

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/34/65 para 86

Full recommendation

The Special Rapporteur welcomes the recent amendments to the Islamic Penal Code and the Criminal Procedure Code. She, however, regrets that the amendments have not yet translated into better protection from arbitrary arrest and detention, as shown by the number of cases highlighted in the present report. The Special Rapporteur urges the Government to adopt all the measures necessary to effectively guarantee the right of anyone to be free from arbitrary deprivation of their liberty. In this respect, she echoes the recommendations made by the previous mandate holder on the necessity to amend the broadly defined criminal offences, to strengthen fair trial safeguards, to investigate all allegations of torture and ill-treatment and to hold accountable those found guilty.

Assessment using Impact Iran human rights indicators¹

- A. The Special Rapporteur urges the Government to adopt all measures necessary to effectively guarantee the right of anyone to be free from arbitrary deprivation of their liberty. In this respect, she echoes the recommendations made by the previous mandate holder on the necessity to amend the broadly defined criminal offences**

National security crimes and crimes of propaganda against the state are broadly and vaguely defined under the Iranian criminal justice system. This grants Iranian authorities significant discretion to impose restrictions on freedom of expression, assembly and association, especially when those rights are exercised to criticize the State, even when peaceful and in line with international standards.

National security crimes and crimes of propaganda are codified under the Islamic Penal Code,² adopted in 2013. For instance, those participating in peaceful unauthorized assemblies can be sentenced to prison terms on the charges of “gathering and colluding to commit crimes against national security” (Article 610 of the Islamic Penal Code),³ “forming a group composed of more than two people with the purpose of disrupting national security” (Article 498)⁴ and/or “membership of a group with the purpose of disrupting national security” (Article 499). Other

¹ CCPR.7.1.S.1; CCPR.9.1.S.1; CCPR.14.3.S.2; CCPR.7.1.P.1; CCPR.7.1.P.2; CCPR.9.2.P.1; CCPR.14.3.P.2; CCPR.7.1.O.1; CCPR.7.1.O.2; CCPR.7.1.O.3; CCPR.9.2.O.4; CCPR.14.3.O.3; CCPR.14.3.O.5

² The Islamic Penal Code available at: http://rc.majlis.ir/fa/law/print_version/845048

³ The new Islamic Penal Code was introduced in 2013 for an experimental period of five years and was revised in 2016. See the most updated version of the Islamic Penal Code here on the website of the Iranian parliament: http://rc.majlis.ir/fa/law/print_version/845048

⁴ Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

criminal charges include “spreading propaganda against the system,”⁵ conspiracy against the State,⁶ encouragement to “violate public morals”⁷ as well as satire.⁸ Similar vaguely worded provisions criminalize acts such as swearing at⁹ or insulting¹⁰ “the Great Prophet of Islam” as well as “sowing corruption on earth”¹¹ with the death penalty.

Under Article 220 of the Islamic Penal Code and Article 167 of the Iranian Constitution, a judge may refer to Islamic law to rule on crimes not explicitly defined in the law. These articles require judges to rely on non-codified law – namely authoritative Islamic sources and *fatwas* (a ruling on a point of Islamic law given by a recognized authority) – to convict and sentence individuals to crimes and punishments not codified by the existing law.

The lack of clear and precise substantive grounds for arrest or detention allows for an overly broad, arbitrary interpretation and application of the law.¹² For instance, crimes of *moharebeh* (enmity against God)¹³ and *efsad-e fel-arz* (corruption on earth),¹⁴ offences that could carry the death penalty, are not precisely defined in the Penal Code, leaving room for judicial interpretation. The judge is granted the discretion to punish a crime of *moharebeh* with the death penalty, crucifixion, amputation of the right arm and the left leg, or banishment.¹⁵

Iranian authorities frequently resort to the aforementioned legal provisions to intimidate, arrest and prosecute individuals who peacefully exercise their rights, notably their freedom of expression, association and assembly.^{16 17 18 19 20 21} Similarly, the lack of legal safeguards for

⁵ Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁶ Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁷ Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁸ Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁹ Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

¹⁰ Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹¹ Article 286 Islamic Penal Code 2013.

