

Broadcast and On Demand Bulletin

Issue 493, 4 March 2024



Complaint by Iran International about *News Hour*

Type of case	Fairness and Privacy
Outcome	Upheld
Service	Al Jazeera
Date & time	7 January 2023, 13:00
Category	Fairness
Summary	Ofcom have upheld this complaint about unjust or unfair treatment in the programme as broadcast.

Case summary

The news programme included a report about two men who were executed after being found guilty of killing a security officer during protests in Iran over the death of Ms Mahsa Amini¹. The presenter introduced Mr Mohammad Marandi as a political analyst and Professor at the University of Tehran, and he joined via video link. Mr Marandi gave his account and opinions on the trial and its outcome, including his reaction to criticism from human rights organisations about proceedings involving the prosecution of protestors. Iran International complained that it was treated unfairly because comments made by Mr Marandi suggested that Iran International had broadcast content encouraging protestors to murder police officers.

Ofcom's decision is that material facts were presented, disregarded or omitted in the programme in a way that resulted in unfairness to Iran International.

¹ Ms Mahsa Amini died in police custody in September 2022, which led to protests across Iran.

Programme summary

On 7 January 2023, Al Jazeera broadcast its news programme, *News Hour*. The programme reported that two men were executed after being found guilty of killing a security officer during protests in Iran.

The presenter introduced the item:

"Iran has hanged two men for crimes committed during nationwide protests over the death of Mahsa Amini. [Footage of the trial of the two men was shown as the presenter spoke.] The two men were found guilty of killing a security officer in November. 22-year-old Mahsa Amini died in police custody in September. She had been detained for violating the country's dress code. Mohammad Marandi is a political analyst and Professor at the University of Tehran and joins us now from Tehran".

Mr Marandi joined the programme via a video link and the following exchange took place:

Presenter: "Good to have you with us. So, how is this going down in Iran? How

are most people seeing this execution?

Mr Marandi: I don't think there's any real sympathy for the two men who were

executed because they committed a horrific act of violence. They stabbed and beat the young man who was murdered multiple times.

They beat his head with a rock. They dragged his body until he

ultimately died. [Footage from the trial of the two men was shown as Mr Marandi spoke.] So, I don't see any, obviously there are going to be people who support the two hanged men, but I don't think there's any

popular support for them in the broader society.

Presenter: A lot of human rights groups have criticised these kinds of trials. Do

you think most people are going to believe that those who are

arrested, protesters who are arrested and charged, are getting a fair

trial?

Mr Marandi: Well, we have to be careful about these human rights organisations

which are funded by Western governments or funded by institutions closely affiliated with Western governments. There is footage of these

two men and the acts carried out against the person who was murdered, it has been seen widely in Iranian society. I have also put

clips of it on my Twitter account for people to see.

Presenter: But, does that apply to all of the cases Mr Marandi? Sorry to interrupt

you, but we've heard, you're right, they are from Western human rights groups like Amnesty International, quite credible ones. They say 'these trials bore no resemblance to a meaningful judicial proceeding'.

They can't see in some cases the evidence presented against them.

They don't get to choose their lawyer, and so on.

Mr Marandi:

Yes, well, Amnesty International we know has a history of supporting NATO in Afghanistan and it is closely affiliated with the political establishment in the United States. I think many in Iran would wonder why Amnesty International is not directing any of its criticism towards the British government because we have Persian TV stations in London, Iran International - a Saudi channel based in London, that have repeatedly called, that have legitimised and praised beating police officers, burning them alive and murdering them. And, er, this is something that if it was done in English, if it was an English channel, a Western language channel, based in London, Ofcom would shut them down immediately, and these people would be taken to court and probably put on trial. But in the case of Iran, these Persian media channels like BBC Persian, VOA [Voice of America], Iran International, and other outlets, they are allowed to egg on rioters, to encourage the murder of police officers, and we have to remember that over 60 police officers were murdered during this period. If you compare this to, let's say, the United States, that would be roughly, comparing it with, taking into account that the population the United States is four times greater than Iran, that would mean, like 250-60 police officers in the United States being killed by rioters. So, I think if we take a look at things in this sort of context, then it would be far more complicated than what these Western human rights organisations were saying".

