



Written contribution to the
Human Rights Committee

From

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Right to a Fair Trial and Due Process

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Abdorrahman Boroumand Center (ABC) is a non-governmental non-profit organization dedicated to the promotion of human rights and democracy in Iran. The Center is an independent organization with no political affiliation. Taking as a starting point the fundamental equality of all human beings, the Center seeks to ensure that human rights in Iran are promoted and protected without discrimination, whether it be on the basis of one's gender, race, religion, ethnicity, or national origin. Guided by the belief that unremedied human rights violations are a major obstacle to the establishment of a stable democracy, the Center is committed to the right of all victims of human rights abuses to justice and public recognition. ABC is a member of Impact Iran.



Iran Human Rights Documentation Center (IHRDC) is an independent non-profit organization that was founded in 2004 by human rights scholars and lawyers. The mission of the center is to (1) establish a comprehensive and objective historical record of the human rights situation in Iran, and on the basis of this record, establish responsibility for patterns of human rights abuses; (2) make the record available in an archive that is accessible to the public for research and educational purposes; (3) promote accountability, respect for human rights and the rule of law in Iran; and (4) encourage an informed dialogue on the human rights situation in Iran among scholars and the general public in Iran and abroad. IHRDC is in consultative status with the United Nations Economic and Social Council (ECOSOC) since 2018. IHRDC is a member of Impact Iran.

IMPACT IRAN

Impact Iran represents a coalition of 17 non-governmental organizations that draw attention to the situation of human rights in Iran, and encourage the Iranian government to address concerns expressed by the international community and international human rights bodies. We organize public advocacy campaigns aimed at the United Nations (UN) member states and lead high-level human rights discussions to collectively spark action by the international community to promote and protect the rights and dignity of all in Iran.



Human Rights Activists in Iran (HRA) is a non-political and non-governmental organization comprised of advocates who defend human rights in Iran, founded in 2005. HRAI's goals consist in promoting, safeguarding and sustaining human rights in Iran. The organization keeps the Iranian community and the world informed by monitoring human rights violations in the country and disseminating information about such abuses, including through its news agency Human Rights Activists New Agency (HRANA). HRAI's mission is to protect the human rights of all Iranian citizens regardless of their religion, political views, social status, gender or ethnicity. It is a member of Impact Iran.

TABLE OF CONTENT

A) Arrest warrants	4
B) Pretrial detention: access to a lawyer and incommunicado detention	6
C) Forced confessions and torture in detention	8
D) Right to be defended by a lawyer of one's own choosing	11
E) Right to a legal counsel, access to case files and hasty trials	12
F) Right to appeal	15
G) Independence of the judiciary	18
H) Cruel and Unusual Punishments: flogging	20

The 1979 Islamic Revolution set in motion a radical transformation of Iran’s justice system with the introduction of Shari’a law and the setting up of *ad-hoc* revolutionary tribunals – still in place today - that did away with the presumption of innocence and the right to defense.¹ Those accused were detained in inhuman conditions in overcrowded prisons, deprived of minimum treatment standards, and exposed to long solitary confinement and torture to coerce self-incriminating confessions. These courts summarily tried thousands of people, denying defendants the right to counsel and the right to appeal. Thousands were executed following these summary trials and behind closed doors.

Today, despite some improvements, a severe due process crisis remains one of the most pernicious legacies of post-revolutionary justice and these most basic concepts of justice have yet to be properly integrated into Iran’s judicial culture.² Denial of access to legal counsel during interrogation, coerced confessions as sole evidence, used as the basis for sentencing in criminal trials are examples of serious violations of the right to a fair trial and due process that remain. In light of the high number of criminalized acts (around 2,600,³ close to 200 of which carry the death penalty) and the routine practice of mass arrests, these violations of the ICCPR impact millions of people, citizens and non-citizens, and need to be addressed urgently.

A) Arrest warrants

1. In 2011, the Committee recommended that Iran ensure that arrest warrants contain the names of the accused and be based on a judge’s review of material evidence, and that it release detainees who have been held on the basis of general and blanket arrest warrants, in the absence of evidence.⁴
2. Article 181 of Iran’s new Code of Criminal Procedure (CCP), that came into force in June 2015, provides that accused individuals are to be arrested pursuant to a warrant which specifies a reason for the arrest and details pertaining to this reason, signed by an investigating judge.⁵
3. Article 46 of the CCP states that where law-enforcement officers observe a crime in progress and make an arrest, they must communicate charges and evidence in written form to the arrested

¹ <https://www.iranrights.org/library/document/90/ayatollah-khomeini-on-the-defendants-right-to-counsel-april-1979>; <https://www.iranrights.org/library/document/2178/ayatollah-khomeini-and-the-presumption-of-innocence-decree-on-the-establishment-of-the-islamic-revolutionary-tribunal>; <https://www.iranrights.org/library/document/186/ayatollah-sadeq-khalkhali-judge-at-the-islamic-revolutionary-tribunal-on-the-defendants-right-to-counsel>; https://www.iranrights.org/attachments/library/doc_233.pdf.

² “The main problem of our judiciary is that it follows the style of the unhealthy Western judiciary system. In other words, once the file has been transferred from the police to the judiciary, there is the process of appointing a lawyer, followed by the lawyer’s advice to the offender to retract the frank recorded confessions made in the initial stages and to accuse the police of torture, and, subsequently, months of waiting for the trial, then the preliminary verdict, followed by the appeal court stage, and, ultimately, after several months, some feeble verdict is issued. Not only does this fail to act as a deterrent, but it serves to make the thugs and hooligans even more audacious.” Ayatollah Makarem Shirazi, source of emulation, July 22, 2011 <https://www.iranrights.org/library/document/2701>

³ According to Majles Deputy Abolfazl Abutorabi, member of the Legal and Judicial Commission of the Majles (Mizan Online, October 11, 2018 <https://www.mizanonline.com/fa/news/459011>)

⁴ Human Rights Committee, *Concluding observations: Islamic Republic of Iran*, 29 November 2011, CCPR/C/IRN/CO/3, para.17

⁵ The law which the 2015 Code of Criminal Procedure replaced, the Code of Criminal Procedure for Public and Revolutionary Courts (CCP), in its Article 119 had stipulated that arrests were to be performed with warrants whose contents were to be “like those of summons letters”

person “immediately” and present relevant information to the Prosecutor’s Office as a matter of urgency. Officers may not hold an individual for more than 24 hours in such circumstances.

4. Iran's response to the committee's observation does not refer to the issue of blanket arrest warrants.⁶
5. In practice, arresting agents routinely fail to produce warrants where they should. The examples below illustrate this pattern:
 - **Sa’id Baluchi**, a Sunni Baloch executed on narcotics charges in March 2015, was arrested by agents of the Public Prosecutor’s office in September 2012 who did not show a warrant. Mr. Baluchi was arrested after law enforcement failed to apprehend a suspect and sources report he was arbitrarily arrested in that suspect’s stead to bring closure to the case.⁷
 - **Mansour Arvand**, a non-religious ethnic Kurd put to death on charges of *moharabeh* (“war against God”) and membership in a banned Kurdish political group in May 2015, was arrested in a late night house raid by agents of the Ministry of Information who showed no arrest warrant.⁸
 - **Rezvaneh Ahmadkhanbeigi**, r initially convicted in early 2019 on charges of “assembly and collusion to commit crimes against security” and “propaganda against the regime,” was arrested in November 2019 - a time when she was awaiting an appeals ruling in her case - by agents of the Revolutionary Guards Intelligence Organization who had no warrant and declared her charges would be ascertained based on the contents of laptops and other personal items they were seizing.⁹
 - **Mohsen Nasiri**, executed for drug possession in January 2016, was arrested without a warrant in mid-December 2012.¹⁰
 - Activist **Atena Daemi** was arrested without a warrant in her home in October 2014 by agents of the Revolutionary Guards who seized her modem and other personal items before being charged with offenses including “propaganda against the regime” and “insulting the Supreme Leader” in connection with her anti-death penalty activism.¹¹
 - A group of lawyers and civil society activists including **Arash Keykhosravi**, **Mostafa Neyli**, **Mehdi Mahmoudian**, **Mohammad Reza Faghihi**, and **Mariam Afrafraz** were arrested without a warrant during a meeting of the Civil Rights Support Organization on August 14, 2021. They had met to discuss legal efforts to hold the government accountable for its COVID-19 pandemic response, including the Supreme Leader’s decision to ban the import of UK- and US-made vaccines.¹²

⁶ Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, CCPR/C/IRN/4:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FIRN%2F4&Lang=en

⁷ Omid memorial case of Said Baluchi, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7669/said-baluchi>)

⁸ Omid memorial case of Mansour Arvand, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7620/mansur-arvand-arwand>)

⁹ ABC interview with Behfar Lalezari, husband of Rezvaneh Ahmadkhanbeigi, April 15, 2020