¹² UN Human Rights Committee (HRC), *General comment no. 34, Article 19, Freedoms of opinion and expression*, 12 September 2011, CCPR/C/GC/34, available at www.refworld.org/docid/4ed34b562.html

¹³ Article 279 of the 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/>

¹⁴ Article 286 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/>

¹⁵ The Islamic Penal Code (2013), Articles 282 and 283, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

¹⁶ See more : ARTICLE 19, Small Media, Human Rights Activists in Iran, Impact Iran, Human Rights Committee, 129th session (Geneva) 29 June – 24 July 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42315_E.pdf

¹⁷ See more: Iran Human Rights, <https://www.iranhr.net/en/reports/23/>

¹⁸ See more: Iran Human Rights Documentation Center, <https://iranhrdc.org/controlled-and-pursued-labor-activism-in-contemporary-iran/>

¹⁹ See more: Ensemble Contre la Peine de Mort, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

²⁰ See more: Association for the human rights of the Azerbaijani people in Iran, <http://www.ahraz.org/association-for-the-human-rights-of-the-azerbaijani-people-in-iran-ahrazs-repot-regarding-the-current-situation-of-the-azerbaijani-arrestees-that-are-arrested-during-the-recent-protests-nove/>

²¹ See more: Kurdistan Human Rights Geneva, <https://kmmk-ge.org/sd/annual-report-2020/>

the rights of individuals belonging to religious minorities^{22 23} enables the Iranian authorities to criminalize activities such as attending a house church or participating in religious conferences on the basis those activities can threaten the existence of the Islamic Republic and thus constitute a national security threat.²⁴ For example, the Iranian Judiciary has reportedly prosecuted minority faith adherents, including non-*Shia* Muslims, for such activities on criminal charges such as “establishing a group that aims to disrupt national security” (Article 498), “membership in a group that aims to disrupt national security” (Article 499), and “spreading propaganda against the system” (Article 500).^{25 26 27 28 29}

In its National Report to the Universal Periodic review in 2019, the Islamic Republic of Iran reported that it provided human rights training for judges, judicial officers and administrative staff “on the rights of the child, the rights of persons with disabilities, the prohibition of torture and ill-treatment and he confronting against domestic violence” as well as training courses on citizenship rights.³⁰ However, there is no readily available information indicating the content of such training or how they may ensure that all verdicts are in compliance with international standards.

The absence or lack of clarity and precision of offences provided under Iranian law grant judges broad interpretative powers, which undermine the legality of decision and legal certainty. The Islamic Republic of Iran has not amended these broadly defined criminal offences.

B. The Special Rapporteur urges the Government to adopt all measures necessary to effectively guarantee the right of anyone to be free from arbitrary deprivation of

²² In its Article 19, the Constitution of the Islamic Republic of Iran omits an explicit reference provision recognizing religion or belief as a protected characteristic against discrimination. Constitution of the Islamic Republic of Iran, English translation, <https://irandaportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

²³ See more: Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf

²⁴ Joint submission to the Human Rights Committee from The World Evangelical Alliance, Open Doors, Christian Solidarity Worldwide, Middle East Concern, Article 18, 29 May 2020, https://articleeighteen.com/wp-content/uploads/2020/06/F3430b-2020-JointReport_Iran_HRCtee_ListOfIssues-dragged-1.pdf

²⁵ Islamic Penal Code of the Islamic Republic of Iran (2013), Iran Human Rights Documentation Center, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

²⁶ Minority Rights Group, <https://minorityrights.org/wp-content/uploads/2018/03/Rights-Denied-Violations-against-ethnic-and-religious-minorities-in-Iran.pdf>

²⁷ See more: United For Iran, <https://ipa.united4iran.org/en/prisoner/>

²⁸ Center for Human Rights in Iran, <https://iranhumanrights.org/2020/10/more-bahais-begin-serving-prison-sentences-in-iran-simply-for-their-beliefs/>

²⁹ See more: Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf

³⁰ National Report, Islamic Republic of Iran, UPR 2019, <https://undocs.org/A/HRC/WG.6/34/IRN/1>

their liberty. In this respect, she echoes the recommendations made by the previous mandate holder to strengthen fair trial safeguards

The Iranian legal framework does not adequately protect fair trial safeguards,³¹ notably with regards to the right to access to legal assistance.