The presenter went on to question Mr Marandi about the appointment of a new head of police and Mr Marandi shared his opinion on the appointment. The presenter ended the segment by saying: "Thank you for sharing your perspective. Mohammad Marandi there". Mr Marandi responded: "Thank you" and the report ended. Mr Marandi was not referred to again in the programme.

Summary of the complaint and broadcaster's response

Complaint

Iran International complained that it was treated unjustly or unfairly in the programme as broadcast because the programme suggested that it had broadcast content encouraging protestors to murder police officers. Iran International said that, in effect, Mr Marandi had stated that it had repeatedly broadcast content that breached the Ofcom Broadcasting Code ("the Code")² and that Ofcom should have revoked its licence as a result. It said that Iran International had never been investigated by Ofcom in relation to such accusations, nor had it been found to have breached the Code in this regard. Iran International said that at no point during the programme did the presenter challenge, correct or seek to contextualise Mr Marandi's incorrect and harmful comments about Iran International.

² The complainant made specific reference to Rule 3.1 of the Code which states that "material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services or BBC ODPS".

Iran International said that Mr Marandi was connected to the Iranian government and had made statements before in which he defended the actions and policies of the Iranian government, and criticised public figures and governments in Western democracies. It said that Mr Marandi's alleged reputation should have alerted Al Jazeera in advance to the probability that he would make comments on air which would be potentially unfair or unjust to individuals or organisations, so that the presenter would as necessary have been ready to take action live on air to correct or challenge his remarks or place them in appropriate context.

Broadcaster's response

Al Jazeera said that it understood that the complainant may have found the interview objectionable, but that it did not consider the programme infringed on the complainant's rights. It said that the interview was conducted in order to elaborate on Iran's execution of two people who participated in anti-government demonstrations and the aim of it was to get the reaction of a pro-government analyst on the matter.

The broadcaster said that the presenter challenged Mr Marandi to comment on the criticisms against the Iranian government by reputable human rights organisations, and that Mr Marandi sought to discredit such organisations, defending the "official position". It said that Mr Marandi cited Amnesty International as an example and mentioned media outlets including BBC Persian, Voice of America, and Iran International. It said that it was clear from the context of the interview that the interviewee was pro-Iranian government and therefore he wished to discredit anyone who criticised the government's actions, accusing them of being under Western influence.

The broadcaster also said that while Mr Marandi had mentioned Iran International, the presenter of the programme made no reference to the organisation. It said that Mr Marandi had referred to at least five human rights and media organisations and that it was not possible for the presenter to challenge or correct the allegations about each organisation given the short length of the interview. The broadcaster added that it was possible the presenter had no information on some of the organisations and may have not heard of some of them.

Al Jazeera said that the interview was fair and balanced and that it sought to fulfil its obligation of due diligence and impartiality by seeking comment from an individual who was known to hold progovernment views. In addition, it said that questions were also posed to Mr Marandi that referenced criticisms from human rights organisations in regard to the executions and the way the protests had been handled by the Iranian authorities.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that Iran International's complaint should be upheld. Iran International and Al Jazeera were given the opportunity to make representations on the Preliminary View, but only the broadcaster chose to do so, which, insofar as they are relevant to the complaint entertained and considered by Ofcom, are summarised below.

Broadcaster's representations

The broadcaster disagreed with Ofcom's Preliminary View to uphold Iran International's complaint. Al Jazeera said that it considered Ofcom "misdirected itself" in reference to Practice 7.9 of the Ofcom Broadcasting Code (the "Code"). Al Jazeera said that this particular practice referred only to steps a broadcaster should take "before broadcasting", and therefore could only apply to editorial

decisions in relation to programmes that are pre-recorded, as opposed to broadcast live. It said that the programme which was subject to this complaint had been broadcast live, and there was therefore no opportunity for it to adhere to this practice, as the presenter and programme makers were unaware of what Mr Marandi would say in advance. Given this, it said the programme makers were unable to prepare for how to respond to Mr Marandi's comments about Iran International, which were not directly related to the matters about which he was being interviewed.

