

The Islamic Republic of Iran's Compliance with the International Covenant on Civil and Political Rights: Drug Offenses

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Adoption of List of Issues Prior to Reporting

Abdorrahman Boroumand Center for Human Rights in Iran

and Harm Reduction International

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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.



Harm Reduction International (HRI) is a leading NGO dedicated to reducing the negative health, social, and legal impacts of drug use and drug policy. HRI promotes the rights of people who use drugs and their communities through research and advocacy to help achieve a world where drug policies and laws contribute to healthier, safer societies.

The organisation is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

Introduction

Anti-narcotics campaigns have been a fixture of Iranian life since the 1980s. In the past four decades, they have led to the violation of a myriad of rights including the rights to liberty and security, due process, and life and the right to not be subjected to torture and cruel and inhuman punishments of millions of citizens and immigrants.¹ Mass arrests for drug use, petty dealing, and trafficking have also placed a

¹ According to published statistics by the UNODC, between 1979 and 2003, 911,646 drug-users and 1,644,497 drug dealers were sent to prison: a yearly average of 106,509. Between 1989 and 2003, 1,714,601 drug-users were arrested and 1,962,049 drug-related cases were filed in courts. Since then, the numbers have steadily increased.

(https://www.unodc.org/pdf/iran/drug_crime_situation/dsr/Supply_Reduction_trends_and_trafficking.pdf)

Some 200,000 individuals were arrested between March 2010 and February 2011 for drug use or drug-dealing, according to Hamidreza Hosseinabadi, Head of the Anti-Narcotics Police (Jam-e Jam Online, February 26, 2011, <https://www.jjo.ir/001cqs>).

340,000 people were arrested during the Iranian year 1394 (March 2014-March 2015) of which 230,000 were traffickers and 110,000 drug users, according to Sardar Ali Movayedi, Head of the Anti-narcotics Police (Addiction News Agency, March 7, 2016, <https://bit.ly/3ex4aKg>)

According to official data, new prison entries for the year 1395 (March 2017-March 2018) was 459,666. 43.77% of these new entries were drug-related offenses. (Ministry of Justice report on the judiciary for the year 1395, 2017 justice.ir/FileSystem/View/File.aspx?FileId=5282d9cd-913e-4c78-b3d8-b39475070de2)

massive burden on Iran's criminal justice (60% of criminal cases in Iran have a drug aspect, according to one parliamentarian)² and lead to summary trials of alleged drug offenders who, for the most part and until recently, did not have access to defense attorneys (even during trial when facing the death penalty). These policies have also weighed heavily on prisons and state-run and private centers where drug users are held as punishment or for forced detoxification without proper medical supervision. The Islamic Republic of Iran's punitive anti-narcotics laws were promulgated by unelected and unaccountable bodies with no legislative mandate in 1980 and 1988 and were neither drafted nor approved by lawmakers. The scope of the reform of the drug laws attempted by lawmakers in 2016-2017 was also limited by non-elected bodies.

Since its 2011 review by the Committee, the Islamic Republic of Iran has pursued a policy regarding drug offenses that has grave implications in terms of the rights enshrined in the International Covenant on Civil and Political Rights.

This submission will provide information on the compatibility of Iran's drug control policy with its obligations under ICCPR, with a focus on:

- The death penalty for drug offences (Art. 6, 7, 14);
- Cruel, Inhuman, and Degrading Punishments for Drug Offenses (Art. 7);
- Due Process in Drug-Related Cases (Art. 9, 14); and
- Compulsory drug detention and rehabilitation centres (Art. 6, 7, 9, 10, 14)

Background: Iran's Drug Law

Drug policy in the Islamic Republic of Iran is marked by draconian criminalization, lack of transparency, and heavy-handed securitization, which are rooted in a set of institutions fundamentally resistant to popular accountability.

