

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/40/67 para 70(e)

Full recommendation:

Ensure that deaths in custody, and allegations of violations of due process and of ill-treatment are promptly, independently, impartially and effectively investigated by an independent competent authority with a view to bringing those suspected of criminal responsibility to justice in compliance with their right to a fair trial.

Assessment using Impact Iran human rights indicators¹

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.” Article 39 of the Constitution stipulates that “All affronts to the dignity and repute of persons arrested, detained, imprisoned, or banished in accordance with the law, whatever form they may take, are forbidden and liable to punishment.”²

Article 570 of the Islamic Penal Code states: “Any official and agent associated with State agencies and institutions, who unlawfully strips members of the public of their personal freedom or deprives them from their rights provided in the Constitution of the Islamic Republic of Iran, shall be sentenced to two months to three years’ imprisonment, in addition to dismissal from the service and prohibition of employment in state offices for one to five years.” 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 [...]”.³ The article also stipulates that the perpetrator of abuse will be charged for murder if the accused persons dies as a result of mistreatment, and the person who made the order of abuse will also be charged accordingly. 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.⁴

¹ CCPR.7.1.S.1
CCPR.7.1.P.1; CCPR.10.3.P.2; CCPR.10.3.P.3;
CCPR.7.1.O.1; CCPR.7.1O.2;

² Constitution of the Islamic Republic of Iran, English Translation, Iran Data Portal, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

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 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/>

While Iranian law prohibits - conditionally - torture and certain abusive conducts 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. Without the existence of a prescribed crime of torture under Iranian law, perpetrators cannot be prosecuted. While provisions of the Islamic Penal code could be used for the prosecution of torture, they are restrictive in their definition and scope of application. The Penal Code limits prosecution to acts of physical assault, therefore excluding other forms of torture and ill-treatment, including acts harming the psychological integrity of the accused. The Islamic Penal Code further restricts the application of Article 578 by criminalizing physical assault only when it is “in order for [the accused] to confess”, excluding forms of torture and ill-treatment for other purposes, such as punishment.

The prohibition of torture and other ill-treatment is a *jus cogens* norm under international law and cannot be restricted in any circumstances,⁵ including by conflicting domestic laws.

Concerning the restricted acts of torture banned under Iranian law, there are mechanisms competent to receive and investigate complaints. 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 conducts with the law and confront those in breach. 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.”⁶ The Supervision and Inspection Board also has 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.⁷ 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, the Government of the Islamic Republic of Iran reported that the Citizenship Rights Watch Board carries periodic inspections within prisons and detention centers. According to the Government the body has “received and handled 3,275 complaints and reports, through the complaint system, in relation with civil rights violations. Between 2015 and 2018, a number of 28,504 inspections were carried out to prosecutors' offices, prisons and detention centers.”⁸

⁵ CCPR General Comment No. 20: Article 7, 10 March 1992, <https://www.refworld.org/docid/453883fb0.html>

⁶ See Executive By-law of Article 1(15) of the Law on Respect for Legitimate Freedoms and Safeguarding Citizens’ Rights.

⁷ Report of the Working Group on the Universal Periodic Review, February 2020, <https://undocs.org/en/A/HRC/43/12/Add.1>

⁸ National Report, UPR 2019, Islamic Republic of Iran, <https://undocs.org/A/HRC/WG.6/34/IRN/1>

There is no readily available information about the outcome of such inspections and whether they led to the investigation of acts of torture and ill-treatment against detainees.

The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran has received numerous reports of abuses and mistreatments against detainees, including abusive use of torture to extract confessions, use of solitary confinement, and medical treatments conditional upon confession.⁹ Additionally, many reports have documented deaths and cases of ill-treatment of persons detained during the November 2019 protests.^{10 11} There is no readily available information that might indicate that the Islamic Republic of Iran has carried investigations into these cases, notably through the mechanisms aforementioned, and whether the perpetrators have been brought to justice. Instead, the Special Rapporteur on the situation of human rights in the Islamic of Iran has raised serious alarms at the lack of accountability for perpetrators of acts of torture and other ill-treatment during and after the November 2019 protests.¹²

In light of the above, the Government of the Islamic Republic does not ensure that deaths in custody, and allegations of violations of due process and of ill-treatment are promptly, independently, impartially and effectively investigated by an independent competent authority with a view to bringing those suspected of criminal responsibility to justice in compliance with their right to a fair trial.

Recommendation Status:

This recommendation has **NOT** been implemented.

⁹ 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

¹⁰ 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

¹¹ Amnesty International, <https://www.amnesty.org/en/documents/mde13/2891/2020/en/>

¹² Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, July 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/190/27/PDF/N2019027.pdf?OpenElement>