The guarantee of the right to legal defence is enshrined in Article 35 of the Constitution, which ensures the right to choose a lawyer.³² Article 190 of the revised Code of Criminal Procedure (CCP) protects the right of a suspect to “be accompanied by a lawyer during the preliminary investigations”. Article 48 of the Code of Criminal Procedure (CCP), revised in 2015, permits the accused to “demand the presence of a lawyer from the start of detention.”^{33 34}

Article 48 of the Code of Criminal Procedure (CCP), revised in 2015, permits the accused to “demand the presence of a lawyer from the start of detention.”^{35 36} Although the CCP guarantees the right to free legal assistance for those without adequate financial resources, the applicability of this right is differentiated between the pre-trial and trial phases.³⁷ For instance, the CCP does not ensure access to free legal assistance during the investigation phase in cases where the accused faces charges other than those punishable by severe punishments, such as the death penalty or life imprisonment. As a consequence, safeguards provided in the Iranian legal framework do not protect all accused persons’ right to access legal counsel in the pre-trial phase.

Members of minorities frequently face discriminatory conditions that limit their equal access to the courts, despite guarantees in the law, specifically, members of the Sunni³⁸, Arab Ahwazi³⁹, Kurdish⁴⁰ and Baha’i⁴¹ minorities are denied legal representation.⁴² In many reported cases, especially national security cases, defendants have reported seeing their lawyer for the first time

³¹ See more: NGO joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran, Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42313_E.pdf

³² Constitution of the Islamic Republic of Iran, English translation, <
http://www.iranchamber.com/government/laws/constitution_ch03.php>

³³ Code of Criminal Procedure of the Islamic Republic of Iran (2015) as referenced in the joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran, Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42313_E.pdf

³⁴ Code of Criminal Procedure of the Islamic Republic of Iran (2015) original version <http://dotic.ir/print/5584>

³⁵ Code of Criminal Procedure of the Islamic Republic of Iran (2015) as referenced in the joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran, Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42313_E.pdf

³⁶ Code of Criminal Procedure of the Islamic Republic of Iran (2015) original version <http://dotic.ir/print/5584>

³⁷ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1327082016ENGLISH.PDF>

³⁸ HRANA <<https://www.en-hrana.org/court-prevents-lawyer-accessing-files-five-sunni-prisoners>>

³⁹ UNPO <<https://unpo.org/article/21430>>

⁴⁰ HRANA <<https://www.en-hrana.org/political-prisoner-denied-access-to-an-attorney>>

⁴¹ HRANA <<https://www.en-hrana.org/uncertain-situation-of-seven-bahai-detainees-in-royan-shahr-prison>>

⁴² OHCHR (A/HRC/34/65) <<https://undocs.org/en/A/HRC/34/65>>

on their day of trial.^{43 44} Prisoners reportedly remained incarcerated without proper access to legal representation at all stages of their trial process and lawyers were reportedly denied timely access to their clients' legal files.^{45 46 47} Yet, the Human Rights Committee has explicitly stipulated that the accused should be granted prompt access to legal counsel,⁴⁸ including during the pre-trial phase.⁴⁹ In May 2019, the Iranian legal and judicial parliamentary commission proposed an amendment to Article 48 of the Code of Criminal Procedure which would allow the prosecution to delay access to a lawyer for 20 days, with a possibility of extension to the whole duration of investigation, in cases related to national security, terrorism or financial corruption.⁵⁰ ⁵¹ Such amendment would further restrict access to legal counsel during the investigation phase.

With regard to the right to access legal counsel of one's choosing, a Note to Article 48 of the 2015 CCP,⁵² specifies that individuals facing charges for certain offences, including those relating to national security and organized crime, must select their legal counsel from among a limited list of lawyers approved and announced by the Head of the Judiciary at the phase of preliminary investigations.⁵³ In 2018, the Judiciary published the list of approved lawyers, which included only 20 for Tehran. However, many of the lawyers named are reportedly close to the security bodies or had paid to appear on the list after speaking with government officials, thus threatening due process and questioning the independence and neutrality of the Judiciary.⁵⁴ As a consequence, the right to legal assistance of one's choosing in such cases is particularly limited.