The Revolutionary Council - a non-transparent, unelected body with no legislative mandate instituted by the Founder of the Islamic Republic, Ayatollah Khomeini, shortly before the 1979 revolution - decreed a narcotics law in June of 1980 which foresaw the death penalty for dealing, carrying, possessing, or hiding more than one kilogram of natural substances (i.e. opium) and more than five grams of industrial substances (i.e. morphine).³ Drug use and drug dependence were also criminalized and severely punished with imprisonment, fines, and flogging. Only one of the 25 articles of the Council's law addressed rehabilitation. 1988's Law for Combating Drugs was passed by the Expediency Council, also established by decree of Ayatollah Khomeini and not mandated to legislate.⁴ The Law foresaw mandatory death sentences for possession of more than 5 kilograms of natural substances and more than 30 grams of industrial ones, and for repeat offenders where volumes in question in different offenses cumulatively

A member of the parliament Legal and Judicial Committee reported 490,000 new entries in the Iranian year 1396 (March 2017-March 2018) based on the Ministry of Justice statistics (Islamic Consultative Assembly News Agency, June 28, 2018 icana.ir/Fa/News/390837)

² Deputy Jalil Rahimi Jahanabadi noted in April of 2018 that "according to unofficial statistics, more than 60 percent of judicial cases are directly or indirectly – whether they consist of theft, divorce, etc. – are drug related." Khane-ye Mellat News Service, April 27, 2018 (<https://www.iranrights.org/library/document/3733>)

³ See "Bill for Toughening Drug Crime Punishments and for Therapeutic and Security Measures" (<https://www.iranrights.org/fa/library/document/3540>)

⁴ Even by the terms of Iran's Constitution as formalized in 1989, no legislative authority was recognized for the Expediency Council, whose ostensible purpose was to reconcile differences between the Majles and the Council of Guardians. (<https://irandataportal.syr.edu/political-institutions/the-expediency-council>)

exceeded these amounts. It also established a new anti-narcotics agency, the Drug Control Headquarters. Iran's drug-related executions skyrocketed from more than 60 in 1979 to nearly 600 in 1984. In the aftermath of the Expediency Council's legislation, between January 1989 and July 1990 alone some 1,100 people were reportedly executed for drug offenses.⁵

Drug related executions continued in the 1990s and 2000s, mostly unannounced. With a steady increase starting in the mid-2000s, drug-related executions rose to at least 678 in 2015 (of 1,054 total), according to official statements and reports collected by ABC.⁶

2017 Reform of the Law for Combating Drugs

In December 2015, Majles lawmakers introduced draft legislation to abolish the death penalty for all non-armed drug-related offenses.⁷ The proposal followed a rising chorus of experts and some officials' criticism of the existing law, whose failure to stem drug dependence and trafficking activity they acknowledged,⁸ and sparked debates in the media and among officials about the failures of a harsh punitive approach.⁹

The proposal was staunchly opposed including by officials in the police and the Drug Control Headquarters claiming that the reform would exacerbate the country's drug problem. After months of studies and debates, the Majles Legal and Judicial Commission presented a draft law to be voted on by the parliament on June 7, 2017 which limited the death penalty chiefly to armed drug offenses.¹⁰ The vote was not held owing to an armed attack on the parliament building that very day. Commission Spokesperson Hassan Noruzi later said in an interview that the draft law had been removed from the agenda under pressure from the government and the security apparatus.¹¹ The version of the bill which was finally passed by the Majles in October 2017, altered under pressure from security bodies, fell considerably short of the 2015 proposal in terms of bringing Iran's drug policy into compliance with ICCPR commitments.¹² The law as amended continues to prescribe the death penalty for acts which do not constitute "most serious crimes" as developed in General Comment No. 36, i.e. those of "extreme gravity involving intentional killing."

⁵ Including individuals with other capital judgments. Amnesty International, December 2011, "Addicted to Death: Executions for Drug Offenses in Iran" (<https://www.amnesty.org/en/documents/mde13/090/2011/en/>)

⁶ According to numbers compiled by ABC, figures for drug-related executions (including cases where defendants faced another capital charge, but it is not clear for which charge they were put to death) in recent years comprise at least 339 for 2016 (of at least 592 total), at least 222 for 2017 (of at least 509 total), at least 27 for 2018 (of at least 261 total), and at least 27 for 2019 (of at least 257 total). Amnesty International reported at least 977 executions in Iran in 2015, "a majority" for drug offenses; at least 567 in 2016, including at least 328 for drug offenses; at least 507 in 2017, including 205 for drug offenses; at least 253 in 2018, including 25 for drug-related offenses; and at least 251 in 2019 (including at least 30 for drug-related offenses) (<https://www.amnesty.org>). Harm Reduction International has given the number of drug-related executions conducted by Iran in recent years as follows: at least 638 in 2015, at least 296 in 2016, at least 242 in 2017, 23 in 2018, and 36 in 2019 (<https://www.hri.global>).

