

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/37/68 para 81

Full recommendation:

In connection with the recent protests, the Special Rapporteur urges the Government to promptly report to the families the name, location, and other relevant information of all individuals taken into custody, and to carry out prompt, independent and effective investigations into the authorities' response to the protests and the circumstances of the deaths in custody of those arrested, with a view to holding the perpetrators of any violations committed accountable.

Assessment using Impact Iran human rights indicators¹

A. The Special Rapporteur urges the Government to promptly report to the families the name, location, and other relevant information of all individuals taken into custody

The current prisons' operational regulation,² passed in 1986, put the management of all prisons, detention centres and affiliated bodies under the responsibility of the Prisons Organisation.³ Such provision is reiterated under Article 18 of the Prison Regulations which was passed in 2001. However, the existence of secret detention centres or facilities, that are run without the supervision of the Prisons Organisation, is not explicitly prohibited. Secret detention centres run by security and intelligence bodies, notably the Ministry of Intelligence and the intelligence unit of the Revolutionary Guards, reportedly remain prevalent in the Islamic Republic of Iran.⁴ Additionally, security and intelligence bodies can, with the approval⁵ and under the supervision of the Prisons Organisation,⁶ set up "security detention facilities". Prosecutors are obliged to

¹ CCPR.9.1.S.1; CCPR.9.1.S.2; CCPR.9.1.S.3; CCPR.9.2.S.1; CCPR.9.3.S.2; CCPR.14.1.S.2; CCPR.9.1.P.1; CCPR.9.1.P.2; CCPR.9.1.P.5; CCPR.9.1.P.6; CCPR.9.2.P.1; CCPR.9.3.P.1; CCPR.9.1.O.1; CCPR.9.1.O.1; CCPR.9.2.O.1; CCPR.9.2.O.4; CCPR.14.1.O.8

² Full title: The Law Replacing the Supervisory Council on Prisons and Security and Corrective Measures with the State Prisons Organization and Security and Corrective Measures, 1986.

³ Prison Regulations, Article 18. In 1986, the Prisons Organization replaced the Supervisory Council on Prisons and Security and Corrective Measures. See the Law Replacing the Supervisory Council on Prisons and Security and Corrective Measures with the State Prisons Organization and Security and Corrective Measures, 26 January 1986, available on the website of the Islamic Parliament Research Centre at rc.majlis.ir/fa/law/show/91160 (accessed on 14 July 2015). Article 9 of the Law required the passage of an executive by-law which was passed in July 2001, 15 years after the adoption of the Law of Alteration in 1986. The 2001 Prison Regulations were subjected to amendments in 2002 and 2010.

⁴ See more: Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

⁵ Prohibition of Forming Special Detention Facilities and Allocation of One Detention Facility for Security Crimes in Each Province, www.rc.majlis.ir/fa/law/show/131562; Executive Regulations for Management of Security Detention Facilities, 21 November 2006, Note to Article 3, <https://bit.ly/3loEKsf>

⁶ Executive Regulations for Management of Security Detention Facilities, 21 November 2006, Articles 2 and 4-6, <https://bit.ly/3o9sqak>

inspect security detention facilities regularly and submit a report to the judiciary.⁷ Under the Law on Respect for Legitimate Freedoms and Protection of Citizens' Rights, the head of the judiciary is obliged to set a committee to ensure that prisons' and detention centres' regulations are respected and that those responsible for committing abuses are held accountable.⁸ These legal safeguards are reportedly not applied in practice, enabling intelligence and security bodies to operate outside the Iranian legal framework without accountability.⁹ Unofficial secret detention centres are not regulated under Iranian law and are not registered under the Prisons' Organisation, which prevents the detainees from knowing the exact location of where they are being held. This contravenes the Law on Respect for Legitimate Freedoms and Protection of Citizen's Rights which provides that law enforcement officials and interrogators must refrain from transferring detainees to unidentified locations.¹⁰ There is no readily available information that might indicate that the committee, established by the head of the judiciary, is effectively ensuring that cases of enforced disappearances are being properly investigated and adjudicated and that those responsible are held accountable.

Unofficial and secret detention centres facilitate forced disappearances. The lack of proper oversight of secret and unofficial detention facilities in the Islamic Republic of Iran hinders, if not prevents, perpetrators from being held accountable. Without proper legal safeguards being enforced in practice, complaints of disappearances cannot properly be investigated, and culprits cannot be punished accordingly.