Al Jazeera also said that Ofcom had not given proper weight to the fact that the interview was broadcast live. It said that the presenter could have missed the allegations regarding Iran International, or not had appropriate or sufficient information available to him to challenge the views expressed by Mr Marandi. The broadcaster considered that Ofcom had not given due weight in its Preliminary View to the realities or practicalities of the situation, and had applied too high a standard. It said that the application of that standard to all broadcasters would risk rendering live interviews on matters of controversy and debate practically impossible.

The broadcaster said that Ofcom had not given sufficient consideration and weight to the manner in which Mr Marandi was introduced in the programme as a "political analyst and Professor at the University of Tehran" in the context of the nature of the Iranian regime and its coverage of the protests against that regime. Al Jazeera reiterated its position that it would have been obvious to viewers that Mr Marandi, in his role as a Professor at Iran's best-known university, was providing a pro-government voice. It said that Mr Marandi's political position was made clear in the scepticism he expressed in the programme about well-known, highly regarded Western human rights organisations. The broadcaster further said that Mr Marandi's views on these organisations were challenged by the presenter, who noted that such organisations are "credible". It said that subsequently Mr Marandi made collective allegations regarding "Persian TV stations in London" and although he referred to Iran International twice, he also referred to other channels in the same context. Al Jazeera said that it would have been clear to viewers that Mr Marandi was expressing a "partisan, pro-Iranian government view" and was seeking to discredit Western based entities which criticised the Iranian regime. It added that the presenter thanked Mr Marandi for "sharing [his] perspective" at the end of the interview, as acknowledged by Ofcom in its Preliminary View.

Al Jazeera said that in its Preliminary View, Ofcom said that it had taken into account the Iranian government's position in respect of Iran International and it had noted that "Iran's intelligence minister label[led] Iran International as 'a terrorist organisation'". The broadcaster said, however, that it was unclear whether Ofcom had taken into account that the Iranian government had also announced sanctions against Iran International in relation to the alleged incitement of riots and support of terrorism in their coverage of the anti-regime protests³. Al Jazeera said that this was highly relevant context to the complaint as it underscored and explained the highly politicised nature of Mr Marandi's comments about the channel, and it was clear that his comments reflected the position of the Iranian regime at the time.

The broadcaster reiterated that the presenter had challenged Mr Marandi's earlier criticism of Western human rights organisations, which provided important context for his subsequent comments about Iran International. It added that the presenter of the programme did not adopt or indicate his support of any of Mr Marandi's comments. Al Jazeera accepted that the presenter did not challenge all of Mr Marandi's statements, but considered that he did challenge some, which it considered was sufficient to cast doubt about Mr Marandi's credibility and objectivity.

³ Iran International: TV channel says Iran threatened UK-based journalists - BBC News

The broadcaster noted that in its Preliminary View, Ofcom took into account that "at the date of broadcast, Iran International service was an Ofcom-licensed service broadcasting in the UK and had not been found in breach of the Broadcasting Code". Al Jazeera said, however, that it was very possible for material to be broadcast by a channel that breaches the Code and for it not to be investigated, if no complaints are made. It said that the fact the channel had not been found to be in breach of the Code was of no probative value and ought not to have informed Ofcom's Preliminary View. It added that Ofcom's reliance upon its own regulatory history also had the potential to give rise to a conflict of interest. Al Jazeera said that in any event, it was aware that Iran International had faced at least two Ofcom complaints in the past in relation to its coverage of Iran, although neither of these were found to be in breach of the Code.

