

State Obligations in Realizing Freedom of Movement and the Human Right to Mobility

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1. Round 1

1.1. Reviewer 1

Reviewer:

The introductory paragraph states that “freedom of movement means that individuals are free to leave their own country for any destination and may return to their country whenever they wish.” This formulation is overly absolute and does not sufficiently reflect the legal structure of international human rights law. The right to leave a country is subject to permissible restrictions under Article 12(3) of the International Covenant on Civil and Political Rights, while the right to enter “one’s own country” is separately protected under Article 12(4) and has a different limitation structure. Moreover, the right to leave one’s own country does not create a corresponding general right to enter any foreign country. The authors should revise this formulation to distinguish clearly between the right to leave, the right to enter one’s own country, and the absence of a general human right to admission into another sovereign state.

In the Introduction, the manuscript quotes Article 33 of the Constitution of the Islamic Republic of Iran and then concludes that freedom of movement is implicitly recognized in Iranian constitutional law. This conclusion needs a more rigorous constitutional analysis. The article should explain whether Article 33 protects only freedom from exile, compulsory residence, and restrictions on choice of residence, or whether it can doctrinally support a broader constitutional right to internal and international movement. The relationship between Article 33 and Articles 3, 19, 20, 22, and other potentially relevant constitutional provisions should be systematically analyzed. The current argument moves too quickly from several general constitutional guarantees to recognition of a comprehensive right to freedom of movement without explaining the interpretive methodology supporting that inference.

The final part of the Introduction asks, “What legal obligations have states undertaken to realize freedom of movement and the human right to mobility?” This research question is important, but the manuscript does not clearly specify its methodological framework for answering it. The authors should explicitly identify whether the study is a doctrinal legal analysis, a descriptive-analytical study of primary and secondary legal sources, a comparative constitutional study, or a normative human rights

analysis. The introduction should also identify the hierarchy and types of sources examined, such as treaties, constitutional provisions, authoritative interpretations by treaty bodies, domestic legislation, scholarly literature, and comparative constitutional materials. Without this methodological clarification, the reader cannot readily assess how the conclusions concerning state obligations were derived.

In Section 6, the manuscript states that limitations on movement may be imposed for “security, public order, or public health,” but it does not adequately develop the legal test governing such restrictions. The authors should systematically discuss the core requirements of legality, legitimate aim, necessity, proportionality, nondiscrimination, and consistency with other protected rights. The manuscript currently lists permissible grounds but does not explain how states must demonstrate that a particular restriction is necessary or proportionate. This is especially important because freedom of movement may be restricted during emergencies, criminal proceedings, public-health crises, or national-security situations, and the legitimacy of such restrictions depends not merely on the stated objective but on their scope, duration, evidence base, procedural safeguards, and availability of judicial review.

In Section 6, the sentence stating that “the Prevention of Terrorism legislation of 1989 in the United Kingdom also restricted freedom of movement for the purpose of preventing terrorist operations” requires both legal and historical clarification. The manuscript should identify the exact legislation, specify which provisions affected movement, and explain whether the cited statute remains relevant to the contemporary legal framework. More importantly, the authors should connect this example to the principles governing counterterrorism restrictions on human rights, including legality, necessity, proportionality, and judicial oversight. At present, the example appears isolated and descriptive rather than contributing to the manuscript’s analytical framework concerning legitimate and illegitimate restrictions.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

In Section 2, the manuscript states that “freedom of movement comprises four components: the right to move freely within a country, freedom to choose one’s place of residence, freedom to leave any country, and the right to return to one’s own country.” This is a useful analytical structure, but it should be explicitly anchored in the relevant international legal framework. In particular, the authors should explain how these four elements correspond to Article 12(1), 12(2), and 12(4) of the International Covenant on Civil and Political Rights and Article 13 of the Universal Declaration of Human Rights. The distinction between “return to one’s own country” and “entry into one’s own country” should also be carefully considered because the latter formulation has specific jurisprudential significance. The section would be substantially strengthened by organizing the discussion around these legally recognized components rather than presenting them mainly through general descriptive statements.

