

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/37/68 para 87

Full recommendation:

The Special Rapporteur urges the Government to investigate and address allegations of physical and psychological torture and other ill treatment in detention, and to prevent their reoccurrence, including through ensuring accountability of the perpetrators. International organizations should be permitted regular, unhindered and without-notice access to all places of detention.

Assessment using Impact Iran human rights indicators¹

A. The Special Rapporteur urges the Government to investigate and address allegations of physical and psychological torture and other ill-treatment in detention, and to prevent their reoccurrence, including through ensuring accountability of the perpetrators

The Iranian legal framework does not adequately protect individuals from torture and other-ill-treatment and may well facilitate impunity.

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 Article 39 of the Constitution of the Islamic Republic of Iran 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.”³

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 [...]”⁴ 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 that the person who gave the order of abuse

¹ CCPR.7.1.S.1; CCPR.7.1.P.1; CCPR.7.1.P.2; CCPR.7.1.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 Constitution of the Islamic Republic of Iran, English Translation, Iran Data Portal, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

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/>

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 for such acts are provided under Article 587 of the Islamic Penal Code.⁵

The Iranian Criminal Code of Procedure (2015) lists the disciplinary punishments that may be imposed on detainees and prisoners but excludes solitary confinement, which remains prescribed under Article 175 of the Prison Regulations.⁶ Under Iran’s Prison Regulations, any disciplinary measures may be imposed after investigation by a disciplinary council composed of judicial and prison officials, although the Regulations do not specify the offences that may be subject to punishments. If the disciplinary council finds the accused prisoner guilty by majority vote, it may impose “detention in solitary confinement for a maximum of 20 days.”⁷ The lack of regulations for holding detainees in solitary confinement outside of the circumstances foreseen under the Prison Regulations put detainees at risk of arbitrary solitary confinement, and for prolonged periods of time. Article 175 of Iran’s Prison Regulations stipulates that solitary confinement should not exceed 20 days,⁸ while the UN Standard Minimum Rules for the Treatment of Prisoners (or Nelson Mandela Rules) consider solitary confinement longer than 15 days as prolonged solitary confinement.⁹ The Human Rights Committee has stipulated that the prolonged solitary confinement of detainees may amount to torture or other cruel, inhuman or degrading treatment or punishment.¹⁰

While Iranian law prohibits - conditionally - 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. 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.

⁵ 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/>

⁶ Article 524, Code of Criminal Procedure of the Islamic Republic of Iran, and Iranian Prisons Regulations, as referred to in <https://www.amnesty.org/download/Documents/MDE1327082016ENGLISH.PDF>

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

⁸ Amnesty International, <https://www.amnesty.org/download/Documents/MDE1327082016ENGLISH.PDF>

⁹ 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-ebook.pdf

¹⁰ General comment No. 20 (1992) on the prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, para. 6.

The prohibition of torture and other ill-treatment is a *jus cogens* norm under international law and cannot be restricted in any circumstances,¹¹ including by conflicting domestic laws.

Concerning the restricted acts of torture banned under Iranian law, there are mechanisms competent to receive and investigate complaints in 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 practices with the law and confronts 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."¹² The Supervision and Inspection Board has 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.¹³ 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 out 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 in prosecutors' offices, prisons and detention centers."¹⁴ There is no readily available information about the outcome of such inspections and whether they led to the investigation of alleged acts of torture and ill-treatment of detainees.

The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran has received numerous reports of abuse and mistreatment of detainees, including abusive use of torture to extract confessions, use of solitary confinement, and medical treatments conditional upon confession.¹⁵ Additionally, many reports have documented deaths and cases of ill-treatment of persons detained during the November 2019 protests.^{16 17} There is no readily available

¹¹ CCPR General Comment No. 20: Article 7, 10 March 1992, <https://www.refworld.org/docid/453883fb0.html>

¹² See Executive By-law of Article 1(15) of the Law on Respect for Legitimate Freedoms and Safeguarding Citizens' Rights.

¹³ Report of the Working Group on the Universal Periodic Review, February 2020, <https://undocs.org/en/A/HRC/43/12/Add.1>

¹⁴ National Report, UPR 2019, Islamic Republic of Iran, <https://undocs.org/A/HRC/WG.6/34/IRN/1>

¹⁵ 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

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/en/documents/mde13/2891/2020/en/>

information that might indicate that the Islamic Republic of Iran has carried out investigations into these cases, notably through the aforementioned mechanisms, and whether the perpetrators have been brought to justice. Instead, the Special Rapporteur on the situation of human rights in the Islamic Republic 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.¹⁸ OHCHR and NGOs frequently report cases of solitary confinement, at times prolonged, in the Islamic Republic of Iran.^{19 20 21 22} Further, NGOs have reported cases of prisoners placed in solitary confinement only because they were displaying COVID-19 symptoms.^{23 24}

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 government) 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.²⁵ As previously noted, 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.

Considering the above, 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.

B. International organizations should be permitted regular, unhindered and without-notice access to all places of detention.

¹⁸ 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>

¹⁹ OHCHR News, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26716&LangID=E%20>

²⁰ 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>

²¹ Human Rights Watch, <https://www.hrw.org/news/2020/06/06/iran-free-students-long-solitary>

²² Amnesty International, <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF> and <https://www.amnesty.org/download/Documents/MDE0113572020ENGLISH.PDF>

²³ Amnesty International, <https://www.amnesty.org/en/latest/news/2020/07/iran-leaked-letters-reveal-state-denial-of-covid19-crisis-in-prisons/>

²⁴ See more: Abdorrahman Boroumand Center, https://www.en-hrana.org/wp-content/uploads/2020/09/COVID19_FEAR_IN_IRANS_PRISONS_.pdf

²⁵ 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

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Recommendation Status:

The recommendation has **NOT** been implemented.