⁷ Text of the original measure: <https://www.iranrights.org/library/document/3224>

⁸ A 2012 Expediency Council report, for instance, stressed that the country's harsh criminalization approach was untenable and indeed of serious reform. It pointed to the heavy financial and moral cost of dealing with addicts and noted that such policies are not supported by public opinion, as gauged by a 2004 poll conducted across provincial capitals.

Mohammad Ali Zakaria'i, "Introduction to the Law for Combating Drugs and Addiction," prepared for the Expediency Council's anti-narcotics commission. Published Iranian year 1390 (2011/2012). ISBN:978-964-2977-36-9 / 978-964 -2977 -36-9

⁹ See e.g. Jalil Rahimi Jahanabadi, Majles Representative and Legal and Judicial Commission member, ISNA, July 23 2017 (<https://www.iranrights.org/library/document/3207>): "Had arrests, detentions and executions yielded results, we would not be in such a situation."

¹⁰ This version of the law also foresaw the death penalty for those who "played a leadership role," used minors to commit crimes, and a few other conditions which were retained in the final version of the law. Notably, it contained no reference to volumes of drugs (<https://www.iranrights.org/library/document/3222>)

¹¹ Andisheh, January 15, 2018 (<https://www.asriran.com/002SVu>)

¹² Full text of the measure: <https://www.iranrights.org/library/document/3262>. See also ABC's "A Review of Iran's Drug Law Reform" (<https://www.iranrights.org/library/document/3381>)

The amendment (Article 45) to the Law for Combating Drugs restricted the use of the death penalty chiefly by increasing the volume threshold attracting a capital sentence for drug crimes. The bar for importing, exporting, sending, producing, manufacturing, distributing, selling, making available for sale Article 4 substances ("natural" drugs like bhang, hashish, marijuana, opium, opium juice, or opium residue) has been raised from five to above 50 kilograms. The threshold for importing, exporting, sending, producing, manufacturing, distributing, selling, and making available for sale of Article 8 substances ("processed" drugs such as heroin, morphine, cocaine, other chemical derivatives of morphine or cocaine, LSD, MDMA, GHB, Flunitrazepam, amphetamine, and methamphetamine) has been raised from 30 grams to above two kilograms. For the acts of storing, hiding, and carrying "processed substances," the bar is above three kilograms.

Under the new Amendment, death penalty remains mandatory when the new thresholds are met, and even when they are not met, if the accused is a ringleader or financier, in cases where a principal or accomplice has drawn a weapon or carried a weapon with intent to oppose law enforcement, or where individuals who are under the age of 18 or mentally ill are exploited in the commission of the crime. The law does not define criteria such as "ringleader" nor does it provide for how "intent to oppose law enforcement" is to be established, potentially leaving capital sentencing open to wide interpretation on the part of judges. The 2017 reform to the Law for Combating Drugs declared all capital drug crime to be instances of "corruption on Earth," a *hoddud* or "fixed punishment" offense.¹³

Despite the recognition in the drug law reform of the special vulnerability of persons under 18, Iranian law continues to expose persons to the death penalty for drug-related crimes committed as minors.¹⁴ Article 91 of the Islamic Penal Code, which took effect in 2013, affirms that minors can be sentenced to death for *hoddud* (as well as *qesas*) crimes.¹⁵

Following the ratification of the law in November 2017, a de facto moratorium on drug-related executions went into effect. A review process started in early 2018 for thousands of individuals sentenced to death for drug offenses under the terms of the reformed drug law. Assessing the impact of the reform is challenging due to the judiciary's lack of transparency and the absence of official data regarding the number of executions and death row prisoners and their charges. Figures given by officials for death row prisoners affected by the Amendment ranged from 3,000 to 15,000. The Tehran Prosecutor announced in November 2018 that 3,300 requests for review under the new law had been received in Tehran only.¹⁶

¹³ Thereby resolving an ambiguity of religious jurisprudence: Before the change, some jurists argued drug crime executions amounted to ta'zir punishments, or discretionary matters of state, which in principle should preclude capital punishment

¹⁴ABC has collected reports of nine alleged juvenile drug offenders in the period.

