indrani Bagchi, Israel embassy car blast: Indian intelligence hints at Iran's hand, Times of India, February 2012, http://articles.timesofindia.indiatimes.com/2012-02-14/india/31058847_1_magnetic-bomb-mostafa-ahmadi-roshan-iranian-nuclear-scientists

²⁵ Aawsat, Uncovering Ghods elements in the Green Zone, October 2011, <http://www.aawsat.com/details.asp?section=4&issueno=12008&article=645001&search>

²⁶ Deutsche Welle, New Video Release of Iranian troops in Syria, September 2013, <http://www.dw.de/#####-#####-####-##-####-#####-#####-###-#####/a-17097032>

²⁷ IRGC constitution approved in 1982 and the Baseej Formation Bill approved in 1980 and the Justice Act approved in 1993

²⁸ Michael Slackman, Hard-Line Force Extends Grip Over a Splintered Iran, New York Times, July 2009, http://www.nytimes.com/2009/07/21/world/middleeast/21guards.html?_r=3&

²⁹ Deputy Chief of the IRGC as the Assistant Secretary of the National Security Council, September 2005, <http://www.nourizadeh.com/archives/001301.php>

³⁰ IRGC, Baseej, Election Coup and the Green Movement by Behrooz Khaligh, June 2011, http://www.radiofarda.com/content/f6_iran_sepah_basij_khaligh/24231036.html

³¹ My personal experience working with many of those arrested during the demonstrations pointed to the role of IRGC and Baseej in suppressing these movements.

³² Islamic Consultative Assembly Resource Centre, Legislation establishing national mobilisation, <http://rc.majlis.ir/fa/law/show/99044>

³³ Islamic Consultative Assembly Resource Centre, Judiciary Act of mobilisation, <http://rc.majlis.ir/fa/law/show/92119>

³⁴ Islamic Consultative Assembly Resource Centre, Statute of the Islamic Revolution Iranian revolutionary Guards <http://rc.majlis.ir/fa/law/show/90595>

intelligence forces. Although based on this article the Corps cannot engage in intelligence efforts itself, but in reality both the Guards Corp and the Baseej are extensively involved in such operations.³⁵

Promotion of violence among children

Another problem is the promotion and institutionalisation of violence among children. The lack of legal prohibitions against the recruitment of children below the age of 18 into the Guards Corps and Baseej forces while issuing legal permits and provisions, such as the law of formation and promotion of the student Baseej³⁶ approved in 1996, designed to facilitate inclusion of children into the Guards Corps and Baseej has resulted in their focus on the recruitment of children. They pursue various avenues for this purpose, including Baseej stations in schools and centres aimed at minors. Many other provisions in Iranian law offer advantages to the members of the IRGC and Baseej. Article 196 of the Fifth Development Plan is one such example.³⁷ These advantages include financial assistance, preferential treatment in securing government employment and reduction or exemption from regular military service that encourage young people to join the IRGC and Baseej. It should be noted since such organisations include legalised³⁸ armed operations, the recruitment of anyone below the age of 18 breaches Article 19 of the Convention on the Rights of the Child³⁹ and instils violence among children.⁴⁰ Propagation of the culture of martyrdom backed by law⁴¹ and such organisations is reinforced by the state media along with projects such as Rahiyan Noor⁴² (Treaders of the Path of Light), which can be viewed as a form of violence against children as they encourage children to engage in acts of violence. The conscription of citizens below the age of 18 during the Iran-Iraq war, which resulted in the death, imprisonment, impairment and disappearance of many young people⁴³ is an example of violence against children. The death of Mohammad Hossein Fahmideh, a 13 year old student during the Iran-Iraq war is an obvious example. In addition, the inclusion of Baseeji student forces in repression of the citizens, including for instance the post-election uprising of 2009, instils a culture of violence among underage citizens.⁴⁴

In conclusion, it should be noted that although the IRGC and Baseej forces do not necessarily abide by the laws and often act with no legal justification, there is no doubt that their rights in Iran are based on faulty laws and codes that open the way for these forces to abuse their power and legitimise their actions in the incitement of terror, violence and insecurity both inside and outside of Iranian borders. In addition, extrajudicial actions by state authorities provide the grounds for IRGC and Baseej forces to act above the law.

³⁵ See Behrooz Karbalaie *ibid*. In addition, my personal experience as a lawyer involved with defence of political prisoners points to the fact that intelligence forces of the IRGC and Baseej were responsible for their arrests.

³⁶ See the legal documents regarding recruitment of child soldiers at Islamic Consultative Assembly Resource Centre, Formation and development of student mobilisation, <http://rc.majlis.ir/fa/law/show/92653>

³⁷ The fifth development plan, <http://www.rooznamehrasmi.ir>

³⁸ Including Article 64 of the Employment Regulations of the IRGC according to which the Ministry of Education must in collaboration with the Corp include military training as part of required subjects of study for students of all ages.

³⁹ Office of the High Commissioner for Human Rights, Convention on the Rights of the Child, United Nations Human Rights, September 1990, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁴⁰ An interview with Dr Ali Tayefi about Student Baseej, and the Promotion of a Culture of Violence among Children, Deutsche Welle, September 2009, <http://www.dw.de/a-4718243>

⁴¹ Including Article 159 of the Third Development Plan, Ghavanin.ir Iran Documentation Centre, <http://www.ghavanin.ir/detail.asp?id=1231>

⁴² A program designed to conduct annual events honouring, remembering and re-enacting scenes from the eight-year war with Iraq. See: <http://www.rahiyannoor.ir>

⁴³ Sacred Defence Agency, Student Baseej Mobilisation Day was held, <http://www.defapress.ir/Fa/News/5349>

⁴⁴ An interview with Dr Ali Tayefi about Student Baseej, and the Promotion of a Culture of Violence among Children, Deutsche Welle, September 2009, <http://www.dw.de/a-4718243>