In the second paragraph of Section 2, the manuscript states that freedom of movement applies “not only to citizens but also to lawful residents and even foreign nationals lawfully present within the territory of the state concerned.” This proposition requires further legal qualification. Under Article 12(1) of the International Covenant on Civil and Political Rights, the relevant protection applies to “everyone lawfully within the territory of a State,” but determining lawful presence may involve national immigration law while still being subject to international human rights constraints. The authors should discuss whether asylum seekers, refugees, undocumented migrants, stateless persons, detainees, and persons subject to immigration proceedings fall within the same legal framework or are subject to distinct standards. This issue is especially important because later sections of the manuscript refer broadly to asylum seekers, migrants, and refugees without differentiating their legal status.

In Section 3, the manuscript states that “the right to obtain a passport must also be regarded as part of the right to leave a country.” This is an important proposition that deserves substantially more doctrinal support. The authors should explain whether the state’s obligation to issue or renew a passport is derived directly from the right to leave, from authoritative treaty-body interpretation, or from domestic administrative law. They should also distinguish between reasonable administrative regulation of passports and measures that effectively nullify the right to leave, such as arbitrary refusal, prolonged delay,

confiscation, or discriminatory denial. The current sentence presents an important legal conclusion without sufficiently explaining the legal basis, applicable standard of review, or circumstances under which passport restrictions become incompatible with human rights obligations.

In the second paragraph of Section 3, the manuscript states that “under no circumstances should a person be arbitrarily deprived of the right to enter his or her own country.” This section should engage more precisely with the meaning of “one’s own country,” which may extend beyond formal nationality in international human rights jurisprudence. The manuscript currently treats nationality and one’s “own country” as essentially identical. The authors should examine whether long-term residents, stateless persons with particularly strong ties to a country, or individuals arbitrarily deprived of nationality may also invoke this protection. Such clarification would materially strengthen the manuscript because the right of entry is one of the most legally distinctive components of freedom of movement.

In Section 4, the manuscript concludes that “no country should close its borders to nationals of other states.” This statement should be reconsidered because it is broader than the protection established by Article 13 of the Universal Declaration of Human Rights. The right to leave any country does not, by itself, establish a universal right to enter any other country, and international law generally preserves significant state authority regarding admission of non-nationals, subject to refugee law, non-refoulement, family life, nondiscrimination, and other applicable obligations. This sentence therefore risks conflating the right of exit with a general right of international entry. The authors should revise the argument to distinguish outbound mobility rights from the legal regulation of admission by destination states.

In Section 4, the manuscript refers to “Section 6 of the Canadian Constitution” and “Article 16 of the Italian Constitution” as comparative examples. The comparative analysis would benefit from greater legal precision and consistency. In the Canadian context, the relevant provision is Section 6 of the Canadian Charter of Rights and Freedoms, which distinguishes mobility rights of Canadian citizens from those of permanent residents. The Italian provision likewise contains specific constitutional language concerning movement, residence, health, security, and political restrictions. Rather than merely reproducing these provisions, the authors should explain why these jurisdictions were selected, how their constitutional approaches differ from the Iranian model, and what comparative insight they provide regarding the scope and permissible limitations of freedom of movement.

In Section 5, the manuscript states that “the use of roads and public thoroughfares is open, equal, and free for everyone” and further suggests that tolls may interfere with freedom of movement. This argument requires qualification and a clearer legal foundation. Charging a lawful road toll does not necessarily constitute a human rights restriction merely because movement is not financially cost-free. The relevant legal question is whether fees are lawful, nondiscriminatory, proportionate, and whether they create unreasonable or discriminatory barriers to mobility. The authors should distinguish between “freedom” in the sense of legal liberty and “free of charge” in the economic sense. Conflating these concepts could lead to an excessively broad interpretation of the right to freedom of movement.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.