

Special Rapporteur on the situation of Human Rights in the Islamic Republic of Iran A/HRC/22/56 para 78(h)

Full recommendation:

Investigate all allegations of torture, address impunity and end the culture of investigation through confession as reflected by the breadth of reports communicated to the Special Rapporteur.

Assessment using Impact Iran human rights indicators¹

The Constitution of Iran clearly prohibits the use of any form of torture to obtain confessions, and considers the confession resulting from torture acts to be inadmissible in court.² Additionally, Article 169 of the 2013 Islamic Penal Code (IPC), stipulates that “confession which is taken under coercion, force, torture, or mental or physical abuses, shall not be given any validity and weight and the court is obliged to interrogate the accused again.”

In addition to the Constitutional Prohibition, the 2013 IPC not only criminalizes the use of torture and imposes a punishment on the perpetrator (*qisas* and *diya* punishments as well as 6 months in prison)³ but invalidates confessions obtained through torture.⁴ Article 60 of the Code of Criminal Procedure (CCP), revised in 2015, prohibits coercion and leading, inviting, insulting, or impertinent questions during interrogation, and declares statements and confessions made in response to such interrogations legally void. It also stipulates that records of the dates, times, and lengths of interrogation sessions should be kept and certified with defendants’ fingerprints. The law on the Respect for the Legitimate Freedoms and Citizenship Rights also prohibits specific instances of torture.⁵

Article 578 of the IPC prescribes a punishment of six months to three years of imprisonment (besides blood money and *qisas* penalties) for judicial personnel who physically abuse defendants for purposes of extracting a confession. In cases where such abuse is committed pursuant to an order, only the party who issued the order will be so punished, unless the abuse has resulted in death, in which case accomplices will be punished along with the chief perpetrator. Notably, this Article 578 omits psychological torture entirely, and pertains only to physical torture intended to yield a confession: psychological torture as a mean to coerce a defendant to cooperate or toward any other end is not criminalized.

¹ CCPR.7.S.1; CCPR.7.P.1 ; CCPR.7.O.1

² Article 38 of the Constitution.

³ Article 578 of the 2013 Islamic Penal Code.

⁴ Article 169 of the 2013 Islamic Penal Code.

⁵ Articles 6, 7 and 9 of the law on the Respect for the Legitimate Freedoms and Citizenship Rights (adopted on 4 May 2004).

Article 218 of the IPC stipulates that, in the case of *hudud* crimes, defendants' claims that their confessions or testimonies were made under coercion are to be taken at face value. The exceptions to this rule are the offenses considered more serious under *moharabeh* ("war against God"), "corruption on earth," or "indecent offenses committed by coercion, force, abduction, or deception." In these instances, the court must carry out examinations and investigations of claims of coerced confessions of guilt.

In practice, a variety of coercive means, both physical and psychological, continue to be widely used by interrogators against suspects after their arrest and in the pre-trial phase, including to secure confessions or collaboration with authorities. In the absence of adequate legal safeguards, courts continue to rule confessions made without the presence of a lawyer during the investigation phase as admissible, and in many cases, confessions extracted from torture have been the primary evidence on which judges have based their verdicts, including in death penalty cases.

Current Iranian law allows a person to lodge a complaint if they are subjected to torture, inhumane treatment or detention, and to seek punishment for offenders at the judicial disciplinary courts, the Armed Forces Judicial Court, the Parliament's Article 90 Commission, and/or Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts. No report has been published yet on the functioning of these institutions as the government authorities seldom make this sort of information public, so it is difficult to say how many complaints are being investigated and responded to by state institutions. Despite the existence of legislative mechanisms for victims of torture during detention to receive compensation,⁶ there are no public reports of victims receiving compensation of any sort after submitting allegations of violations of their right to freedom from torture. It is assumed that there are cases of victims being compensated but this information is not made public by the relevant authorities.