Additionally, a number of restrictive provisions under Iranian law prevent relatives of detainees from being informed of the detainees' arrests when deemed "necessary",¹¹ further, relatives cannot inquire about the detainees' whereabouts if it "infringe[s] on the social and familial status of the detainees",¹² conditions that are not further defined and seemingly therefore arbitrary. The right of detainees to communicate with and receive visits from family members is restricted under Article 180 of the Prisons Regulations when judicial officials determine that correspondence is not in the interest of a "good trial proceeding". The article does not clarify what could contravene "good proceedings" and does not set limitation as to the period of

⁷ Executive Regulations for Management of Security Detention Facilities, 21 November 2006, Article 2, www.bit.ly/2Fu8rlx; See also the Law on Respect for Legitimate Freedoms and Protection of Citizens' Rights, 5 May 2004, Article 1(13), www.rc.majlis.ir/fa/law/show/94150

⁸ The Law on Respect for Legitimate Freedoms and Protection of Citizens' Rights, 5 May 2004, Article 1(15), www.rc.majlis.ir/fa/law/show/94150

⁹ See more: Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

¹⁰ The Law on Respect for Legitimate Freedoms and Protection of Citizens' Rights, 5 May 2004, Article 1(7), www.rc.majlis.ir/fa/law/show/94150

¹¹ Article 50 of the revised Code of Criminal Procedure (2015) entitles individuals in custody to inform their relatives of their arrest but permits "judicial officers" to impose restrictions on such right when deemed "necessary", without clarifying when and for how long such restrictions are allowed or specifying a competent official responsible for the approval of such decision. Relatives then must refer to judicial officials.

¹² Article 49 of the revised Code of Criminal Procedure (2015) entitles relatives of detainees to inquire about them to the local Office of the Prosecutor, the Provincial Prosecutor, and the Head of the Justice Department in each province but only "to the extent that it does not infringe on the social and familial status of the detainees" without specifying what constitute such infringement.

restriction.¹³ Competent judicial authorities can allow correspondence and/or visit during the prohibition period, however such decision does not appear to be subject to review by another official or body. Ultimately this means that judges can, in practice, deprive detainees of their right to have access to the outside world for an unlimited period of time. Such provisions facilitate the perpetration of enforced disappearances by Iranian authorities.

With regards to the protests which took place in December 2017 and continued throughout January 2018,¹⁴ Iranian authorities killed at least 21 individuals and arrested over 3,700 individuals.¹⁵ As of today, most of the families of the detainees are aware of their situation, although many could not see their family or did not have access to a lawyer during and long after the protests.^{16 17}

Reports of enforced disappearances in the Islamic Republic of Iran are regular. The Working Group on Enforced or Involuntary Disappearances issued communications on alleged cases of enforced disappearances as recently as 2019, mentioning that there was a lack of investigation and follow-up on unconfirmed reports of death.¹⁸ The Working Group also noted that the Government had not given information concerning alleged lack of investigation into the disappearance and extrajudicial execution of 5,000 political prisoners in the Islamic Republic of Iran in the 1980s.¹⁹ Amnesty International reported wide-scale patterns of enforced disappearances in the aftermath of the November 2019 and the lack -if not absence- of accountability for perpetrators.²⁰ The UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran raised serious concerns about the lack of investigation into the November 2019 protests and the lack of accountability for those who violated human rights during and as a consequences of said protests.²¹

In light of the above, the government of the Islamic Republic of Iran has not reported to the families the name, location, and other relevant information of all individuals taken into custody, including in the context of the December 2017 - January 2018 protests.

¹³ Executive Regulations of the Prisons Organization, 11 December 2005, www.prisons.ir/page-main/fa/0/form/pId77

¹⁴ Center for Human Rights in Iran, <https://www.iranhumanrights.org/2017/12/hardline-officials-blame-wave-of-protests-in-iran-on-rouhani-government-and-foreign-powers/>

¹⁵ Article 19, <https://www.article19.org/resources/iran-protests-confirm-need-push-transparency-iran-now/>

¹⁶ See these reports: <https://www.dw.com/fa-ir/iran/a-46898593> ; <https://www.gozaar.net/a/6557> ; <https://www.hra-news.org/periodical/a-37/>

¹⁷ Amnesty International, <https://www.amnesty.org/en/latest/news/2018/01/iran-stop-increasingly-ruthless-crackdown-and-investigate-deaths-of-protesters/>

¹⁸ Communications transmitted, cases examined, observations made and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, July 2019,

https://www.ohchr.org/Documents/Issues/Disappearances/A_HRC_WGEID_118_1_Advance.pdf

