

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

Full recommendation:

Ensure that all prisoners with health conditions for whom staying in prison would mean an exacerbation of their condition are not detained in prison, and issue alternative sentences if there is no prospect of recovery through the full implementation of article 502 of the Code of Criminal Procedure.

Assessment using Impact Iran human rights indicators¹

Iran's Executive Regulations for the Organization of State Prisons (the Prison Regulations) oblige the Associate Prosecutor of the Prison to examine the situation of prisoners with an incurable disease and take appropriate action based on the Code of Criminal Procedure (Note to Article 103).

Article 502 of Iran's Criminal Code of Procedure (2015) provides that "whenever the convicted individual suffers from physical or mental illnesses and the implementation of the sentence would exacerbate the illness or delay the recovery, the Judge Overseeing Implementation of Sentences shall, after obtaining the opinion of the Legal Medicine Organization of Iran, postpone the implementation until the time of the recovery." The Code further adds that, if there is no prospect of recovery and the judge is satisfied that the convicted person is unfit to serve the sentence, the judge will refer the case to the court that originally issued the sentence to issue an alternative sentence.²

Such provision is not in full compliance with international standards, notably Rule 27(c) of the Mandela Rules which states: "Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff."³

In its 2019 National Report to the Universal Periodic Review, 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."⁴ There is no readily available information

¹ CCPR.10.1.S.1
CCPR.10.3.P.2 ; CCPR.10.3.P.3
CCPR.10.1.O.2;

² Code of Criminal Procedure of the Islamic Republic of Iran, 2015, <http://dotic.ir/print/5584>

³ The Mandela Rules, Rule 27(2), available at <https://cdn.penalreform.org/wp-content/uploads/2015/05/MANDELA-RULES.pdf>

⁴ National Report, UPR 2019, Islamic Republic of Iran, <https://undocs.org/A/HRC/WG.6/34/IRN/1>

about the outcome of such inspections. Additionally, there is no readily official and available information as to the number of complaints, their nature and whether they have been adequately investigated and adjudicated in compliance with international standards. There is no readily available information that might suggest that custodial staff has been investigated for cases of denial of medical care for detainees.

Amnesty International has documented cases where the application of Article 502 has been arbitrarily denied and cases where political prisoners remaining in detention despite state-appointed doctors' opinions that they were unfit to remain in prison and that their continued imprisonment would mean an exacerbation of their condition.⁵ Additionally, UN Special Procedures have received numerous reports of deteriorating states of health of imprisoned human rights defenders who are at heightened risk of contracting COVID-19 while in detention, but who haven't been temporarily released earlier in 2020 along the 120,000 prisoners, as part of the governmental strategy to mitigate the spread of the virus.^{6 7}

More recently, the case of the detention of the human rights defender Mr. Arash Sadeghi suggests that the Islamic Republic of Iran does not ensure that all prisoners with health conditions, for whom staying in prison would mean an exacerbation of their condition, are not detained in prison.

Mr. Arash Sadeghi,⁸ detained since 2016, was the subject of six communications from Special Procedures, raising concerns about his poor state of health while being held in detention.⁹ The Government only responded to four of them, and despite the Working Group on Arbitrary Detention's Opinion in 2018, finding that Mr. Sadeghi is being arbitrarily deprived of his liberty, has not released Mr. Sadeghi as of November 2020. The most recent communication from Special Procedures raising concerns about Mr. Sadeghi's lack of access to medical care was sent in September 2020 and, as of November 2020, has remained unanswered. Mr. Sadeghi suffers from a rare form of bone cancer, which caused the loss of movement of his right arm, and which UN Special Procedures believe to "appear to qualify him for medical furlough."¹⁰ Mr. Sadeghi has been repeatedly denied access to medical care despite his worsening health condition.

As of February 2021, Mr. Sadeghi has not been issued an alternative sentence despite his health condition.

⁵ See more: Amnesty International, <https://www.amnesty.org/download/Documents/MDE1341962016ENGLISH.PDF>

⁶ OHCHR News, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26244>

⁷ UN News, <https://news.un.org/en/story/2020/10/1074722>

⁸ United For Iran, <https://ipa.united4iran.org/en/prisoner/1931/>

⁹ Special Procedures Communication sent to the Government of the Islamic Republic of Iran, 8 September 2020, UA IRN 21/2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25522>

¹⁰ Special Procedures Communication sent to the Government of the Islamic Republic of Iran, 8 September 2020, UA IRN 21/2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25522>

There is no readily official and available information indicating that the Islamic Republic of Iran has issued alternative sentences if there is no prospect of health recovery for the accused.

Recommendation Status:

This recommendation has **NOT** been implemented.