¹⁰ Omid memorial case of Mohsen Nasiri, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7770/mohsen-nasiri>)

¹¹ "What right did you have to protest a death sentence?": Witness Statement of Atena Daemi (<https://www.iranrights.org/library/document/3179>)

¹² HRANA, August 16, 2021 (https://www.hra-news.org/2021/hranews/a-31361/?tg_rhash=22a41dd9689763)

- **Sadeq Ka'nani** and **Shariar Naderi**, teachers guild activists, were arrested respectively on June 22 and 23, 2022 by security agents in Sanandaj who did not show a warrant. The arrest came following a wave of protest actions by teachers including countrywide public gatherings on June 15 to protest the fact that the Education Ministry was ignoring teachers' demands.¹³

6. Mass arrests without warrants are also reported, e.g. in conjunction with crackdowns on protest activity, including in 2018, 2021 and 2022¹⁴, and blanket warrants are issued for roundups of persons whose identity is not known in advance, notably drug users who are detained and subjected to forced detoxification.¹⁵

Suggested questions

- *Please provide information about steps taken to ensure that Art. 181 and Art. 46 of the new Code of Criminal Procedure are systematically enforced, and provide information about sanctions taken against officers failing to respect these provisions and remedies*
- *In light of the previous concluding observations (para. 17), please provide information as to whether the state party has conducted a review of persons in detention in order to release detainees held on the basis of general and blanket arrest warrants, in the absence of evidence*

B) Pretrial detention: access to a lawyer and incommunicado detention

7. In 2011, the Committee recommended that Iran take all necessary measures to ensure that pretrial detention is not excessively long in law and in practice, particularly through independent judicial supervision and prompt access to lawyers, and that Iran take immediate steps to eliminate incommunicado detention, taking due care to ensure compliance in practice.¹⁶

¹³ HRANA, June 25, 2022, (https://www.hra-news.org/2022/hranews/a-35544/?tg_rhash=22a41dd9689763 and https://www.hra-news.org/2022/hranews/a-35539/?tg_rhash=22a41dd9689763)

¹⁴ <https://www.iranrights.org/newsletter/issue/63>; See Amnesty International on mass arrest of Ahvazi Arabs, November 2, 2018 <https://www.iranrights.org/library/document/3485> and on mass arrests of protesters in Khuzestan and Kermanashah in mid-to-late July, 2021 <https://www.amnesty.org/en/latest/news/2021/08/iran-security-forces-use-ruthless-force-mass-arrests-and-torture-to-crush-peaceful-protests/>.

See HRANA reporting on the state response to protests sparked by announcement of increases in the price of staple food goods which began in Khuzestan on May 5, 2022, before spreading to at least 31 localities across 10 provinces (including Suq, Hafshejan, Farsan, Shahrekord and Dezful) in the following days. Widespread arrests, starting in some areas soon after the announcement of the price increases, were reported. 449 arrests were reported in Khuzestan Province, and hundreds in other provinces (HRANA, May 20, 2022, https://www.hra-news.org/periodical/a-117/?tg_rhash=22a41dd9689763).

Protests also commenced following the May 23 collapse of Metropole Tower in Abadan, in which dozens were killed. The collapse was widely perceived to be the result of corruption and neglect involving the building's owner, and the government's response, rescue efforts, and aid to survivors and victims' families were also widely criticized. Protests - which began as mourning gatherings in Abadan on May 25 - spread throughout the region to Ahwaz, Shahinshahr, Shahr-e Rey, Andimeshk, and Khorramshahr. Tens of people were reported arrested in Abadan (HRANA, May 30, 22, <https://www.hra-news.org/periodical/a-119/> and June 22, 2022, <https://www.hra-news.org/periodical/a-120/>).

¹⁵ According to Tehran Province State Welfare Organization head Amin Shahrokhi, "flagrant addicts" are arrested by police with a warrant from the judge and sent to Article 16 forced detoxification centers supervised by the State Welfare Organization (Tabnak, April 4, 2020 tabnak.ir/0044Ki). Mass arrests of drug users continue as of this writing: according to Qom Deputy Prosecutor Seyyed Mohammad Malihi, between June 22 and July 14, 2022, 543 drug users were arrested as part of a "cleanup operation" in that city and sent to detoxification camps (Salam-e No, July 14, 2022 <https://vista.ir/n/no6h8et>)

¹⁶ Human Rights Committee, *Concluding observations: Islamic Republic of Iran*, 29 November 2011, CCPR/C/IRN/CO/3, para. 18

8. Article 3 of the new Code of Criminal Procedure (CCP), revised in 2015, obligates judicial authorities to act “in the shortest possible period of time” to adjudicate charges and to refrain from acts which would prolong or disrupt the legal process.¹⁷
9. With regard to incommunicado detentions, Article 49 of the CCP specifies that information pertaining to arrests and arrestees should be communicated to the local Prosecutor’s Office within one hour; Prosecutor’s Offices are obligated to gather and transmit this information on a daily basis to provincial Ministry of Justice authorities. The parents, spouse, children, and brothers of sisters of arrested persons are entitled to receive such information from these authorities: Article 49 provides that judicial officials are obligated to answer questions from family members about the whereabouts of their loved ones in detention providing it does not “conflict with social or familial respectability.”
10. Article 50 of the CCP provides for arrested persons a right to inform family or other known persons of their arrest by telephone or any other possible means, and obligates officers to provide assistance toward this end, unless those officers deem it “imperative” that the arrested person be denied that right, in which case they are bound to report to a judicial authority and petition for an order.
11. In response to the Committee's recommendations, Iran repeated the existing legal provisions (referred to in the preceding paragraphs), stating that "deprivation of the right to a lawyer or failure to declare this right to the accused will result in disciplinary action against the judicial authority." However, no information has been provided on implementing this provision or dealing with authorities violating this right.¹⁸
12. In practice however, arrested persons are routinely subjected to lengthy detentions without trial, a situation compounded by the denial of access to lawyers as well as denial of communication with family members. Family members are also routinely denied information about the whereabouts of arrested loved ones.
13. The following examples are illustrative of these patterns:
 - **Fardin Hosseini** (executed January 2016), a member of the Ahl-e Haq religious minority, was arrested in the late fall of 2009 and shuttled between various detention facilities, where he was denied contact with family members or the opportunity for conditional release.¹⁹

¹⁷ No such obligation appears in the former CCP

¹⁸ Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, CCPR/C/IRN/4, paras 75, 77, 78: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FIRN%2F4&Lang=en

¹⁹ Omid memorial case of Fardin Hosseini, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8039/fardin-hosseini>)

- **Ahmad Nasiri** (executed August 2016 on a conviction of “war against God” and membership in an anti-regime Guerilla group) was arrested in April 2011 and denied contact with his family for 18 days after arrest. He did not receive a trial at Branch 28 of the Revolutionary Court of Tehran until July-August 2012.²⁰
 - In a May 12, 2019 letter to Judiciary Head Ebrahim Ra’isi, a **group of inmates at Zahedan Prison**, Sistan and Baluchistan province described legal limbo that dragged on for years as cases were shuffled between different judges and hearings were repeatedly postponed. Judges in Zahedan would take a year to familiarize themselves with cases, and sessions would be scheduled more than half a year later. Branches 101 and 102 of the Zahedan Revolutionary Court have the heaviest burdens, trying some 500 cases per year. The prisoners mention a young man faced with murder charges who had entered his fifth year of detention without legal resolution as his case was transferred between branches. Eight prisoners facing security charges had not been tried after four and a half years of detention, though bail had been set in their case. One individual charged with complicity in murder and acting against national security had been detained for six years and granted a hearing only once a year in this time.²¹
 - **Ali Younesi** and **Amir Hossein Moradi**, both university students, were subjected to approximately 50 days of solitary confinement, during which they were given no opportunity to contact a lawyer or communicate with family members, after their arrest on April 10, 2022. The confessions made under duress in these conditions were used by the Branch 29 Revolutionary Court of Tehran to sentence them to 16 years of prison including “corruption on earth” and “propaganda against the regime.”²²
 - **Mohsen Mazloum, Pejman Fatehi, Mohammad Feramarzi, and Vafa Azarbar**, four members of the Komeleh Party of Kurdistan who had crossed into Iran from Iraq for political and organizing work, were arrested on July 22, 2022, while unarmed, near Suma in the jurisdiction of Orumieh by agents of the Ministry of Information and the Seyyed al-Shohda Base. They were taken to an unknown location and denied any contact with a lawyer or family members, for at least approximately 21 days. Family members who followed up were met with insults and no accountability from authorities.²³
14. With regard to access to a lawyer in the pretrial phase, as a result of last-minute retrogressive amendments carried out just days prior to the entry into force of the new Code of Criminal Procedure in June 2015, a provision in the original draft which had rendered investigations void if the accused person’s right to access legal counsel was denied or if the person was not informed of this right, was removed. As a result, and due to the absence of adequate safeguards, courts continue to rely on evidence gathered without the presence of a lawyer during the investigation phase. In many cases, defendants have reported seeing their lawyer for the first time on their day of trial.

