

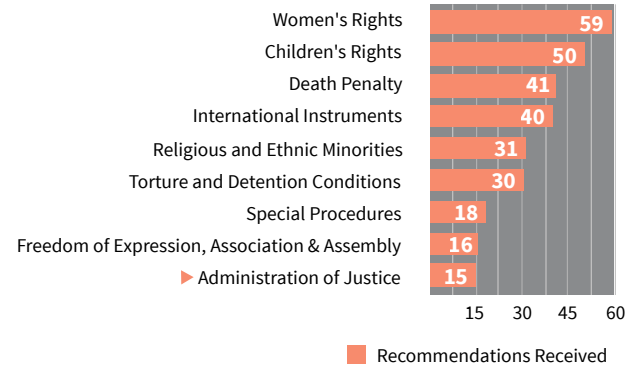
ADMINISTRATION OF JUSTICE IN THE ISLAMIC REPUBLIC OF IRAN

An assessment of Iran's implementation of recommendations received during the 2014 Universal Periodic Review

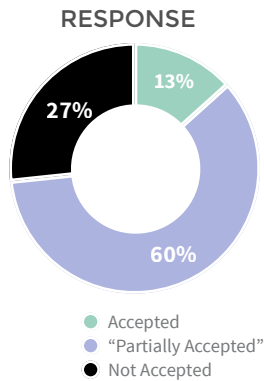
KEY AREAS OF CONCERN RAISED BY STATES

- Due Process (Arbitrary Arrests/Detention)
- Due Process (Fair Trial)
 - Access to Counsel and Preparing a Defense
 - Death Sentences Following Due Process Violations
- Independence of the Judiciary

TOP RECOMMENDATIONS RECEIVED BY ISSUE



ADMINISTRATION OF JUSTICE AT IRAN'S UNIVERSAL PERIODIC REVIEW IN 2014



AMENDMENT TO ARTICLE 48 OF THE CODE OF CRIMINAL PROCEDURE (2015)

Draft Text	When a suspect is arrested, he or she can request the presence of an attorney. The attorney, observing the secret nature of the investigation and the negotiations between the parties, should meet with the suspect. At the end of the meeting, which should not last more than one hour, the attorney may submit his or her written notes to be included in the case file.
Final Text	When a suspect is arrested, he or she can request the presence of an attorney. The attorney, observing the secret nature of the investigation and the negotiations between the parties, should meet with the suspect. At the end of the meeting, which should not last more than one hour, the attorney may submit his or her written notes to be included in the case file.
Explanation of Change	The note to this article states that in serious criminal cases and those involving charges commonly used against political prisoners and prisoners of conscience, during the pre-trial investigation phase defendants may only select attorneys from a list approved by the head of the judiciary [appointed by Supreme Leader].
Practical Effect	The amendment to Article 48 effectively bars defendants in political cases from having their desired attorneys during pre-trial stages of their prosecution, when the authorities often employ physical and psychological torture in order to extract confessions from the accused.

SOURCE: IRAN HUMAN RIGHTS DOCUMENTATION CENTER

UPR BREAKDOWN

- Iran accepted, in full or in part, **11** (2 and 9, respectively), recommendations on administration of justice issues.
- It rejected a number of fundamental due process recommendations to ensure fair trial and end mistreatment of minorities and journalists.
- Despite improvements, Iran has failed to fully implement systematic due process reforms, including ensuring an independent judiciary.

EXAMPLES OF RECOMMENDATIONS

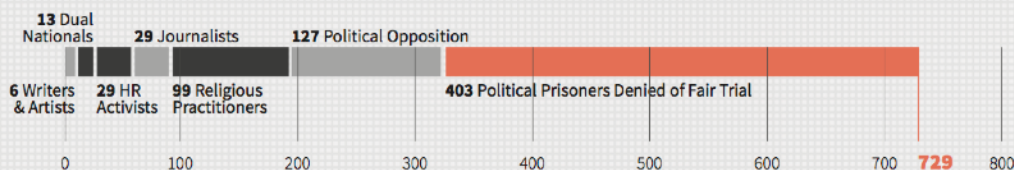
RECOMMENDATION	RESPONSE	SCORE
138.206: Continue to improve the national legislation and practice in the field of the independence of the judiciary (Russian Federation)	ACCEPTED	PARTIALLY IMPLEMENTED
138.213: Take measures to ensure due process and fair trial, particularly in any process that would lead to the application of the death penalty (Mexico)	ACCEPTED	PARTIALLY IMPLEMENTED
138.212: Ensure all the procedural guarantees and the right to a fair trial for all persons indicted of committing a crime, including the right to defense and access to a lawyer (Romania)	PARTIALLY ACCEPTED	NOT IMPLEMENTED
138.209: Provide by law unobstructed access to legal counsel throughout all phases of criminal investigation, trial and appeal; ensure the accused is informed of this right immediately upon arrest; and give defendants and their lawyers unrestricted access to the full case file and all evidence against the accused (Denmark)	PARTIALLY ACCEPTED	NOT IMPLEMENTED
138.205: Ensure the independence of the judicial system and ensure the rules of fair trial and the rights of the defense (France)	PARTIALLY ACCEPTED	NOT IMPLEMENTED
138.204: Increase the legal measures aimed at guaranteeing due process and the impartiality in the administration of justice, including the independence of judges and the Bar Association, paying special attention to the recommendations concerning the death penalty formulated by the Human Rights Committee, especially in relation to juvenile offenders (Chile)	PARTIALLY ACCEPTED	NOT IMPLEMENTED
138.214: Take the necessary measures to enhance international legal cooperation in cases of serious violations of human rights and ensure the right to truth and justice (Argentina)	NOT ACCEPTED	NOT IMPLEMENTED