Cf. par. 16 of the Committee's 2011 Concluding Observations 13, "The State party should immediately end the execution of minors, and further amend the draft juvenile crimes investigation act and the Bill of Islamic Criminal Code with the aim of abolishing the death penalty for crimes committed under the age of 18. The State party should also commute all existing death sentences for offenders on death row who had committed a crime while under the age of 18."

¹⁵ Article 91 does introduce for the first time the possibility of mitigating capital sentences for juvenile offenders by granting judges the leeway to issue alternative sentences where defendants under 18 "do not realize the nature of the crime committed or its prohibition, or if there is uncertainty about their full mental development." The Note to Article 91 permits judges to "ask the opinion of forensic medicine or resort to any other method that it sees appropriate in order to establish the full mental development," though it does not require them to seek such expert advice, and no standardized evaluation for establishing "mental development."

For more on the 2015 Code of Criminal procedure and its failure to end Iran's policy of executing minors, see ABC's October 2019 "Children, Yet Convicted as Adults: A Report from Abdorrahman Boroumand Center" (<https://www.iranrights.org/library/document/3629>)

¹⁶ Lawmakers themselves have expressed frustration over this failure of collecting and publishing accurate numbers on the part of judiciary officials (see for instance "Majles Rep. Jahanabadi: Judiciary Should Announce Statistics on Drug-Related Executions," July 23, 2017, ISNA <https://www.iranrights.org/library/document/3207>.) In August of 2017, Majles Judicial and Legal Commission spokesman Hassan Nowruzi stated that some 5,300 people were on Iran's death row for drug charges (<https://ir.voanews.com/a/iran-human-rights-justice/3977167.html>). By February of 2018, Nowruzi spoke of more than 15,000 cases

Alternative punishments now being implemented, including lengthy prison sentences and heavy fines,¹⁷ constitute heavy burdens on those convicted and their family members, many of whom are from economically deprived backgrounds.¹⁸ Cases of mitigated capital sentences of which ABC has documented include:

- A man whose case involved 90 “sort” units of methamphetamine and five kilograms of opium, who was initially given a death sentence. It was reduced initially to a life term, and eventually to 18 years’ prison and 700 million rials (c. 21,000 USD) in fines.
- A man arrested in an airport before boarding an international flight with 45 grams of methamphetamine and sentenced to life in prison. His sentence was reduced to fines and 20 years in prison. A further eight years were ultimately taken off this sentence, reducing it to 12 years.
- A man’s death sentence for a crime involving 450 grams of methamphetamine has been converted to 30 years’ imprisonment and two billion rials (c. 60,000 USD) - a punishment his mother calls tantamount to the death penalty.¹⁹

Family members of drug convicts have reported to ABC that their incomes are too low to be able to pay the financial penalties added in the new sentences and that they have little hope for seeing their loved ones released from prison.²⁰

The Death Penalty for Drug Offenses (Art. 6, 7, 14)

As in years prior, the State has conducted an alarming number of executions of persons convicted of drug-related crimes in the period under review.²¹ Iranian authorities fail to publish data on death penalty

of drug offenders sentenced to death which were in need of review, citing “information [judicial officials] have given us” (<https://bit.ly/2rFQmQL>). Yahya Kamalipour, a member of the same Judicial and Legal Commission, said in October 2017 that 4,000 prisoners would be spared execution under the new law (<https://www.isna.ir/news/96080804641/>). Representative Mohammad Ali Purmokhtar, also a Commission member, said in September 2018 that there were 3,000 drug traffickers awaiting execution (<https://www.iranrights.org/library/document/3464>). The 3,300 review petition number given by the Tehran Prosecutor includes those with both capital and life sentences (<https://www.radiozamaneh.com/368818>).