Suggested Questions:

- *Please provide information about the number of detainees who are currently in pre-trial detention, and about the proportion they represent among all detainees in Iran. Please also provide statistics about the average length of these pre-trial detentions, and the frequency of resort to pre-trial detention, desegregated by type of offense and by province*
- *In light of the previous concluding observations (para. 18), what steps have been taken to prevent incommunicado detentions in practice? Please provide information about how many persons have been*

²⁰ Omid memorial case of Ahmad Nasiri, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8023/ahmad-nasiri>)

²¹ Letter of Zahedan Prison inmates, May 13, 2019 (<https://www.iranrights.org/library/document/3577>)

²² HRANA, April 25, 2022 (https://www.hra-news.org/2022/hranews/a-34561/?tg_rhash=22a41dd9689763)

²³ ABC interview with a source with knowledge of the case, August 11, 2022

sanctioned or otherwise held accountable for failing to provide information or to facilitate the provision of information to the detainee's family, in violation of the CPP

- *Please explain whether the state party intends to guarantee in law and practice the access to a lawyer upon arrest and during the pre-trial phase, in line with previous concluding observations and with recommendations accepted by Iran during its UPR.*

C) Forced confessions and torture in detention

15. In 2011, the Committee recommended that Iran “ensure that no one is coerced into testifying against themselves or others or to confess guilt and that no such “confession” is accepted as evidence in court”. It also recommended that Iran ensure that an inquiry is opened in each case of alleged torture and cruel, inhuman or degrading treatment in detention facilities, that the perpetrators of such acts are prosecuted and punished appropriately, and that effective reparation, including adequate compensation, is granted to every victim.²⁴
16. Article 38 of Iran’s Constitution explicitly prohibits torture for the purpose of extracting forced confessions and stipulates that all confessions resulting from coercion lack legal validity.
17. 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.²⁵ It also stipulates that records of the dates, times, and lengths of interrogation sessions should be kept and certified with defendants’ fingerprints.
18. Article 169 of the Islamic Penal Code (IPC), approved in April 2013, 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.” Article 578 of the IPC foresees a punishment of six months to three years of imprisonment (besides blood money and *qesas* 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.
19. Notably, this Article 578 omits psychological torture entirely, and pertains only to physical torture intended to yield a confession: physical torture meant to coerce a defendant to cooperate or toward any other end is not criminalized.

²⁴ Human Rights Committee, *Concluding observations: Islamic Republic of Iran*, 29 November 2011, CCPR/C/IRN/CO/3, para. 14

²⁵ Article 129 of the CCPPRC declared these kinds of questions “forbidden”

20. Article 218 of the IPC stipulates that, in the case of *hudud* crimes specifically, defendants' claims that their confessions or testimonies were made under coercion are to be taken at face value. Per the Note to this Article, the exceptions to this rule are the offenses considered more serious of *moharabeh* ("war against God") "corruption on earth," or "indecent offenses committed by coercion, force, abduction, or deception": the court must carry out examinations and investigations of claims of coerced confessions of guilt in these cases.
21. Iran's response to the Committee's recommendations, while repeating the existing legal provisions (referred to in the preceding paragraphs), provides statistics on prison visits over the past five years. They include, for example, a total number of periodic inspections of the headquarters and provincial departments, inspections of detention centers and wards,²⁶ and public complaints submitted and reviewed by local authorities. However, no information has been provided on the result of those reviews or disciplinary actions against officers violating this law.²⁷
22. On January 11, 2022, the Prisons Organization published a circular regarding the rights of detained persons, with relevance to the use of torture and forced confessions and other elements of due process. It followed the issuing, in May 2021, of new Implementation Guidelines of the Prisons Organization. Notably, the circular considers standards of international law, such as the Nelson Mandela Rules and Bangkok Principles on the treatment of women prisoners. It reiterates and elaborates some aspects of existing law, such as the prohibition on torture, the right to access legal counsel and communicate with family members, official's duty to establish an electronic system for prisoners to access information pertaining to their case, and to collect, investigate, and respond to complaints registered by prisoners and their families orally or in writing. The circular also contains innovations. One of relevance to the issue of torture, are new provisions for recording existing injuries and pharmaceutical needs of incoming detainees. Incoming detainees are also to be examined by a psychologist, who should report to the warden if continued detention will be problematic for the detainee. Prison officials are obligated to inform incoming detainees of their rights, including through the placement of informational brochures in visible areas. The circular also mentions conditions for solitary confinement facilities. In accordance with Article 3 of the Prisons Organization Guidelines, investigative panels are tasked with conducting spontaneous visits to detention facilities every three months, sometimes at night, and sending quarterly reports to the Prisons Organization and Office of Protection of Prisoner's Rights.²⁸ These measures have not

²⁶ Reports collected by ABC indicate that prison authorities have transferred prisoners between wards during an official media visit to conceal overcrowding and other substandard conditions. Authorities' response to reports about novel coronavirus infections among prisoners at Evin Prison, Tehran was a televised news report (broadcast August 12, 2020) in which they denied it: during a state-sponsored TV news program, footage of Evin's Wards 4 and 8 showed what they claimed to be a disinfection tunnel, and prisoners with blurred faces stating that they had what they needed, and that no one was ill. The airing of the Evin visit on state TV triggered an immediate reaction from Ward 8's political prisoners who noted, among other things, that Ward 4 held former officials convicted for corruption and embezzlement, who were in a position to improve their conditions. The images of Ward 8, they pointed out, were fuzzy, and only the Workers' Hall (7) was shown, notably during hours that they were away from their rooms. The cameras never entered the overcrowded and filthy halls 8 and 9, where political prisoners are held. See ABC's reports on COVID-19 and Iran's prisons, April 2020 (<https://www.iranrights.org/library/document/3720>) and September 2020 (<https://www.iranrights.org/library/document/3764>).

²⁷ Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, CCPR/C/IRN/4, paras 38, 39, 40, 42, 43: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F%2FIRN%2F4&Lang=en

²⁸ Full text available at Ekhtebare, January 11, 2022 (<https://www.ekhtebare.com/ررعايت-در-بار-ه-هاC%80%80%E2%99%99-سازمان-بخشنامه>)

been implemented in cases of which ABC has knowledge. The circular declares that misbehavior such as insulting language and torture may occasion “disciplinary, law enforcement, and criminal response.” If prison officials, staff, and those conducting reviews witness “illegal activity, such as beating, blindfolding, insult, disparagement, and covering the head and face” in interrogations specifically, they are obligated to remind the violator and file a report with the head of the detention center. Despite this, the circular specifies no precise mechanisms for discipline and accountability in cases of reported abuses of detainees’ rights, including those registered in the aforementioned electronic system.

23. In practice however, 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 as admissible confessions made without the presence of a lawyer during the investigation phase, 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.

24. The following examples illustrate this pattern:

- **Ehsanollah Ehsani**, an Afghan national who died in custody of law enforcement in Yazd in May of 2016, was severely beaten and denied food and water by interrogators who demanded he confess to taking part in a motorcycle theft scheme.²⁹
- **Kamal Mola’i**, a Sunni Kurd put to death in March 2015 on security and homicide charges, reported that interrogators at the Ministry of Information detention center in Sanandaj tortured him, threatened him with death, and made false promises that he would be spared the death penalty if he confessed to the charges against him. His death sentence was reportedly issued on the basis of this confession.³⁰
- **Hadi Rashedi**, an ethnic Arab hanged in January 2014, was tortured during his initial seven-month stay at the Ministry of Information detention center in Ahvaz in 2011, as well as during two subsequent transfers to that facility in 2012; a fellow inmate reported hearing his screams of pain. Rashedi’s confession was broadcast on state television and cited by the judge in his case as proof of his guilt.³¹
- **Loqman Moradi**, an ethnic Kurd executed in September 2018 on security and homicide charges, was bound in the shape of a cross, flogged, punched, kicked, threatened with sexual assault, and otherwise belittled in the time he was held at the detention center of the Information Administration of Sanandaj following his arrest in August 2009. The content of these confessions was reportedly used against him at trial.³²
- **An inmate of the Greater Tehran Prison** complex reported in April 2020 being held along with a considerable number of inmates, chiefly from working-class areas of Tehran, arrested in the course of the crackdown on widespread November 2019 protests. The source estimates “perhaps thousands” were detained at the facility at the beginning of the crackdown. According to the source, the inmates have faced great pressure and torture

²⁹ Omid memorial case of Ehsanollah Ehsani, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8037/ehsanollah-ehsani>)

³⁰ Omid memorial case of Kamal Molaii, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7624/kamal-molaii>)

³¹ Omid memorial case of Hadi Rashedi, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/71726/hadi-rashedi>)