Al Jazeera said that it will consider taking additional steps, in terms of training and otherwise, to ensure absolute compliance with Rule 7.1 of the Code. It said that where programmes are broadcast live, there are limited steps available to it and other broadcasters in terms of pre-broadcast preparations. However, going forwards, it will consider whether the perspective and political allegiances of guests can be more clearly signposted by its presenters at the outset of live programmes and, if partisan views are expressed, how steps can be taken to balance and/or challenge those perspectives.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment in programmes on such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate, and consistent, and targeted only at cases in which action is needed.

In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording and transcript of the programme and both parties' written submissions, including representations made by Al Jazeera in response to Ofcom's Preliminary View.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of the Code. In addition to this rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

In considering this complaint, we had particular regard to Practice 7.9 of the Code which states:

"Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation...".

Ofcom recognises broadcasters' right to freedom of expression and the public interest in allowing them to broadcast programmes on matters of public interest, provided they comply with the Code. However, in presenting material in programmes, reasonable care must be taken by broadcasters not to present material facts in a manner that causes unfairness to people or organisations. Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case, including, for example, the way in which an organisation is portrayed, the seriousness of any allegations made against them, and the context in which such allegations are made.

In its representations on the Preliminary View, the broadcaster said that the fact Iran International had not been found to be in breach of the Code was of no probative value and ought not to have informed Ofcom's Preliminary View. Whilst we reject the assertion that the reasoning in the Preliminary View had the potential to give rise to a conflict of interest, we have considered the broadcaster's submissions on this point and taken them into account in our revised analysis of the allegations below. However, this did not affect the final outcome of the decision.

The broadcaster also argued in its representations that Practice 7.9 referred only to steps a broadcaster should take "before broadcasting". Because of this and the fact the programme makers were not aware Mr Marandi was going to make the comments, which the broadcaster said were not directly related to the matters about which he was being interviewed, it argued that there was no opportunity for the programme makers to adhere to this practice.

Ofcom does not accept that Practice 7.9 applies only to pre-recorded programmes; the practice makes no distinction between live and pre-recorded programmes. Rather, it sets an expectation that broadcasters should take reasonable care to satisfy themselves as to the presentation of material facts "before broadcasting a factual programme". This applies to any type of factual programme.

Inevitably, there are inherent risks with live programming, including the risk that unexpected comments are made by contributors. We would expect broadcasters to anticipate this possibility and, in this context, to understand that taking "reasonable care" should involve mitigating against such risks in advance, in order to avoid unjust or unfair treatment of individuals or organisations in live programming. Indeed, we note the broadcaster has indicated that, going forwards, it will consider whether the perspective and political allegiances of guests can be more clearly signposted by its presenters at the outset of live programmes and, if partisan views are expressed, how steps can be taken to balance and/or challenge those perspectives.

It should also be understood that while Ofcom has regard to the "practices to be followed", the substantive requirement that broadcasters must adhere to is in Rule 7.1. As the Code makes clear, the practices are not exhaustive and failure to follow them will only constitute a breach of Rule 7.1 where it results in unfairness to an individual or organisation in the programme. When considering a complaint of unfair treatment, Ofcom takes account of all the relevant context.

Turning to the specific facts of this case, Iran International is a Persian language channel that primarily broadcasts news and current affairs discussion programmes about Iran and the Middle East and has provided extensive coverage of the protests taking place in Iran. At the date of broadcast, the channel was broadcasting in the UK under an Ofcom licence.

Ofcom recognises that a highly critical and polarised view had been taken in relation to media coverage of the protests, with certain perspectives being presented as anti-Iranian government⁴. Further, the Iranian government's position in respect of Iran International and other Western-based broadcasters had been widely publicised, with Iran's intelligence minister labelling Iran International as 'a terrorist organisation'⁵. We also noted from the broadcaster's representations on the Preliminary View that the Iranian government had announced sanctions against Iran International, accusing them of inciting riots and supporting terrorism in their coverage of the anti-regime protests.

We considered the context in which the claims about the complainant were made in the programme, and whether the matters complained of had the potential to materially and adversely affect viewers' opinions of Iran International in a way that was unfair.

