

Concluding Observation of the Human Rights Committee CCPR/C/IRN/CO/3 para 14

Full recommendation:

The State party should ensure that an inquiry is opened in each case of alleged torture and cruel, inhuman or degrading treatment in detention facilities, and that the perpetrators of such acts are prosecuted and punished appropriately. It should ensure that effective reparation, including adequate compensation, is granted to every victim. The State party should also ensure that no one is coerced into testifying against themselves or others or to confess guilt and that no such “confession” is accepted as evidence in court, except against a person accused of torture or other ill-treatment as evidence that the “confession” or other statement was made. (art 6, 7)

Assessment using Impact Iran human rights indicators¹

- A. The Islamic Republic of Iran should ensure that an inquiry is opened in each of alleged torture and cruel, inhuman or degrading treatment in detention facilities, and that perpetrators of such acts are prosecuted and punished appropriately.**

Article 38 of the Constitution of the Islamic Republic of Iran prohibits torture and other ill-treatment, but only when it is “used to extract an admission of guilt or to obtain information”.² Additionally, Article 39 prohibits all affronts to the dignity of detained or imprisoned persons. Similarly, Article 578 of the Islamic Penal Code asserts that “any civil servant or judicial or non-judicial agent who corporally mistreats and abuses an accused person in order to force him to confess shall be sentenced”.³ Such provision is reiterated under Article 60 of the Code of Criminal Procedure, while Article 169 of the Prison Regulations prohibits “corporal punishment of the accused or convicts, and imposing violent, excruciating or humiliating punishments, in all penal institutions and prisons”. Punishments for committing such acts against a detainee or prisoner are found under Article 587 of the Islamic Penal Code.⁴ It is important to note, that although Iranian law generally prohibits torture and certain abusive practices during interrogations, with some exceptions, it does not provide a definition of torture *per se*. Torture and other ill-treatment inflicted on an individual for a purpose other than that of extracting

¹ CCPR.7.S.1

CCPR.7.P.1

CCPR.7.O.1; CCPR.7.1.O.2; CCPR.7.1.O.3

² Constitution of the Islamic Republic of Iran English translation

http://www.iranchamber.com/government/laws/constitution_ch03.php

³ Islamic Penal Code of the Islamic Republic of Iran (2013), English translation, Iran Human Rights Documentation Center,

<https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁴ Ibid.

confessions and/or information is not, therefore, explicitly prohibited and as a result may not be prosecuted.

There are institutions competent to receive and investigate complaints of torture and ill-treatment in the Islamic Republic of Iran. The Supervision and Inspection Board, established under the Law on Respect for Legitimate Freedoms and Safeguarding Citizen's Rights, monitors the compliance with policies and laws and confronts those who breach them. The Board's tasks include submitting "the complaints it receives to the relevant bodies and pursuing the investigation until it yields an outcome"; "deploying inspection groups to the bodies"; and "preparing reports on the implementation of laws in the country every three months and making them available to the public".⁵ Additionally, the Supervision and Inspection Board set up a database enabling victims and witnesses to submit their complaints. During the 2019 Universal Periodic Review, the Islamic Republic of Iran stated that "the prosecutors, through judges stationed in prisons as well as the Secretariat of the Protection of Citizenship Rights and provincial supervisory boards, conduct regular inspections and investigate any reports or complaints" with regard to allegations of torture.⁶ There is no readily available information that might indicate that complaints have been properly investigated and adjudicated either by the Board or the Secretariat.

Additionally, prisoners in the Islamic Republic of Iran are often exposed to the risk of being held in solitary confinement for prolonged periods of time. While Article 175 of Iran's Prison Regulations stipulates that solitary confinement should not exceed 20 days,⁷ the UN Standard Minimum Rules for the Treatment of Prisoners (or the Nelson Mandela Rules) consider solitary confinement for more than 15 days as prolonged solitary confinement.⁸ The Human Rights Committee stipulated that the prolonged solitary confinement of detainees may amount to torture or other cruel, inhuman or degrading treatment or punishment.⁹ Reports of prolonged solitary

⁵ See Executive By-law of Article 1(15) of the Law on Respect for Legitimate Freedoms and Safeguarding Citizens' Rights, available at bit.ly/1nRuftq (accessed on 3 February 2016).

⁶ Report of the Working Group on the Universal Periodic Review, February 2020, <https://undocs.org/en/A/HRC/43/12/Add.1>

⁷ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1327082016ENGLISH.PDF>

⁸ Rule 44, Nelson Mandela's Rules or UN Standard Minimum Rules for the Treatment of Prisoners, https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf

⁹ General comment No. 20 (1992) on the prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, para. 6.

confinement, sometimes lasting several months are regular in the Islamic Republic of Iran.^{10 11}
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Reports of cases of torture in the Islamic Republic of Iran are regular.^{15 16} Amnesty International reported widespread and systematic use of torture by Iranian authorities against protestors during and after the November 2019 protests.¹⁷ As of December 2020, there was no readily available information that might have indicated that Iranian authorities have opened investigations into allegations of torture committed by police, security and intelligence officers and prison officials in the context of the protests that took place in November 2019.