ARBITRARY ARRESTS/DETENTION: Member states raised **3** recommendations specifically on arbitrary detention.

ARBITRARY ARRESTS: Despite positive changes to the Criminal Procedure Code (CPC), law enforcement authorities regularly violate defendants' right to be informed of the reasons for arrest (i.e. via a valid arrest warrant) and to be promptly brought before a judge and charged (i.e. within a 48 hour period).

PRETRIAL DETENTION: Authorities continue to violate fundamental principles of pretrial procedures by denying detainees the right to challenge their pretrial detention or be released pending trial.

PRISONERS OF CONSCIENCE: Iran continues to arbitrarily arrest and detain individuals simply for their exercise of fundamental rights. According to a prominent human rights group, Iran was holding at least **700** political prisoners and prisoners of conscience (as of October 2017). Most have been detained for exercising their rights to freedom of expression, association, assembly, and religion. These prisoners include journalists, lawyers, human rights defenders, artists, bloggers, aid workers, members of the political opposition, student activists, and ethnic and religious minority activists.



SOURCE: IRAN PRISON ATLAS

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DUE PROCESS (FAIR TRIAL): Member States raised **5** recommendations related to fair trial and due process.

ACCESS TO COUNSEL AND PREPARING A DEFENSE: Member States raised **3** recommendations on access to legal counsel, a fundamental due process right under international law. The right to counsel applies during all stages of the criminal process. Despite provisions in both the Iranian Constitution and the Criminal Procedure Code (CPC) that provide for immediate access to legal counsel upon arrest, it is still common practice for law enforcement officials to systematically deprive suspects of these rights. Detainees accused of certain crimes (i.e. capital, national security and drug crimes) are denied legal counsel of their own choosing, and authorities often deny lawyers' access to critical information about charges, case files, and evidence. For example, a late amendment to Article 48 of the CPC in 2015 requires those accused of certain offenses—such as those carrying the death penalty or charged with vaguely-worded national security crimes—to select their counsel from a pool of attorneys pre-approved by the head of the judiciary, who is directly appointed by the Supreme Leader.

COERCED CONFESSIONS: Despite prohibitions against torture or ill-treatment in Iran's Constitution and other laws, courts continue to allow confessions allegedly obtained of torture or ill-treatment to be used as evidence. Coerced confessions also violate the defendant's right to remain silent and be protected from self-incrimination. Allegations of torture by the security forces are rarely investigated.

DEATH SENTENCES FOLLOWING GRAVE DUE PROCESS (FAIR TRIAL) VIOLATIONS: Rights groups continue to document many cases, including during drug trials, where courts have imposed death sentences after proceedings that failed to respect international fair trial standards and/or involved torture or ill-treatment of the accused.

INDEPENDENCE OF THE JUDICIARY: Member States raised **3** recommendations calling on Iran to ensure the independence of the judiciary. Article 156 of the Constitution defines the judiciary as an independent branch of government. In practice, however, the judiciary falls under the authority of the Supreme Leader who appoints the head of the judiciary and the Prosecutor General. Legal proceedings—especially those before revolutionary courts—are subject to political pressure, interference or collusion and collaboration by members of the security and intelligence apparatus. The government continues to severely weaken the independence of lawyers by interfering in the internal affairs of the Iranian Bar Association, establishing parallel bar associations operating under its control and influence, and targeting and arresting prominent human rights lawyers.

CASES OF NOTE

RECENT PROTESTS: On December 28, 2017, protests broke out in Mashhad and other cities. Since then, more than 3700 were arrested, many without charge. At least 90 of these arrests included students.



7 JANUARY 2018: A student protestor, Sina Ghanbari, 23, was reportedly found dead in Evin Prison. At least three other detained demonstrators are believed to have also died in custody.

17 AUGUST 2017: Iranian authorities have held three opposition leaders, including Mir-Hossein Mousavi, Mehdi Karroubi, and Zahra Rahnava, under house arrest for six years without formal charges or trial. On 29 August 2012, the UN Working Group on Arbitrary Detention concluded that their house arrest was arbitrary and resulted from the exercise of rights guaranteed by the International Covenant on Civil and Political Rights.