³² Omid memorial case of Loqman Moradi, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8169/loqman-moradi>)

in interrogations, both toward accepting charges levelled against them and to report names of others involved in protests.³³

- The confession of **Seyed Amin Sedaqatpur**, which, according to a person close to him interviewed by ABC, was obtained under torture while he was detained at the Shiraz Criminal Investigations Bureau for two months without contact with his family or a lawyer at the age of 15,³⁴ was used to sentence him to death. He was executed in April 2019 at the age of 17.³⁵
- **Navid Afkari**, a popular champion wrestler who had participated in the nationwide protests of winter of 2017-2018, was put to death on September 12, 2020 for a homicide conviction issued on the basis of a forced confession made under torture in a lawyerless interrogation, according to an audio recording he was able to release from prison. After the smuggled recordings of Afkari were aired by media outside Iran, he and his also-incarcerated brothers were taken to solitary confinement and beaten, before Navid's execution.³⁶
- **Hamid Rastabala** was executed in December 2020, along with co-defendants Kabir Saadat-Jahani and Mohammad-ali Arayesh, on a conviction of "armed rebellion" (baghy) based on unsubstantiated allegations of affiliation with two inactive opposition groups. The three were part of a group of twelve Sunni men who had been arrested in 2015 by agents of the Ministry of Information and held in solitary confinement for 10-12 months. In a July 2020 letter, Rastabala described the torture he was subjected to during his interrogation and the security officials' pressure on him to make a televised confession, including pepper spray to the testicles and anus and threats of arrest, torture, assassination, and rape of his family members.³⁷
- **Hadi Rostami, Mehdi Shahivand, and Mehdi Sharafian** were sentenced to hand amputation for convictions of theft by Branch 112 of Criminal Court Two of Orumieh on March 5, 2018, on the basis of confessions, which they report, were extracted under torture. Rostami, Shahivand, and Sharafian were arrested on August 25, 2017 by the burglary division of the Azerbaijan Gharbi Province Police Investigation Office in Orumieh. They were interrogated for more than a month in police investigation bureaus in Orumieh, Ardebil, and Bandar Anzali and were severely beaten and tortured. They reported having been kicked, beaten, flogged with a cable, and hung from their wrists and feet. The youngest was threatened with rape. Rostami reported that officers of the theft department of the provincial Police Investigations Office beat him until he signed a blank paper, on which were later written theft cases he had not committed. His co-defendants also claim to have been coerced to confess to burglaries they had not committed and to testify to the involvement of Rostami in those burglaries. At no point during these interrogations were they allowed to contact an attorney. Rostami reports he showed the cable flogging marks on his body to the investigative judge, who nonetheless dismissed the allegations. The same allegations were made with no result to a representative of then-Chief Justice Ebrahim Raisi during the latter's visit to West Azerbaijan in March 2021.³⁸

³³ ABC interview with source with Greater Tehran Prison inmate, April 13, 2020

³⁴ ABC interview with source close to Seyed Amin Sedaqatpur, June 28, 2019

³⁵ Omid Memorial case of Seyed Amin Sedaqatpur, Abdorrahman Boroumand Center, <https://www.iranrights.org/memorial/story/-8381/seyed-amin-sedaqatpur>

³⁶ Omid memorial case of Navid Afkari, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8506/navid-farshid-afkari-sangari>) ABC interview with source with Greater Tehran Prison inmate, April 13, 2020

³⁷ Iran Human Rights Documentation Center, "State of Coercion: The Situation of Sunni Muslims in Iran," January 28, 2022 (https://iranhrdc.org/state-of-coercion-the-situation-of-sunni-muslims-in-iran/#_Toc94026965)

³⁸ ABC interview with Hadi Rostami, June 8 and 9, 2022; <https://www.iranrights.org/newsletter/issue/125>; see also ABC's video report featuring Rostami's statements, https://twitter.com/IranRights_org/status/1535774267194884099

Account of Torture: Navid Afkari

“I’m innocent. I was in solitary, underground, for months. Over and over again they put plastic over my head until I passed out from suffocation. They broke my shoulder, they broke my hands - but I didn’t give in. And they pulled my family into it. A family that didn’t know if their children were alive or dead. When I saw they’d arrested my brother, my dad, and my sister to psychologically torture us, and keep us from being able to do anything; when they showed me the arrest warrant for my mother and sister; when they tortured [my brother] Vahid in front of me; when I saw these people could just do whatever they wanted - it was the end of the line for me [and I falsely confessed to murder as they wanted me to]... I gave in so all the nightmares would end.”

Audio message of **Navid Afkari**, put to death September 2020, smuggled from prison³⁹

25. Reports of torture in detention are rarely investigated and to ABC’s knowledge, very rarely lead to the conviction of abusers. In none of the aforementioned cases did the reports of torture lead to investigation or to a trial. On the contrary, rather than ensure that instances of alleged torture and cruel, inhuman, or degrading treatment are investigated and violators held to account, the State persecutes those who investigate or press for accountability, as illustrated by the following cases:

- In July 2018, Branch 102 of Criminal Court Two in Arak convicted lawyer **Mohammad Najafi** of “disturbing public order through sensationalism, controversy, and disorderly conduct such as sloganeering” and “slander with intent to disturb the public mind” in connection with his investigations and public awareness-raising regarding the suspicious death in custody of Vahid Heidari, a young man arrested in the course of crackdowns on widespread protests in the finale days of 2017 and early 2018.⁴⁰ The court sentenced Najafi to three years in prison and 74 lashes.⁴¹
- **Mohammad Raji**, a Gonabadi Darvish, died in detention in 2018 after being arrested in crackdowns on protesting Darwishes who had gathered to prevent the arrest of their spiritual leader in February of that year. Gonabadi Darvish media reported he had been killed by blows inflicted by police in the course of interrogations.⁴² His family was denied the right to see his body and filed a complaint. As of mid-April 2020, his son is awaiting trial on charges stemming from his pursuit of his father’s case.⁴³

Suggested Questions

- *Please comment on reports according to which confessions extracted under torture continue to be accepted into evidence by courts, and explain what the state party intends to do to put in place judicial safeguards to make sure that such statements are not admitted by judges, and that allegations of the use of torture or other ill-treatment to extract confessions are duly investigated and perpetrators brought to account*

³⁹ Omid Memorial case of Navid Afkari, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8506/navid-farshid-afkari-sangari>)

⁴⁰ Omid memorial case of Vahid Heidari, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8106/vahid-heidari>)

⁴¹ See “Mohammad Najafi: A Defender Under Threat,” Abdorrahman Boroumand Center (<https://www.iranrights.org/library/document/3671>)

⁴² BBC Persian, March 4, 2018 (<https://www.bbc.com/persian/iran-43286956>); See more on the persecution of lawyers in ABC’s timeline (<https://www.iranrights.org/projects/timeline>)

⁴³ ABC interview with source with knowledge of the case in Turkey, April 15, 2020

- *Please provide information about the number of allegations of torture at the hands of the police or detention personnel have been investigated, and about the number of persons who have been tried and convicted in relation to such allegations*

D) Right to be defended by a lawyer of one's own choosing

26. In 2011, the Committee recommended that Iran guarantee the right to legal assistance of one's own choosing, including for pretrial detainees and the intervention and presence of lawyers in all cases, including during the investigation stage⁴⁴.
27. Article 48 of the Code of Criminal Procedure, revised in 2015, permits the accused to "demand the presence of a lawyer from the start of detention." This Article specifies that lawyers' meetings with clients cannot exceed one hour, that lawyers are to keep the contents of such meetings confidential,⁴⁵ and that lawyers must turn over handwritten notes taken during the meeting for inclusion in the case file.
28. In practice however detainees continue to be denied access to a lawyer during interrogation. In the hundreds of cases of individuals arrested for political reasons or suspected for ordinary crimes that ABC has investigated, all detainees were interrogated without the presence of an attorney. Police officers interviewed by reporters from Iran's semi-official news agency Iran Student News Agency (ISNA) in February 2018 acknowledged that there are no lawyers to be seen when a detainee is brought in for investigation. ISNA's report notes that most police officers, investigators, and judges operate under the understanding that confessions should be obtained before evidence is collected. In most cases the confession is obtained in the initial phases, without the presence of an attorney, and before any other evidence is gathered. According to one police officer, who preferred to remain anonymous: "The lawyer can teach the accused not to say anything, or to talk in a way that creates hang-ups in the course of the investigation. The police cannot permit the investigation to be hindered."⁴⁶ In practice, ABC has no knowledge of a criminal case where an attorney has been present during interrogations.
29. Iran's response to the Committee's observation, while repeating the existing legal provisions, states that all concerns mentioned in paragraph 21 are addressed and the current law guarantees it. However, Iran's response is silent about the situation on the Note of Article 48 of CCP, which restricted lawyer choice in security cases.⁴⁷

⁴⁴ Human Rights Committee, *Concluding observations: Islamic Republic of Iran*, 29 November 2011, CCPR/C/IRN/CO/3, para. 21

⁴⁵ Article 91 of the Code of Criminal Procedure stipulates that all preliminary investigation proceedings are to remain confidential unless otherwise specified in law

⁴⁶ "If You Are Arrested for Murder and You Don't Have Money," Iran Students News Agency. 1 February 2018, <https://www.isna.ir/news/96111106756>. Detention during the interim can last as long as a month, police said. Attorneys have reported to ISNA that pro-bono attorneys are not called in until a week to ten days after an arrest. One pro-bono attorney told ISNA that his client has been in solitary for six months and is still being denied access to an attorney.