Defendants in national security cases are often denied access to a lawyer in the investigative stage of the judicial process. In the hundreds of cases of individuals arrested for political reasons or suspected for ordinary crimes that the Abdorrahman Boroumand Center has investigated, all

⁴³ Joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran, Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42313_E.pdf

⁴⁴ HRW <<https://www.hrw.org/news/2016/03/24/iran-detainees-denied-fair-legal-representation>>

⁴⁵ HRANA <<https://www.en-hrana.org/arash-sadegh-golrokh-iraeis-lawyers-access-cases>>

⁴⁶ HRANA <<https://www.en-hrana.org/political-prisoner-denied-access-to-an-attorney>>

⁴⁷ HRANA <<https://www.en-hrana.org/court-prevents-lawyer-accessing-files-five-sunni-prisoners>>

⁴⁸ CCPR General Comment No.32 <<https://undocs.org/CCPR/C/GC/32>>

⁴⁹ HRC, Concluding observations on Georgia, CCPR/C/79/Add.75, para. 27, available at bit.ly/20caB7i; HRC, Concluding observations on the Netherlands, CCPR/C/NLD/CO/4, para. 11, available at www.refworld.org/docid/4aa7aa642.html

⁵⁰ Abdorrahman Boroumand Center, <https://www.iranrights.org/newsletter/issue/99>

⁵¹ www.amnesty.org/en/documents/mde13/0379/2019/en/ ; <https://www.amnesty.org/en/latest/news/2019/05/iran-proposed-law-restricting-access-to-lawyer-would-be-crushing-blow-for-justice/>

⁵² Code of Criminal Procedure of the Islamic Republic of Iran (2015) as referenced in the joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran, Human Rights Activists in Iran, 2020,

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42313_E.pdf

⁵³ The former CCP had conditioned the presence of a lawyer at the investigative stage on the permission of the judge in cases with a "confidential" aspect, cases where the presence of a party other than defendant would "corrupt" proceedings as determined by the judge, and in national security cases; See the March 17, 2017 report of the UN Special Rapporteur, Asma Jahangir, on fair trial in Iran (<https://undocs.org/en/A/HRC/34/65>)

⁵⁴ "Iranian Lawyers Criticize Proposal to Deprive Defendants of Right to Choose Counsel," Human Rights Activists in Iran, June 6, 2018 (<https://www.iranrights.org/library/document/3443>)

detainees were interrogated without the presence of an attorney.⁵⁵ Reports have shown a pattern of reported cases where prisoners remain incarcerated without proper access to legal representation at all stages of their trial process.^{56 57}

Considering the above, the Islamic Republic of Iran has not strengthened its fair trial safeguards.

C. The Special Rapporteur urges the Government to adopt all measures necessary to effectively guarantee the right of anyone to be free from arbitrary deprivation of their liberty. In this respect, she echoes the recommendations made by the previous mandate holder to investigate all allegations of torture and ill-treatment and to hold accountable those found guilty

Article 38 of the Constitution of the Islamic Republic of Iran only prohibits torture and other ill-treatment when it is “used to extract an admission of guilt or to obtain information”.⁵⁸ Similarly, Article 578 of the Islamic Penal Code asserts “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 [...]”.⁵⁹ Such provision is reiterated under Article 60 of the Code of Criminal Procedure. 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” and punishments are provided under Article 587 of the Islamic Penal Code.⁶⁰ While Iranian law conditionally prohibits torture and certain abusive conduct during interrogations, it does not provide a definition of torture *per se*. Torture and other ill-treatment inflicted on an individual for other purposes than extracting confessions and/or information is not, therefore, explicitly prohibited.

The prohibition of torture and other ill-treatment is a *jus cogens* norm under international law and cannot be restricted in any circumstances,⁶¹ including by conflicting domestic laws. Additionally, the Human Rights Committee explicitly stipulated that the ill-treatment of “persons against whom criminal charges are brought and to force them to make or sign, under duress, a confession admitting guilt violates both Article 7 of the Covenant prohibiting torture and

⁵⁵ Abdorrahman Boroumand Center, joint submission to the Human Rights Committee from the Abdorrahman Boroumand Center, Iran Human Rights Documentation Center, Impact Iran, Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42313_E.pdf

⁵⁶ HRANA <<https://www.en-hrana.org/political-prisoner-denied-access-to-an-attorney>>