¹⁹ Communications, cases examined, observations and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, May 2019,

https://www.ohchr.org/Documents/Issues/Disappearances/A_HRC_WGEID_117_1_ADVANCE.pdf

²⁰ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

²¹ 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>

B. The Special Rapporteur urges the Government to carry out prompt, independent and effective investigations into the authorities' response to the protests and the circumstances of the deaths in custody of those arrested, with a view to holding the perpetrators of any violations committed accountable

As of February 2021, there have been no independent and impartial investigations into whether the authorities' response, to the protests and the circumstances of the death in custody of those arrested in the context of the December 2017 - January 2018 protests, complied with international standards.²²

Although the Islamic Republic of Iran has mechanisms that enable the receipt of complaints and the carrying out of inspections of detention centres, there is no readily available information that might suggest that investigations, into human rights violations and deaths that occur during custody, are promptly and independently carried out. Additionally, there is no information to suggest that the perpetrators of such acts are being held accountable. 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 confronts those in breach. The Board's functions 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."²³ The Supervision and Inspection Board has also set up a database enabling victims and witnesses to submit their complaints. On 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.²⁴ There is no readily available information that might indicate that complaints have been investigated and adjudicated either by the Board or the Secretariat in an independent and impartial manner.

Additionally, the government of the Islamic Republic of Iran reported that the Citizenship Rights Watch Board carries periodic inspections within prisons and detention centres. 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 centres."²⁵ There is no readily available information about the outcome of such inspections and whether

²² Amnesty International, <https://www.amnesty.org/download/Documents/MDE1335462021ENGLISH.PDF>

²³ See Executive By-law of Article 1(15) of the Law on Respect for Legitimate Freedoms and Safeguarding Citizens' Rights.

²⁴ Report of the Working Group on the Universal Periodic Review, February 2020, <https://undocs.org/en/A/HRC/43/12/Add.1>

²⁵ National Report, UPR 2019, Islamic Republic of Iran, <https://undocs.org/A/HRC/WG.6/34/IRN/1>

they led to the investigation of acts of torture and ill-treatment against detainees, as well as deaths that occurred in custody.

As a consequence, there is no available information that might indicate that the Islamic Republic of Iran is holding agents of the State, who are the subject of complaints handled by the aforementioned mechanisms, accountable. On the contrary, numerous NGO and OHCHR reports that deplore the large-scale impunity enjoyed by agents of the State of the Islamic Republic of Iran suggest that these mechanisms of complaints are insufficient and/or inefficient.^{26 27}

Furthermore, the Islamic Republic of Iran lacks mechanisms that hold agents of its security and intelligence apparatus, notably the Islamic Revolutionary Guards Corps (IRGC), accountable. The IRGC is an independent security force tasked to preserve the ideals of the 1979 revolution.²⁸ The IRGC now assumes an extended security and intelligence role in Iran, separate from the country's regular forces, notably through its *Basij* all-volunteer paramilitary force and the IRGC Intelligence Organisation. The head of the IRGC reports directly to the Supreme Leader and in effect is not accountable to either the government or the judiciary. The Supreme Leader, who appoints, dismisses and accepts resignation of the chief commander of the IRGC,²⁹ is not accountable to any institution. Consequently, the possibility to challenge the actions of the Islamic Revolutionary Guard Corps is severely limited. Similarly, detention centres headed by the IRGC and other security and intelligence agencies avoid being criticised by the government and judiciary.^{30 31}

Despite the existence of several mechanisms that enable the submission of complaints regarding violations of citizens' rights, such as the Parliament's Article 90 Commission (established under 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.³²

²⁶ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, July 2020, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F213&Language=E&DeviceType=Desktop>

²⁷ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2021, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F46%2F50&Language=E&DeviceType=Desktop>

²⁸ Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

²⁹ Article 110, Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

³⁰ Rasanah <https://rasanah-iiis.org/english/monitoring-and-translation/reports/prisons-in-iran/>

³¹ Radio Free Europe <https://www.rferl.org/a/1078808.html>

³² 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

Without mechanisms enable the independent and impartial review of complaints regarding human rights violations, perpetrators' accountability is severely limited -if not made impossible.

In light of the above, the Islamic Republic of Iran has not carried out prompt, independent and effective investigations into the authorities' response to the protests and the circumstances of the deaths in custody of those arrested, with a view to holding the perpetrators, of any human rights violations, accountable.

Recommendation Status:

This recommendation has **NOT** been implemented.