⁴⁷ Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, CCPR/C/IRN/4, paras 82, 83, 84, 85, 86: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FIRN%2F4&Lang=en

30. A Note to Article 48 of the CCP, introduced in 2015, specifies that individuals facing charges for certain offences, including those relating to national security and organized crime, some of which may carry the death penalty, must select their legal counsel from among a limited list of lawyers approved and announced by the Head of the Judiciary at the phase of preliminary investigations.⁴⁸
31. This Note was introduced in 2015, but the Judiciary did not produce a list of approved lawyers for such cases immediately, and some in the legal community hoped the provision would be repealed or amended. In the summer of 2018 however, the Judiciary made known the names of these lawyers (including only 20 names for Tehran), occasioning sharp criticism from legal observers: lawyer Shirin Ebadi noted many of these lawyers were close to security bodies, threatening due process for political prisoners and prisoners of conscience often faced with security charges. Lawyer Sa'eed Dehghan said the Note reflected a complete lack of trust in lawyers by the judicial system and reported that lawyers had been solicited for payments of money to have their names placed on the list, raising grave concerns as to the independence and neutrality of the Judiciary's determination process.⁴⁹

Suggested Questions

- *Please provide information about how many persons arrested enjoy the presence of a lawyer from the start of their detention, and during interrogation. Please share information about what instructions are given to law-enforcement authorities in order to secure the right to access and benefit from the presence of a lawyer during interrogations*
- *Please explain what can justify that large number of lawyers are excluded from the list of lawyers that can assist clients for certain types of offenses, and how the state party intends to reconcile this practice with the right to be defended by a lawyer of one's own choosing*

E) Right to a legal counsel, access to case files and hasty trials

32. Article 191 of the Code of Criminal Procedure authorizes investigating judges to issue a blanket ban on access to case files at the pre-trial phase, including for lawyers, where they deem access to such files “contrary to the necessity of discovering the truth” or in cases involving national security charges. Such orders are to be communicated to lawyers and defendants in person and can be challenged in court for a period of three days. Courts are obligated to hear such challenges in an “exceptional” time frame.

⁴⁸ The former CCP had conditioned the presence of a lawyer at the investigative stage on the permission of the judge in cases with a “confidential” aspect, cases where the presence of a party other than defendant would “corrupt” proceedings as determined by the judge, and in national security cases; See the March 17, 2017 report of the UN Special Rapporteur, Asma Jahangir, on fair trial in Iran (<https://undocs.org/en/A/HRC/34/65>)

⁴⁹ “Iranian Lawyers Criticize Proposal to Deprive Defendants of Right to Choose Counsel,” Human Rights Activists in Iran, June 6, 2018 (<https://www.iranrights.org/library/document/3443>)

33. Even where lawyers are present during trial proceedings, they are routinely not afforded the opportunity to speak or otherwise defend their clients effectively. Under Iranian law, 1,800 acts are criminalized and over 400,000 people are detained and imprisoned yearly.⁵⁰ A representative and member of the parliament Legal and Judicial Committee reported 490,000 new entries into prisons in Iranian calendar year 1396 (March 2017-March 2018) based on the Ministry of Justice statistics.⁵¹ Judges in charge of drug-related offenses in particular are constantly overwhelmed.⁵² Families of alleged drug offenders and attorneys have reported to ABC that judges in such cases allow attorneys to submit a written defense but do not allow them to speak.

- **Hushyar Mohammadi**, a Sunni Kurd, was executed in December 2012 for a conviction of “war against God.” He and his co-defendants met with their court-appointed attorneys for the first time less than half an hour before their February 2011 trial, which lasted only ten minutes.⁵³
- **Keyvan Mo’menifard**, a Sunni Kurd charged with security offenses including “war against God,” was not afforded the opportunity to meet or otherwise communicate with his court-appointed lawyer before his late 2012 capital trial. His lawyer was permitted to access his case file only minutes before trial and not given the opportunity to defend his client. Mr. Mo’menifard was put to death on this verdict in August of 2016. Lawyer Osman Mozayyan, involved in the defense of some of the co-defendants tried in the same case, reported that capital cases were adjudicated in just a few minutes by a judge who did not heed defense attorneys’ arguments.⁵⁴
- **Mohammad Yavar Rahimi**, also put to death in August 2016 on charges including “war against God,” was compelled to use a court-appointed attorney despite the fact that he retained his own; this attorney was not allowed to enter the courtroom the day of the trial or submit a defense brief.⁵⁵ He was not given the opportunity to meet or speak with the court-appointed attorney before trial. The latter was allowed to read the case file only a few minutes before trial.
- **Rezavaneh Mohammadi** was arrested on September 3, 2018 by plainclothes agents of the Ministry of Information and charged with offenses including “acting against national security through activities toward normalization of homosexuality”. Though the investigating judge informed her of her right to access an attorney, she was not able to access one until some three weeks later.⁵⁶
- Babak Pakania, the lawyer of **Amir Hossein Moradi, Saeed Tamjidi, and Mohammad Rajabi**, three November 2019 protesters sentenced to death on property destruction charges, was not allowed to read his clients’ case files at the original trial or appellate stage.⁵⁷

⁵⁰ According to official data, new prison entries for the year 1395 (March 2017-March 2018) was 459,666.

justice.ir/FileSystem/View/File.aspx?FileId=5282d9cd-913e-4c78-b3d8-b39475070de2

⁵¹ Islamic Consultative Assembly News Agency, June 29, 2018 (icana.ir/Fa/News/390837).

⁵² In November 2019 ISNA reported that over one three-day period, 270 petty dealers and 900 drug users were arrested in Tehran alone according to the Police Chief (Iran Students News Agency, November 11 2019, (<https://www.isna.ir/news/98082113382/>)).

⁵³ Mohammadi and his co-defendants were tried blindfolded and handcuffed, and the judge insulted them during the sessions. Omid memorial case of Hushyar Mohammadi , Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7372/hushyar-mohammadi>)

⁵⁴ Omid memorial case of Keyvan Mo’menifard , Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8022/keyvan-momenifard>)

⁵⁵ Omid memorial case of Mohammad Yavar Rahimi, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8028/mohammad-yavar-rahimi>)

⁵⁶ "If You're Not a Lesbian, Why Don't You Have a Boyfriend?": Witness Testimony of Rezvaneh Mohammadi, May 17, 2019 (<https://www.iranrights.org/library/document/3579>)

⁵⁷ <https://www.iranrights.org/library/document/3740>

34. Criminal cases, including capital cases, are in some instances adjudicated within a few weeks or months after the arrest. Such hasty adjudication precludes adequate time and facilities being afforded to defendants in preparing their defenses.

- **Vahid Mazlumin**, a prominent financial figure, was arrested on July 1, 2018 and tried along with Mohammad Esma'il Qasemi on vague capital economic charges, which he denied, on September 8, 2018 by Branch Two, reserved for cases of financial corruption. Iran's Supreme Court upheld the pair's death sentences on October 21, and they were both put to death on November 14 of the same year. The reason for this haste was the Head of the Judiciary Branch's request made to the Supreme Leader of the Islamic Republic to allow the cases of those who cause disruptions and disarray in the country's financial system to be treated as extraordinary cases and be adjudicated speedily, and to prohibit any suspension or reduction of sentence for such defendants. The Leader of the Islamic Republic granted that request and stressed that the punishments of financial criminals be carried out expeditiously.⁵⁸
- **Mohammadreza Salas Babajani**, a member of the persecuted Gonabadi Darvish sect, was arrested on February 19, 2018, in the course of a chaotic security force crackdown on Darvishes who had gathered around the house of their spiritual leader. He was charged with a fatal bus ramming attack and tried across three sessions from March 11 to 18. He was shown on television barely able to speak, with bruises on his face and bandages, confessing to having driven the bus that killed three police officers. The court issued a capital verdict on March 19 which was upheld by the Supreme Court on April 23. Salas was put to death on June 18, 2018 - only four months after his arrest and the incident for which he was sentenced. After his trial, Salas and his lawyer pointed to several important facts that the court had not taken into account including that Salas had been coerced to confess; that he had been arrested before dark, while it is clear from a video of the incident, in which the face of the driver is not visible, that it happened after dark; and that the police had not checked the finger prints on the wheel and the driver seat of the bus. Salas' lawyer was also arrested after speaking publicly about the case⁵⁹

35. Article 190 of the Criminal Procedure Code makes mandatory the presence of a court-appointed attorney in cases regarding crimes punishable by death, stoning, and life imprisonment, where the defendant cannot secure an attorney themselves.