Research conducted by ABC regarding the country’s prison population suggests that Nowruzi’s highest figure of 15,000 is likely to be most accurate. On January 8, 2019, Asr-e Iran quoted Iran Prisons Organization Head Asghar Jahangir as saying that the country’s prisons houses more than 240,000 prisoners, 39% of whom - 93,600 – were being held on drug charges (<https://www.asriran.com/fa/news/648578>). In a May 30, 2016 article, the semi-official Mehr News Service quotes Prisons Organization Head Jahangir as saying that 14,000 of Tehran Province’s prisoners (of 32,77 total) were there for drug charges. Tehran Province’s population is approximately 18.9% of the country’s total (<https://www.mehrnews.com/news/3672588>). A December 12, 2017 article from the semi-official Tasnim News quotes a prison official in Kerman Province as saying that of 13,000 prisoners being held in that province, 9,100 had been convicted of drug-related offenses. Kerman’s population is approximately 3.8% of Iran’s total (<https://www.tasnimnews.com/fa/news/1396/09/21/1599394>). January 15, 2019 coverage from Basij News quotes a senior judicial official in Qazvin reporting 1,700 drug prisoners in that province. Qazvin represents approximately 1.6% of the country’s total (<http://basijnews.ir/fa/news/9100644>).

¹⁷ Penalties assessed in a re-sentencing guideline document obtained by ABC include a minimum 500,000 rial fine (c. 15 USD) and 20 lashes for one centigram of industrial drugs; an eight million rial fine (c. 240 USD), 30 lashes, and two years of imprisonment for just one gram of industrial drugs; a 515 million rial fine (c. 15,450 USD), 15 years’ prison, and drug-related asset appropriation for 30 grams of industrial drugs; and a one billion rial fine (c. 30,000 USD), 25 years of imprisonment, and drug-related asset expropriation for 100 grams of industrial drugs. See ABC’s translation of the judiciary’s resentencing guidelines: (<https://www.iranrights.org/library/document/3732/>, attached as Annex I.)

¹⁸ USD conversions for fine amounts given below are based on the official exchange rate as of February 22, 2019. The rate is subject to great volatility. According to an official report from Iran’s Center for Strategic Statistics and Information, in 1396 (March 2017- March 2018), the average annual income of urban families in Iran was nearly 370 million rials (366,947,000) while their average cost of living was nearly 330 million rials (329,525,000). The average annual income of rural families is reported to have been just over 200 million rials (201,842,000) and their cost of living nearly 180 million rials (178,670,00).

¹⁹ ABC interview, November 2018

²⁰ Ibid.

²¹ Cf. par. 12 of the Committee’s 2011 concluding observations: “The State party should consider abolishing the death penalty or at least revise the Penal Code to restrict the imposition of the death penalty to only the “most serious crimes.”

cases systematically and secrecy is norm rather than exception for Iran's judiciary. In the absence of systematic field research, published data and independent monitor's access to courts and prisons, and taking into account the pervasive fear of retaliation among potential sources, numbers cannot be exact and should be seen mostly as indicative of trends.

Reports by official and non-official sources indicate at least 2,439 people have been put to death for a drug offense with no other capital charge²² since the beginning of 2012 through the end of May 2020.²³ Before November 2017, the death penalty was implemented for offenses as minor as transporting 350 grams of heroin,²⁴ participation in the procurement and distribution of 80.199 grams of methamphetamine,²⁵ and transporting and storing 25 grams of methamphetamine.²⁶ Other drug charges for which drug executions were conducted prior to the reform of the law include "selling and distributing one ton of opium", "running a crystal methamphetamine lab", and "transporting and selling 51 tons of drugs."²⁷

Following the 2017 amendment to the drug law, overall rates of execution for drug-related offenses have declined considerably. From the beginning of 2012 through the end of 2017, executions for drug-related offenses with no other capital charge averaged 397 annually.²⁸ In the wake of a temporary moratorium on drug-related executions which lasted from the beginning of 2018 through the end of April 2018, 57 people charged with drug offenses and no other capital offense have been put to death as of the end of May 2020.