⁵⁷ HRANA <<https://www.en-hrana.org/arash-sadegh-golrokh-iraeis-lawyers-access-cases>>

⁵⁸ Constitution of the Islamic Republic of Iran English translation http://www.iranchamber.com/government/laws/constitution_ch03.php

⁵⁹ 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/>

⁶⁰ 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/>

⁶¹ UN Human Rights Committee (HRC), *CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 10 March 1992, available at <https://www.refworld.org/docid/453883fb0.html>

inhuman, cruel or degrading treatment and article 14, paragraph 3 (g) prohibiting compulsion to testify against oneself or confess guilt.”⁶²

The Iranian legal framework does not adequately protect individuals from torture and other-ill-treatment and may well facilitate impunity. While Iranian laws provide for the accountability of officials and authorities who infringed individuals’ rights and punishes the use of torture in order to force confession, these provisions do not criminalize torture nor do they use the term “torture”. The absence of a crime of torture under Iranian law prevents prosecution, which is limited only to cases of torture provided under the law.

Despite the limited legal framework, there are mechanisms competent to receive and investigate complaints of torture and ill-treatment as provided under the law 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 of policies and conduct with the law. The Board’s missions 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 every three months.”⁶³ The Supervision and Inspection Board also set up a database enabling victims and witnesses to submit their complaints. On the occasion of its 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.⁶⁴ There is no readily available information that might indicate that complaints have been properly investigated and adjudicated either by the Board or the Secretariat.

Reports of cases of torture in the Islamic Republic of Iran are regular.^{65 66} Amnesty International reported widespread and systematic use of torture by Iranian authorities against protestors during and after the November 2019 protests.⁶⁷ As of November 2020, there is no readily available information that might indicate that Iranian authorities have opened investigations compliant with international standards into allegations of torture committed by police, security and intelligence agents and prison officials in the context of the November 2019 protests.

⁶² UN Human Rights Committee (HRC), *General comment no. 32, Article 14, Right to equality before courts and tribunals and to fair trial*, 23 August 2007, CCPR/C/GC/32, available at

<https://www.refworld.org/docid/478b2b2f2.html>

⁶³ Executive By-law of Article 1(15) of the Law on Respect for Legitimate Freedoms and Safeguarding Citizens’ Rights.

⁶⁴ Report of the Working Group on the Universal Periodic Review, February 2020, <https://undocs.org/en/A/HRC/43/12/Add.1>

⁶⁵ 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>

⁶⁶ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020,

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/021/53/PDF/G2002153.pdf?OpenElement>

⁶⁷ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Article 90 Commission of the parliament (established based on Article 90 of the Constitution, offering a mechanism to citizens to file complaint 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 to these bodies are independently reviewed and investigated.⁶⁸ Additionally and as aforementioned, the absence of a crime of torture in itself under Iranian law prevents prosecution, which is limited to cases of torture provided under the law, and therefore hinders access to justice for victims.

The Government of the Islamic Republic of Iran has not duly investigated complaints of torture and ill-treatment, and the shortcomings of the Iranian legal framework hinder accountability for perpetrators. There is no readily available information that might indicate that the Government of the Islamic Republic of Iran has taken measures to prevent the recurrence of acts of torture and ill-treatment, apart from the reported inspections and investigations into complaints.

Since 2016, the Working Group on Arbitrary Detention (WGAD) has found at least 38 cases of arbitrary detention in the Islamic Republic of Iran. Despite these opinions, many remain in detention as of December 2020.⁶⁹ Individuals found to be arbitrarily detained in the Islamic Republic of Iran by the WGAD include but are not limited to: Mr. Arash Sadeghi (Opinion no. 19/2018), Ms. Golrokh Ebrahimi Iraee (Opinion no. 33/2019), Ms. Atena Daemi (Opinion no. 83/2018).

In light of the above, the Government of the Islamic Republic of Iran has not adopted all the measures necessary to effectively guarantee the right of anyone to be free from arbitrary deprivation of their liberty.

Recommendation Status:

This recommendation has **NOT** been implemented.

⁶⁸ 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%2fCS%2fIRN%2f42313&Lang=en

⁶⁹ See more: United for Iran, <https://ipa.united4iran.org/en/prisoner/>