36. However, as practiced, the Article only regards the trial phase, meaning that capital defendants are commonly⁶⁰ deprived of court-appointed attorneys during the initial phases of investigation and questioning. Ataollah Rudgar, who worked two decades in the judiciary, including five as a homicide investigator in Tehran, has observed that owing to a lack of implementation modalities in this Article, the rights of defendants are systematically deprioritized: "Lawyers are in their offices and communication between courts and the Bar Association is difficult. To assign a pro-bono lawyer, there needs to be some correspondence with the Bar Association, which is time-

⁵⁸ Omid memorial cases of Vahid Mazlumin and Mohammad Esma'il Qasemi, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8336/vahid-mazlumin> ; <https://www.iranrights.org/memorial/story/-8335/mohammad-esmail-qasemi>)

⁵⁹ Omid memorial case of Mohammadreza Salas Babajani, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-8267/mohammadreza-salas-babajani>).

⁶⁰ ABC has no knowledge of a single case of prosecution where the defendant's attorney was present during interrogation.

consuming... judicial procedure privileges the rights of society and the crime victim over the rights of the accused.”⁶¹

37. Support for pro-bono defense is nearly nonexistent. This inadequate support has serious consequences for persons in conflict with the law, especially when they are living in poverty.
38. There is no public defender office in Iran’s justice system, and legal provisions that made attorneys available to the poor before 1979 have been eradicated. According to head of Iran Bar Association Isa Amini, though a public endowment for pro bono attorneys was established in the mid-2000s, funding had yet to be granted as of the end of 2018.⁶² In an interview published on February 18, 2019, former Bar Association head Dr. Ali Najafi Tavana noted that lawyers have not only faced obstacles to carrying out their work, but have never been supported by public funds. In the past 12 years, the Judiciary has failed to pay even the modest standard fee of 200,000 tomans (approximately 48 USD) per case. This amount does not even cover transportation costs for the 10 to 20 trips on average that lawyers must make to court per case. Lack of funding, compounded by authorities’ lack of respect for the right to defense, puts defendants, including those facing the death penalty, in a precarious position.
39. A February 1, 2018 report by the Iran Student News Agency (ISNA) noted that there is currently no official data on cases referred to pro-bono attorneys in Iran, nor on the sentences ruled on such cases.⁶³ According to Ali Yarahmadi, head of the Central Bar Association’s Commission on pro-bono cases, “in the year 1395 (March 2015-March 2016) in Tehran alone, there were more than 1,000 cases, and this only represents the cases referred to the Bar. In many cases, prosecution offices directly hire lawyers for the accused and do not provide statistics on such cases to the Bar.”

Suggested Questions:

- *Please provide information about the number of cases referred to pro-bono attorneys in Iran, and on the sentences ruled on such cases. Please provide statistics on the use of Article 191 of the Code of Criminal Procedure by investigating judges, under which lawyers are denied access to case files and provide data on what has been the judicial outcomes in these cases.*
- *Please comment on reports according to which some persons have been arrested, tried, convicted and executed within less than 6 months between the time of the arrest and the time of the execution, and explain how fair trials standards are safeguarded in that context.*
- *Please explain what the state party is doing or intends to do to guarantee in law and practice that accused persons enjoy a legal defense in line with Article 14 of the Covenant.*

⁶¹ “If You Are Arrested for Murder and You Don’t Have Money,” Iran Students News Agency. 1 February 2018, <https://www.isna.ir/news/96111106756>

⁶² Interview with Islamic Republic News Agency, 5 October 2018. (<http://www.irna.ir/fa/News/83122225>)

⁶³ February 1, 2018 report by the Iran Student News Agency (ISNA)

F) Right to appeal

40. In 2011, the Committee recommended that Iran ensure that all legal proceedings are conducted in full accordance with article 14 of the Covenant, including by guaranteeing the right to appeal a ruling.⁶⁴
41. CCP Article 431 provides that judgements can be appealed within 20 days by parties within the country, and within two months by those outside the country.⁶⁵ Per Article 433, court verdicts can be appealed by defendants and plaintiffs, their lawyers, or legal representatives; and by the Prosecutor's Office in cases of acquittal or where matters of legality or proportionality of sentencing are at stake.
42. This principle however suffers exceptions. Certain judicial decisions are automatically considered final and unable to be appealed, such as eighth-degree ta'zir verdicts⁶⁶ and payments of *diya* (blood money) amounting to less than a tenth of full *diya* (Article 427 of the CCP).⁶⁷
43. In August of 2018, Sadegh Larijani, then head of the judiciary, issued a directive (after receiving approval from the Supreme Leader) authorizing "swift and decisive conduct" against those accused of economic corruption by empowering special tribunals. Time frames for appealing non-capital verdicts issued by these tribunals were shortened to ten days for capital verdicts, any sort of reduction or suspension of sentence was forbidden, and all non-capital verdicts were made unappealable.⁶⁸ This directive was valid for two years, after which it was extended twice more (each time for one year). The last time Supreme Leader Ayatollah Khamenei accepted the extension, he also requested that the subjects of this instruction become law. Therefore, a bill is being considered in the parliament to amend the existing law⁶⁹ to deal with economic corruption cases. The problem of excluding the right to appeal for third- and lower-degree punishments remains in the proposal.⁷⁰

⁶⁴ Human Rights Committee, *Concluding observations: Islamic Republic of Iran*, 29 November 2011, CCPR/C/IRN/CO/3, para. 21

⁶⁵ Article 236 of former CCPPRC also foresaw such periods

⁶⁶ I.e. incarceration up to three months, fines of up to 10 million rials, and floggings up to ten lashes

⁶⁷ The CCP had, in its Article 232, more drastically reduced the scope of verdicts which could be appealed: sentences of more than one fifth of full *diya* or confiscation of properties valued under 1 million rials, for instance, could not be appealed. Notably, the CCP had made appealable all verdicts of flogging, regardless of number of lashes.

⁶⁸ See ABC's "The Iran Judiciary's Illegal Directive on Financial Corruption: A Legal Analysis from ABC"

(<https://www.iranrights.org/library/document/3448>). Vahid Mazlumin and Mohammad Esmail Qasemi, both put to death in November 2018, were sentenced by such special tribunals. <https://www.iranrights.org/memorial/story/-8336/vahid-mazlumin>; <https://www.iranrights.org/memorial/story/-8335/mohammad-esmail-qasemi>

⁶⁹ <https://shenasname.ir/laws/39938>

⁷⁰ https://rc.majlis.ir/fa/legal_draft/show/1654098

44. In a positive development, Paragraph C of Article 450 of the new Islamic Penal Code, entered into force in 2015, obligated appeals courts for the first time to hold trial sessions and invite parties to the case and their lawyers to participate for a wide variety of cases, including capital cases.

45. However, that provision was suspended through a circular issued by Judiciary Chief Ebrahim Ra'isi, who is believed to have secured the permission of the Supreme Leader. The decision was referred to by an official of the Ministry of Justice in a letter to judges of Tehran Province and reported in Iran's media on July 21, 2019.⁷¹ This legal change undermines defendants' right to appeal a ruling by doing away with certain procedures, including in-person trial sessions for appeals proceedings as under Article 450 of the CCP. Appeals can now be undertaken without a hearing, in the absence of the convict and of his or her lawyer.