Under the terms of the reformed anti-narcotics law, the State has continued to conduct executions for offenses which do not amount to "most serious" crimes. These include the purchase and sale of 100 kilograms of morphine,²⁹ transport of five kilograms of industrial drugs,³⁰ and trafficking 92 kilograms of methamphetamine.³¹

Persons under 18 years of age at the time of their alleged drug-related offenses have also been put to death. Jannat Mir, an Afghan immigrant, was put to death on drug trafficking charges in April 2014; his brother reported he was 15 years old at arrest.³² Khaled Kordi, 17 years at the time of his 2008 arrest for transporting narcotics in a bag the contents of which he maintained he was ignorant of, was put to death in January 2016.³³ Kabir Dehqanzahi, an ethnic Baluch and Pakistani national put to death in July 2019 for an unspecified drug offense for which he had been arrested eight years prior, reportedly at the age of 13,³⁴ was in principle entitled to a review under terms of the new CCP Article 91.

Suggestion for List of Issues Prior to Reporting

²² Excluding cases where, for instance, a defendant has been charged with both a capital drug offense and a capital robbery offense, where reports are ambiguous regarding the charge for which the individual was put to death

²³ This figure represents nearly half (48%) of the total executions conducted in the period.

²⁴ Babak Hassanzadeh, put to death November 8, 2016 (<https://www.iranrights.org/memorial/story/-8436/babak-hassanzadeh>)

²⁵ Ali Reza M., put to death February 4, 2014 (<https://www.iranrights.org/memorial/story/-8435/alireza-m>)

²⁶ Ali Shakoui, put to death April 23, 2012 (<https://www.iranrights.org/memorial/story/-8433/ali-shokuhi>)

²⁷ Research on file with ABC

²⁸ Such executions peaked in 2015 at 678

²⁹ Yunes Azizi, an ethnic Kurd, executed at Orumieh Prison on December 10, 2018 (<https://www.iranrights.org/memorial/story/-8334/yunes-azizi>)

³⁰ Jahangir Nojavan, executed July 27, 2018 at Orumieh Central Prison (Human Rights Activists in Iran News Agency July 27, 2018, <https://www.hra-news.org/2018/hranews/a-16318/>)

³¹ Rasul Molla Hassani, a native of Kermanshah, executed February 2, 2020 at Boroujerd Central Prison (Lorestan) at 39 years of age. Arrested in 2015/2016 (Iran Human Rights, February 2, 2020, <http://iranhr.net/fa/articles/4123/>)

³² Omid Memorial case of Janat Mir, Abdorrahman Boroumand Center: <https://www.iranrights.org/memorial/story/-7529/janat-mir>

³³ Omid Memorial case of Khaled Kordi, Abdorrahman Boroumand Center <https://www.iranrights.org/memorial/story/-7810/khaled-kordi>

³⁴ Human Rights Activists in Iran News Agency, July 16, 2017 (<https://www.hra-news.org/2017/hranews/a-11495/>)

- *Capitalizing on welcome progress made in limiting the scope of the death penalty for drug-related offenses, what steps is the government taking to bring the penal code into compliance with the ICCPR's absolute prohibition on the death penalty for all but "most serious" crimes (art. 6), i.e., those involving intentional killing?*

Cruel, Inhuman, and Degrading Punishments for Drug Offenses (art. 7)

International human rights law absolutely prohibits judicial corporal punishment as constituting cruel, inhuman or degrading punishment, when not torture. This Committee has clarified that the prohibition of torture "must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure".³⁵

Flogging continues to be foreseen in Iranian law for drug-related offenses³⁶ and such sentences are regularly issued by courts.³⁷ A first-time offense of purchasing, hiding, or storing between 5 and 20 kilograms of opium, hemp, or other "natural" narcotics can carry 50 to 74 lashes;³⁸ simple use of hemp, opium, and certain derivative can carry 20-74 lashes;³⁹ and a second-time offense of cultivating poppy, hemp, or cannabis can carry 30-70 lashes.⁴⁰ Though flogging sentences are not widely reported and defendants are often reluctant to speak about the stigmatized punishment, ABC has collected reports on 81 drug-offense related flogging sentences issued since the beginning of 2012, 33 of which were reportedly implemented. These include an individual given 70 lashes in front of his house in Saveh in August 2013 for narcotics distribution;⁴¹ two individuals publicly given 60 lashes each in Farashband for narcotics dealing in December 2014;⁴² and an inmate at Zahedan Prison given 40 lashes in the prison yard for drug use in prison.⁴³

Flogging is also used in interrogations as a means of torture and coercing confessions.⁴⁴

Suggestion for List of Issues Prior to Reporting

- 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 of the Covenant*

Due Process in Drug-Related Cases (Art. 9, 14)

³⁵ Human Rights Committee, General Comment No 20, 10 March 1992, Adopted at the Forty-fourth session, para 3; Committee Against Torture, General Comment No 2, 24 January 2008, CAT/C/GC/2, particularly para 5..