As set out in the "Programme summary" above, the presenter and Mr Marandi discussed the nationwide protests over the death of Ms Mahsa Amini, and the subsequent criticism put forward by human rights organisations about trials taking place in Iran in relation to protestors. In particular, they discussed the example of two men who had been found guilty of killing a security officer during these protests, and who were subsequently executed, with questions being raised by human rights organisations about whether they, and others, had had a fair trial. Mr Marandi expressed a critical view of these organisations saying: "we have to be careful about the human rights organisations which are funded by Western governments or funded by institutions closely affiliated with Western governments". Mr Marandi then went on to discuss Iran International, saying:

"I think many in Iran would wonder why Amnesty International is not directing any of its criticism towards the British government because we have Persian TV stations in London, Iran International - a Saudi channel based in London, that have repeatedly called, that have legitimised and praised beating police officers, burning them alive and murdering them. And, er, this is something that if it was done in English, if it was an English channel, a Western language channel, based in London, Ofcom would shut them down immediately, and these people would be taken to court and probably put on trial. But in the case of Iran, these Persian media channels like BBC Persian, VOA, Iran International, and other outlets, they are allowed to egg on rioters, to encourage the murder of police officers, and we have to remember that over 60 police officers were murdered during this period...".

We took into account that the allegations about Iran International had been made by the guest, Mr Marandi, rather than the presenter. We also considered the broadcaster's submission, reiterated in its representations on the Preliminary View, that Mr Marandi had referred to at least five human rights and media organisations, and that it may not have been possible for the presenter to challenge or correct the allegations about each organisation referred to, given the short length of the interview.

We noted that while a number of human rights and media organisations were referenced, Mr Marandi referred to Iran International twice and made the specific allegation that Iran International had, in its coverage of the protests in Iran, "repeatedly called, legitimised and praised beating police

⁴ Why reporting on Iran comes at a heavy price - BBC News.

⁵ Iran Intelligence Chief Issues Veiled Threat Against UK - Iran International, 11 September 2022.

officers, burning them alive and murdering them". Iran International was also named as one of three broadcasters that Mr Marandi said were "allowed to egg on rioters, to encourage the murder of police officers".

We therefore considered that, while three other organisations were mentioned in the programme (namely Amnesty International, BBC Persian and VOA), specific allegations were made that Iran International had included material in its coverage which was likely to encourage or incite violence or to lead to disorder, and that these allegations were presented as fact. Ofcom considered that these allegations were particularly serious in nature and that the seriousness was compounded by the opinion that "if it was an English channel, a Western language channel... Ofcom would shut them down immediately", which appeared to be completely unsubstantiated.

We next considered whether the presentation of these statements in the programme as broadcast resulted in unfairness to Iran International. In doing so, we took account of the overall background context (as set out above) relating to the coverage of the protests in Iran. We also recognised the broadcaster's right to freedom of expression, including being able to make programmes on matters of public interest, which in this case, included a report in which a contributor, Mr Marandi, provided his reaction to the criticism which had been levelled against Iranian authorities on matters connected to the protests. Ofcom was mindful, however, that broadcasters still need to take reasonable care to ensure that material facts are presented fairly.

We took into account that the broadcaster said that the purpose of the interview was to get "the reaction of a pro-government analyst about the executions, and more generally, to seek a response on the [Iranian] government's handling of protests". We noted that Mr Marandi was introduced as a "political analyst" and "Professor at the University of Tehran" and was not specifically introduced as being associated with the Iranian government or providing a pro-Iranian government view. The broadcaster reiterated in its representations on Ofcom's Preliminary View that it considered it would have been obvious that Mr Marandi, in his role as a Professor at Iran's best-known university, was providing a pro-government voice. We acknowledged that some viewers were likely to have recognised Professor Marandi as a person who, while not directly linked to the regime, is close enough to be able to offer a pro-government perspective. However, we also considered that being introduced as a "political analyst" and a "professor" may have led some viewers to expect Mr Marandi's comments to have been objective.