46. A number of recent examples illustrate this new practice:

- One of the cases which has been adjudicated without trial sessions on the basis of this governmental directive for which the court of first instance's verdict has been upheld is that of **Aras Amiri**. On May 13, 2019, a Revolutionary Court sentenced Ms. Amiri to 10 years' prison time and a two-year ban from employment and leaving the country on security-related charges. In July/August 2019, an appeals court upheld the verdict in its entirety without convening a hearing session.
- **Parisa Rafi'i** and **Pedram Pazireh** were arrested in connection with January 2018 protests and each sentenced by the court of first instance to seven years' ta'zir prison, 74 lashes, and a two-year ban on employment and membership in groups or political parties; their verdict, too, was upheld without a court session.
- Another such case is that of **Hamed Ayinehvand**, a journalist imprisoned at Evin Prison. In July/August 2019, Mr. Ayinehvand's lawyer Hossein Bayat announced he had reported to an appeals session to which he had been invited only to be told by officials that the head of the judiciary had issued a proclamation that holding court sessions was no longer necessary.⁷²

47. Reports collected by ABC indicate that defendants are routinely denied effective appeals proceedings in other cases as well, as illustrated by the cases below:

- **Hashem Sha'baninejad Amuri**, an Arab civil society activist, and four co-defendants were given a death sentence by Branch 2 of the Revolutionary Court in Ahwaz on July 7, 2012. Upon appeal, Branch 32 of the Supreme Court upheld the verdict. The Supreme Court decision explicitly referenced the defendants' claims that their confessions had been coerced under torture and the fact that they rejected the charges against them, but held that "the defendants and their counsel have not submitted any evidence to prove said claim."⁷³

⁷¹The letter refers to a meeting of judiciary officials held on June 19, 2019, in which this decision was discussed; Paragraph C of the new Code reads: "Apart from the instances mentioned in the above paragraphs, wherever a crime is among those crimes carrying hoddud or qesas punishments, or unintentional crimes carrying more than half of dieh, or for ta'zir crimes of the fourth or fifth degree absolutely, or ta'zir crimes of the fifth and sixth degree in cases of an incarceration verdict, and in other cases where petitioned, the appeals court shall, by issuing an order establishing a time, summon the parties and persons [to the case], whose presence is necessary. The parties may be present in person or introduce a lawyer. In any case the lack of presence of a lawyer or failure to introduce a lawyer is not an impediment to trial". See for the announcement of the decision in Iran's media: Youth Journalism Club, July 21, 2019 (<https://www.yjc.ir/fa/news/7009151>)

⁷² See Abdorrahman Boroumand Center, "Judiciary's New Approach to Appeals Trials is Against the Law," August 22, 2019 (<https://www.iranrights.org/library/document/3619>)

⁷³ Omid memorial case of Hashem Sha'baninejad Amuri, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/71725/hashem-shabaninejad-amuri>)

- Arrested in the summer of 2013, **Reza Hosseini** was issued a death sentence for narcotics charges by Branch 30 of the Revolutionary Court of Tehran in February 2014. The General Public Prosecutor's office reportedly denied his attorney's appeal bid, and he was executed on May 3, 2016.⁷⁴
- **Mohsen Nasiri** was given a death sentence for narcotics charges following an April 2013 trial. Though the Supreme Court noted his request for an appeal on January 11, 2016, it was reportedly never heard.⁷⁵
- **Hassan Dehviri and Elias Qalandarzehi** were put to death the morning of January 2, 2021 at Zahedan Prison,⁷⁶ in spite of the fact that their lawyer, Mohammad Reza Faghihi, had just one day prior submitted a retrial request with the Supreme Court owing to judicial defects and lack of attention to defense statements in the case. The retrial motion had been accepted and registered by the Supreme Court secretariat, and was to be assigned to a Supreme Court Branch.⁷⁷

Suggested Questions

- *Please provide information as to whether the state party intends to reform the functioning of special tribunals on economic corruption crimes, to ensure that the right to appeal is guaranteed in line with Article 14 of the Covenant*
- *Please explain whether the state party intends to ensure that the right to appeal includes in-person hearings and the right for the convict to be heard in all cases, in line with international standards. In this light, please provide information as to whether the state party intends to repeal or reform the 2019 directive that provides that in certain cases appeals can be settled in the absence of a hearing.*

G) Independence of the judiciary

48. In 2011, the Committee recommended that Iran take steps to ensure and protect the full independence and impartiality of the judiciary, including from the executive power and from the clergy.⁷⁸
49. The head of the judicial system in Iran (the Chief Justice) is directly appointed by the Supreme Leader, and can be dismissed at any time by him. No other organ or institution is involved in these processes. According to Principle 157 of the Iranian Constitution, "In order to fulfill the responsibilities of the judiciary branch in all judicial, administrative, and executive matters, the Leader [of the Revolution] shall designate for a period of five years a scholar of jurisprudence (*Mojtahed*), who is just and knowledgeable of judicial matters and is a competent administrator, as

⁷⁴ Omid memorial case of Reza Hosseini, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/74843/reza-hosseini>)

⁷⁵ Omid memorial case of Mohsen Nasiri, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7770/mohsen-nasiri>)

⁷⁶ Tasnim News, January 3, 2021 (<https://www.tasnimnews.com/fa/news/1399/10/14/2424840>)

⁷⁷ Telegram Channel of Emtedad, January 2, 2021 (<https://t.me/emtedadnet/50671>)

⁷⁸ Human Rights Committee, *Concluding observations: Islamic Republic of Iran*, 29 November 2011, CCPR/C/IRN/CO/3, para. 22

head of the judiciary branch, the highest official in the judiciary branch.” Furthermore, pursuant to Principle 110, the Leader has the authority to dismiss the head of the judiciary. Judges and members of the parliament have no right or say in the selection, dismissal, or reprimand of the head of the judiciary.

50. The Chief Justice is in charge of selecting high-ranking judicial officials including the Head of the Supreme Court and the country’s Prosecutor General.⁷⁹
51. Given that adjudication is the cornerstone of the legal system, it is therefore imperative that the mechanism devised for the selection of judges be based on clear criteria that ensure the competence and independence of those selected.
52. The Law for the Selection of Judges of 1982 with subsequent amendments, as well as the Guidelines for the Recruitment, Selection, and Apprenticeship of Applicants for Judgeship and Employment of Judges of 2013, are the main norms regulating the selection of judges. A significant part of the criteria for selecting judges in Iran is discriminatory based on religion and gender: only Muslim men can be judges, and ambiguous criteria of political loyalty are included.⁸⁰
53. Article 13 of the aforementioned Guidelines sets general requirements for candidates:
 - Among them are “being bound to faith” and “being loyal to the principle of the primacy of the Supreme Leader.”
 - Pursuant to Article 14 the Guidelines for the Recruitment, Selection, and Apprenticeship of Applicants for Judgeship and Employment of Judges of 2013, field investigations and conducting ideological and political interviews are part of the selection process, offering an opportunity to select candidates based on criteria of political loyalty.
54. Field investigations are conducted by the investigators in the candidate’s place of residence or work and through interviews and collection of information from the candidate’s neighbors and acquaintances. Investigators’ questions concern the individual’s and family members’ private life and proper adherence to Islam; for instance, the questions may relate to his wife’s, sister’s, and mother’s clothing and whether, and to what extent, they observe the Islamic Republic’s dress code(s) for women.⁸¹

⁷⁹ See Articles 158 to 162 of the constitution of the Islamic Republic of Iran (<https://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf>)

⁸⁰ Pursuant to Paragraph 5 of the Law for the Selection of Judges, the rule is to select judges from among experts in religious jurisprudence [“Mojtahed”], and in the event that there is not a sufficient number of such experts, then selection can proceed from among other candidates. “Mojtahed” is an individual who has studied religious teachings at [Islamic] seminaries, and has reached the level of expert [“Ejtehad”] with the approval of [more prominent] religious experts. Hence, influenced by Islamic jurisprudence, Iranian law considers the position of judge to be the domain of religious experts, who may not have any legal knowledge; others can be selected as judges only if there are not enough Mojtahed to fill the positions.

Furthermore, pursuant to the Law for the Selection of Judges and the Guidelines for the Recruitment, Selection, and Apprenticeship of Applicants for Judgeship and Employment of Judges, recruitment of graduates in the field of Islamic Culture, as well as seminary graduates, is permitted. Also, according to the Iranian Constitution, it is not necessary to have studied law to be selected as Head of the Judiciary Branch, Prosecutor, or Head of the Supreme Court.

⁸¹ <http://rc.majlis.ir/fa/law/show/90547>; <http://rc.majlis.ir/fa/law/show/91044>

For the text of the Guidelines refer to: <http://rooznamehrasmi.ir/Laws/ShowLaw.aspx?Code=927>

55. Law and practice with regard to the selection of judges in Iran inevitably impact the judicial process and undermine due process of law, as attested by a 2014 Judiciary’s circular which listed the most common complaints against judges and numerous due process violations. These include unlawful arrest, failure to renew temporary detention orders within the prescribed time, failure to render decisions within the prescribed time, ruling prior to the conclusion of investigation and trial, issuing decisions in courts of original jurisdiction without convening a trial session, issuance of “unfounded and undocumented” rulings, issuing rulings outside the scope of the complaint, and unpleasant, inappropriate, and insulting conduct.⁸² There is little transparency regarding these complaints and their outcome and not all are considered. During the Iranian year 1395 (March 20, 2016 – March 19, 2017), Iran’s General Inspection office received 30,315 complaints. The office sent 3,464 emails to those who had filed complaints. Written follow-ups of local and provincial investigations amounted to 1,502.⁸³
56. In response to the Committee's recommendations, Iran denies gender discrimination in appointing judges to the Islamic Republic's judiciary. They have published statistics on women judges working in the Islamic Republic's courts.⁸⁴ According to this information, Iran claims there are more than 1,000 women judges. However, the information provided by Iran in its report shows that no woman judge can rule on a case. The positions held by women are those of advisory judge, investigator of the Prosecutor’s Office (bazpors), assistant prosecutor, and executor of civil judgments.
57. For example, Hanieh Parsaian is an executor judge in Abadeh, Fars Province.⁸⁵ Mahboubeh Mirzabeigi is the director of crime prevention in the social department of the Kerman Judicial Complex.⁸⁶ Nayreh Abedinzadeh is the Deputy Prosecutor of Mashhad.⁸⁷ Mihan Dokht Davoodi is the Deputy Chief Justice of Tehran Province and the head of implementing civil judgments at the Family Court.⁸⁸ These individuals explain their judicial role in all of these examples, which confirms the above.
58. The due process concerns outlined above are especially grave in light of the strikingly high numbers of executions conducted by the State since the last review. ABC has collected reports on at least 5,885 executions conducted by Iran since the beginning of 2012 through August 15, 2022.⁸⁹

Suggested Question

The Law for the Selection of Judges of 1982, thus took away women’s right to become a judge. Entry of women into judicial positions where they do not have the authority to render a decision is permitted. These include a limited number of positions as assistant prosecutors, as well as advisory judges in family courts with no authority to render court decisions.