The Islamic Republic of Iran has not ensured that an inquiry was opened for each allegation of torture and cruel, inhuman or degrading treatment in detention facilities, and that perpetrators of such acts were prosecuted and punished appropriately.

B. The Islamic Republic of Iran should ensure that effective reparation, including adequate compensation, is granted to every victim.

Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Parliament's Commission Article 90 procedure (established under Article 90 of the Constitution which offers citizens a mechanism to file complaints against any of the three branches of power) and the Oversight Bodies for the exercise of citizenship rights in the country's provincial courts, there is no evidence to suggest that complaints submitted before these bodies are independently reviewed and investigated.¹⁸ Additionally and as aforementioned, the absence of a crime of torture in itself under Iranian law prevents prosecution, which is solely limited to cases of torture which are provided for under the law, therefore hindering access to justice for victims.

¹⁰ Iran Human Rights Documentation Center, <https://iranhrdc.org/rights-disregarded-prisons-in-the-islamic-republic-of-iran/#2.1.1>

¹¹ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1310212019ENGLISH.pdf>

¹² En-HRANA, <https://www.en-hrana.org/abdul-sattar-sheikh-transferred-solitary-confinement-evin-prison?hilite=%27solitary%27%2C%27confinement%27%2C%27evin%27%2C%27prison%27> and <https://www.hrw.org/reports/2008/iran0108/iran0108web.pdf>

¹³ Human Rights Watch, <https://www.hrw.org/news/2020/06/06/iran-free-students-long-solitary>

¹⁴ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1335042021ENGLISH.pdf>

¹⁵ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, March 2018, <https://undocs.org/A/HRC/37/68>

¹⁶ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf

¹⁷ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

¹⁸ Joint submission to the Human Rights Committee, Abdorrahman Center, Iran Human Rights Documentation Center (IHRDC), Impact Iran and Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fIRN%2f42313&Lang=en

There is no readily available information that suggests that effective reparation, including adequate compensation, is granted to every victim.

C. The Islamic Republic of Iran should also ensure that no one is coerced into testifying against themselves or others or to confess guilt and that no such “confession” is accepted as evidence in court, except against a person accused of torture or other ill-treatment as evidence that the “confession” or other statement was made.

Article 38 of the Constitution of the Islamic Republic of Iran stipulates “all forms of torture for the purpose of extracting confession or acquiring information are forbidden” and that any “testimony, confession or oath obtained under duress is devoid of value and credence”.¹⁹ This is reiterated under Article 1(9) of the Law on Respect for Legitimate Freedom and Safeguarding Citizens’ Rights, and Article 168 of the 2013 Islamic Penal Code, which deems a confession “admissible only if at the time of confession the confessor is sane, pubescent, intended [to make the confession] and free.”²⁰

Despite these provisions, the prohibition on admitting evidence obtained through ill-treatment is only formulated as a general principle. Iranian laws do not contain “detailed provisions on the inadmissibility of unlawfully obtained confessions and other tainted evidence”, which is considered by the Committee Against Torture as “one of the essential means in preventing torture”.²¹

For example, while Article 169 of the Islamic Penal Code and Article 360 of the Code of Criminal Procedure (2015) stipulate that a confession obtained under duress or involuntarily shall be inadmissible before a court, there is no provision on what constitutes an involuntary confession and who bears the burden of proving that a statement has been made voluntarily. The Penal Code and Criminal Code remain silent regarding specific procedures of investigation judges and prosecutors should follow in order to establish whether a confession is lawful and admissible. Such assessment appears to be at the discretion of the judge.

In practice, the Iranian criminal justice system relies heavily on confessions as admissible evidence.²² Confessions obtained under torture and other ill-treatment is facilitated by the denial of prompt access to legal counsel and encouraged by courts that routinely admit such

¹⁹ Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

²⁰ Islamic Penal Code (2013), English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

²¹ Committee Against Torture, Report to the General Assembly, A/54/44, para. 45, referring to Yugoslavia.

²² Under Article 171 of the Islamic Penal Code, confessions are accorded the primary weight. Islamic Penal Code (2013) English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

“confessions” as evidence. NGOs^{23 24 25} and OHCHR²⁶ have reported numerous cases of confessions that were extracted using torture, being used as primary evidence in cases before the courts and on which judges have based their verdicts on, including in death penalty cases.

The Islamic Republic of Iran has not ensured that no one is coerced into testifying against themselves or others. Nor has Iran guaranteed that confessions obtained by torture will be accepted as evidence in court.

Recommendation Status:

This recommendation has **NOT** been implemented.

²³ Cases documented by the Abdorrahman Boroumand Center

Omid memorial case of Ehsanollah Ehsani, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8037/ehsanollah-ehsani>)

Omid memorial case of Kamal Molaii, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7624/kamal-molaii>)

Omid memorial case of HadiRashedi, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/71726/hadi-rashedi>)

Omid memorial case of Loqman Moradi, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8169/loqman-moradi>)

Omid memorial case of Sattar Beheshti, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7809/sattar-beheshti>)

²⁴ Center for Human Rights in Iran, <https://www.iranhumanrights.org/2020/05/they-aimed-at-my-sons-head-report-reveals-carnage-in-crushed-iran-protests/>

²⁵ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

²⁶ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, July 2020, <https://undocs.org/A/75/213>