The presenter asked Mr Marandi: "So, how is this going down in Iran? How are most people seeing this execution?" and "Do you think most people are going to believe that those who are arrested, protesters who are arrested and charged, are getting a fair trial?". In the framing of these questions, we considered that there was nothing which would have suggested that Mr Marandi was there to provide a pro-government voice. Instead, he was asked to simply provide his analysis on the views of "most people". Taking all these considerations into account, Ofcom considered that the absence of any clear signaling was likely to have resulted in some viewers not understanding that Mr Marandi was there to provide a pro-government view, meaning that they would have been unlikely to have been able to contextualise and interpret his comments.

In considering this complaint, we understood that the programme was broadcast live, and as such, we recognise that live broadcasts can create the risk of unexpected comments being made by contributors, making it difficult to obtain responses from others during the broadcast. We acknowledged the broadcaster's submission in its representations that the programme makers were not aware Mr Marandi was going to make the specific comments about Iran International, which were not directly related to matters about which he was being interviewed - namely, the executions

and the Iranian government's handling of the protests specifically, rather than about Western media coverage. However, the broadcaster was aware that Mr Marandi held pro-Iranian government views and we noted that the Iranian government's views about Western-based media organisations, including Iran International, were already well publicised. Therefore, while we acknowledged that Mr Marandi's comments were not expected in the context of an interview about other matters, in Ofcom's view it was also not entirely unforeseen that Mr Marandi could be critical of Western based entities which criticised the Iranian regime, including broadcasters such as Iran International.

Broadcasters need to be particularly aware that they have a duty to ensure that reasonable care is taken that the broadcast material is consistent with the requirements of the Code and does not mislead viewers or portray people or organisations in a way that is unfair. As stated above, there are inherent risks with live programming, including the risk that unexpected comments are made by contributors. Broadcasters are expected to anticipate this possibility and mitigate against such risks in order to avoid unjust or unfair treatment of individuals or organisations in programmes.

We took into account the broadcaster's response that at the end of the interview, the presenter had said: "Thank you for sharing your perspective", indicating that what had been said in the interview were Mr Marandi's own views. However, this was said at the very end of the interview following a discussion about a new head of police being appointed, and as noted above, some viewers may have expected Mr Marandi's comments to have been objective given his introduction as a "political analyst" and "professor". We also took into account the broadcaster's submission in its representations on the Preliminary View that the presenter had provided some challenge to Mr Marandi in that he said that "Western human rights groups like Amnesty International" were "credible", and that this provided important context for Mr Marandi's subsequent comments about Iran International. However, we noted that the presenter's comment was related specifically to human rights groups and preceded any mention of Iran International. No attempt was made by the presenter to place Mr Marandi's comments into context immediately after he made his comments about Iran International by explaining, for instance, that it reflected his personal view or the view of the Iranian government, or that Iran International had not had an opportunity to respond to those comments. In these circumstances, we did not consider that the reference to human rights organisations being "credible" or the thanking of Mr Marandi for "sharing [his] perspective" at the conclusion of the interview after the conversation had moved onto a different topic were sufficient to contextualise his comments about Iran International, particularly given the omission of the fact he was there to provide a pro-Iranian government view. This, in Ofcom's view, allowed for Mr Marandi to make specific and significant allegations about Iran International, which went unchallenged, and which presented to viewers that Iran International had repeatedly "legitimised and praised" the beating and murder of police offers in its programming.

It was Ofcom's view that when taken together, both the omission of the fact that Mr Marandi was there to provide a pro-Iranian government view prior to his interview, and the fact that his serious allegations about Iran International were not challenged or put in context, resulted in unfairness to Iran International. This was likely to have materially and adversely affected some viewers' opinions of the organisation.

Ofcom considered, therefore, that the broadcaster did not take reasonable care to satisfy itself that the material facts were presented, omitted, or disregarded in a way that resulted in unfairness to Iran International.

Ofcom has upheld Mr Mahmood Enayat's complaint, made on behalf of Iran International, of unjust or unfair treatment in the programme as broadcast.