⁸² <https://www.iranrights.org/library/document/2994>

⁸³ Ministry of Justice 2017 report on the accomplishments of the Judiciary in the year 1395.

<https://www.justice.ir/FileSystem/View/File.aspx?FileId=5282d9cd-913e-4c78-b3d8-b39475070de2>

⁸⁴ Fourth periodic report submitted by the Islamic Republic of Iran under article 40 of the Covenant, CCPR/C/IRN/4, para 164:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FIRN%2F4&Lang=en

⁸⁵ irna.ir/xjkRrv

⁸⁶ <https://www.yjc.news/fa/news/6978700/>

⁸⁷ <http://fna.ir/bplwn4>

⁸⁸ <https://www.mashreghnews.ir/news/896634/>

⁸⁹ <https://www.iranrights.org/memorial>

- *Please clarify whether the state party intends to reform its legislation in order to ensure that the judiciary, from judges to the Chief Justice, are fully independent from other branches of the government and from the clergy, including by ensuring that the political power and the clergy do not interfere in the selection, appointment and dismissal of judges and of judicial authorities*

H) Cruel and Unusual Punishments: flogging

59. In 2011, the Committee expressed concern at the continued imposition of corporal punishment by judicial and administrative authorities, including flogging, and called on Iran to abolish this sentence in the Penal Code⁹⁰.
60. In the Islamic Republic of Iran, at least 149 crimes continue to be punishable by flogging. The laws related to flogging are broad and encompass a wide array of acts recognized as crimes. Flogging is foreseen for offenses such as: consumption of alcohol, drug use and petty drug dealing, theft, adultery, "flouting" of public morals, illegitimate relationships, and mixing of the sexes in public.⁹¹
61. Flogging is also used in interrogations,⁹² but its use is more often reported in the case of political detainees from specific political or ethnic groups. Judges also have the latitude to mete out corporal punishment for those sentenced to death. In such cases, the flogging is carried out before the execution to maximize the convict's suffering.⁹³
62. Iranian authorities do not systematically or thoroughly release information on flogging sentences or their implementation. Reports of flogging cases appear in the Iranian media occasionally, though only rarely from small towns and villages. A number of Iranians interviewed by ABC have reported being aware of cases of lashing of vulnerable individuals, such as drug addicts, that have not been reported in the media or elsewhere. The Head of Mazandaran Courthouse stated in an interview reported by Iran Students News Agency on December 31, 2012 that a total of 46,180 judicial rulings had been carried out in the province in the course of eight months. Among these cases, he said, 10,815 cases resulted in flogging.⁹⁴ Nonetheless, ABC has collected reports of at least 684 sentences of flogging implemented, from the beginning of 2012 until the time of this writing. Available reports indicate another 1,496 sentences of flogging were issued in this period, with specifying information regarding their implementation. These figures are necessarily much lower than the reality.
63. The degrading nature of flogging deters many victims from reporting on their cases. Furthermore, not all reported flogging sentences are implemented. Some sentences can be replaced by fines and,

⁹⁰ Human Rights Committee, *Concluding observations: Islamic Republic of Iran*, 29 November 2011, CCPR/C/IRN/CO/3, para. 16

⁹¹ For a list of acts punishable by flogging in Iranian law, see: <https://www.iranrights.org/library/document/3643>

⁹² E.g. **Nour Ahmad Hassan-Zehi**, a Baluch political prisoner taken into custody by agents of the Ministry of Information in March 2011, reported being bound to a device called a "miracle bed" and beaten with cables on the soles of his feet during interrogations (<https://www.iranrights.org/library/document/3136>)

⁹³ <https://www.iranrights.org/library/document/3169>

⁹⁴ [iranrights.org/library/document/2307/flogging-in-mazandaran-a-total-of-10815-individuals-received-lashes-in-eight-months](https://www.iranrights.org/library/document/2307/flogging-in-mazandaran-a-total-of-10815-individuals-received-lashes-in-eight-months)

in some cases, political and other factors affecting local authorities' decisions or corruption in the judiciary, could result in the waiving of a reported sentence.

64. Examples of flogging sentences in the period include:

- **Hossein Movahedi**, a media reporter in Najafabad, had been arrested for publishing the wrong number of motorcycles seized by the security forces. He was condemned to 40 lashes and the ruling was carried out last week on January 5, 2017.⁹⁵
- Human rights lawyer **Amirsalar Davoudi**, arrested on 20 November, 2018, was sentenced by Branch 15 of the revolutionary court to 30 years in prison and 111 lashes including for reporting on human rights violations through a Telegram mobile messaging app and giving media interviews.⁹⁶
- A young woman arrested on charges of having “satanic relations” with a man other than her husband has been sentenced in 2017 to two years of washing corpses in morgues and 74 lashes at the decision of a judge at Tehran’s Branch Five Criminal Court.⁹⁷
- **Peyman Nodianian**, a Board of Directors’ member of the Teachers’ Association was accused of “insulting a public officer on duty” and Branch 105 of the Islamic Revolutionary Court of Sanandaj (Kurdistan) sentenced him to lashes and suspended imprisonment. The 20 lashes sentence was carried out at the Enforcement Branch of Sanandaj Courthouse in March 2014.
- A 14 year-old boy was sentenced to six months in prison and 30 lashes for stealing pigeons from his neighbor’s roof in February 2013 by a court in Birjan, Khorasan Province. The judge sentenced the boy despite the fact that the pigeons were returned and the plaintiff withdrew his complaint.⁹⁸
- A sentence of 80 lashes for **Zaman (Saheb) Feda’i**, a Christian convert, implemented at Evin Prison on November 15, 2020 on charge of alcohol consumption for drinking communion wine at a home church service, handed down in the fall of 2017. Less than a month earlier, Feda’i had returned to Evin from his first furlough. Feda’i was arrested in a May 2016 raid on a home church service in Rasht, Gilan Province along with four other converts.⁹⁹
- A sentence of 74 lashes for labor activist and laid-off Pars Khodro auto company employee **Davoud Rafi’i**, was implemented at Evin Prison on November 26, 2020, on charge of insulting the Minister of Labor, following Rafi’i’s participation in a protest at which he displayed a placard critical of the Minister. The sentence had been issued by a Tehran court and upheld by Branch 36 of the Appeals Court of Tehran Province. The sentence was implemented after Rafi’i, free on bail, had reported to the Evin Prosecutor’s Office to follow up on his case; he had not been informed the sentence had been finalized.¹⁰⁰
- Political prisoner **Chia Aghabeigpour**, an ethnic Kurd, was given 70 lashes at Bukan Prison on February 23, 2022 for a conviction of “propaganda against the regime to the benefit of an anti-regime political group” issued by the Revolutionary Court of Bukan.¹⁰¹

⁹⁵ <https://www.iranrights.org/library/document/3126>; See also <https://www.iranrights.org/library/document/3270>

⁹⁶ See Amnesty International urgent action: <https://www.iranrights.org/library/document/3587>

⁹⁷ <https://www.iranrights.org/library/document/3190>

⁹⁸ <https://www.iranrights.org/library/document/2732>

⁹⁹ <https://www.iranrights.org/library/document/3816>

¹⁰⁰ <https://www.iranrights.org/library/document/3819>

¹⁰¹ <https://www.iranrights.org/library/document/3950>

- On May 8, 2022, four individuals (names unknown) were flogged in the yard of Langaroud Prison after being convicted by the Special Economic Court in connection with a real estate fraud scheme. The four were flogged in the presence of individuals who had lost money in the scheme.¹⁰²

Suggested Questions

- *Please provide information about the number of flogging sentences imposed by Iranian courts*
- *Please clarify whether the state party intends to review the sentences provided for in its Penal Code with a view to abolish sentences that result in corporal punishment, like amputation and flogging, in contravention with the Covenant*

¹⁰² <https://www.iranrights.org/library/document/3942>