Though there are instances where allegations of torture in prison and detention facilities are investigated by various state mechanisms in charge of such processes, there is no information available on such investigations resulting in any sort of disciplinary action or prosecution against the alleged perpetrators. On the contrary, high-level cases of torture allegations raised by prisoners against prison authorities often end in the state mechanisms in charge of investigating these allegations declaring that no torture took place, resulting in the victims being accused of "propaganda against the regime," a charge that can carry a sentence of up to a year in prison, for allegedly lying about their abuse and misusing state resources in investigations on false claims.⁷

Despite numerous requests and reports from human rights organizations and the United Nations, reports continue to be published about judicial and security authorities failing to meet

⁶ Articles 14 and 255 of the Criminal Procedure Code.

⁷ <https://iranintl.com/en/iran/vaezi-regime-has-right-sue-esmail-bakhshi-torture-claims>

international standards by denying political, civil, and prisoners belonging to ethnic minorities access to medical treatment facilities.⁸ Although the Code of Prisons and Detention Facilities Administration acknowledges the prisoners' right to access these facilities, in practice, there have been many reports that prison officials or the interrogation team denies this right.⁹ There is insufficient information to indicate whether Iranian authorities have properly investigated prisoners' complaints against prison authorities on their denial of medical treatment and facilities where this may amount to torture. However, since reports of the violation of this right continue to surface, most recently related to the denial of medical treatment to prisoners from the 2019 protests,¹⁰ it seems the problem persists.

Authorities still widely use torture against suspects following arrest and in the pre-trial phase to extract confessions.¹¹ The State appears to use torture on suspects for a wide variety of charges, including drug offences, rape, murder, and political or security-related charges.¹² Iran Human Rights reports cases in which people have confessed to committing crimes only to be absolved of the charges. For example, in 2014, a man who confessed to a murder was absolved shortly before his scheduled execution—the man was reported to have said “when I was charged for the murder, I was beaten so much that I thought if I don't confess to the murder I will die as a result of the beating.”¹³

After recent developments linked to the 2019 protests reports have surfaced that the Iranian authorities continue to use torture, mistreatment and negligence to extract forced confessions from individuals arrested for exercising their right to freedom of assembly.¹⁴

In death penalty cases, confessions are the State's most common means for proving guilt.¹⁵ The State has a 40-plus year history of televising confessions on State-run broadcasts, and those confessions are often extracted through physical or physiological torture, lengthy solitary confinement, and threats regarding the gravity of the sentence awaiting the accused.¹⁶ Such confessions are sometimes aired on public television prior to the trial, especially in cases involving political opponents or activists.¹⁷ Televised confessions are used not only by

⁸https://www.amnestyusa.org/wp-content/uploads/2017/04/mde_13.4196.2016_health_taken_hostage_-_cruel_denial_of_medical_care_in_irans_prisons_final.pdf

⁹<https://iranhumanrights.org/2019/07/un-seriously-concerned-over-irans-consistent-pattern-of-denying-prisoners-medical-treatment/>

¹⁰<https://iran-hrm.com/index.php/2020/02/17/medical-care-denied-to-wounded-prisoners-arrested-in-november-2019/>

¹¹ Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019(2020), 22

¹² Ibid.

¹³ Iran Human Rights, “Proved Innocent 48 Hours Before Execution -Had Been Tortured to Confess,” accessed Apr.24, 2020, <https://www.iranhr.net/en/articles/1038>

¹⁴ Amnesty International. *Trampling Human Rights*, 2020: <https://www.amnesty.org/download/Documents/MDE1328912020ENGLISH.PDF>

¹⁵ Iran Human Rights and ECPM, Annual Report on the Death Penalty in Iran 2019(2020), 23

¹⁶ *Id.* at 24.

¹⁷ Ibid.

judges as the main basis for a sentence, but also by the State as a political tool to justify executions and other heavy sentences imposed on activists and political opponents.¹⁸

Recommendation Status:

This recommendation has **NOT** been implemented.

¹⁸ Ibid.