³⁶ The Use of Flogging in Iranian Law: A List of Offenses from Abdorrahman Boroumand Center, November 18, 2019 (<https://www.iranrights.org/library/document/3643>)

³⁷ Cf. par. 16 of the Committee's 2011 Concluding Observations, "The State party should amend the Penal Code to abolish the imposition of corporal punishment by judicial and administrative authorities."

³⁸ Law for Combating Drugs, article 5, part 4

³⁹ Law for Combating Drugs, article 19

⁴⁰ Law for Combating Drugs, article 2, part 3

⁴¹ <https://www.iranrights.org/library/document/2443/>

⁴² <https://www.iranrights.org/library/document/3014>

⁴³ <https://www.iranrights.org/library/document/3523>

⁴⁴ 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>)

The new Code of Criminal Procedure (CCP), which took effect in June 2015, as well as the Islamic Penal Code passed in April 2013 (IPC), contain certain legal guarantees which stand to move Iran closer to compliance with its ICCPR commitments in the area of due process.

In practice, Iran's judicial conduct with alleged drug offenders is marked by gravely concerning shortcomings in the matter of due process, made all the more important by the striking application of capital and corporal punishments described above. Reports collected by ABC indicate that violations of due process guarantees are routine in practice in drug offense cases, as in other cases.

*Arrest Warrants and Mass Arrests*⁴⁵

Article 181 of the CCP 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.⁴⁶ 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 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.

In practice, arresting agents routinely fail to produce warrants where they should. As examples:

- 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.⁴⁷
- Mohsen Nasiri, executed for drug possession in January 2016, was arrested without a warrant in mid-December 2012.⁴⁸
- Reza Hosseini (executed in May 2016) was arrested after being beaten by law enforcement officials with whom he became engaged in a verbal altercation in the summer of 2013.⁴⁹

Mass arrests of drug offenders in so-called "cleanup" operations are routine. Blanket warrants continue to be issued for roundups of persons whose identity is not known in advance. 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).⁵⁰ On May 28, 2020, Shahrokhi stated that 4,362 "flagrant addicts" were arrested in Tehran Province in May. He noted that 24 tested positive for coronavirus and 20 among them not showing symptoms were sent to a COVID-19 Article 16 center.⁵¹

⁴⁵ Cf. par. 17 of the Committee's 2011 concluding observations: "The State party should ensure that arrest warrants contain the names of the accused and are based on a judge's review of material evidence. It should also release detainees who have been held on the basis of general and blanket arrest warrants, in the absence of evidence."

⁴⁶ The law which the 2015 Code of Criminal Procedure replaced, the Code of Criminal Procedure for Public and Revolutionary Courts (CCPPRC), in its Article 119 had stipulated that arrests were to be performed with warrants whose contents were to be "like those of summons letters"

⁴⁷ ABC interview with source with knowledge of the case, October 16, 2015. Omid Memorial entry for Sa'id Baluchi: <https://www.iranrights.org/memorial/story/-7669/said-baluchi>.

⁴⁸ Omid memorial case of Mohsen Nasiri, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7770/mohsen-nasiri>)

⁴⁹ Omid Memorial entry for Reza Hosseini: <https://www.iranrights.org/memorial/story/74843/reza-hosseini>.

⁵⁰ Tabnak, April 4, 2020 (tabnak.ir/0044Ki)

⁵¹ Youth Journalism Club, May 28, 2020 (<https://www.yjc.ir/fa/news/7369835>)

In one three-day period in the fall of 2019, 270 petty dealers and 900 drug users were arrested in Tehran alone according to the Police Chief.⁵² In October 2019, law enforcement chief for Alborz Province Command Abbas Ali Mohammadian stated that 13,000 people suspected to use or deal drugs had been rounded up in the previous six months in the course of 180 “cleanup” operations in that province.⁵³ In May 2020, against the backdrop of the novel coronavirus epidemic, 150 so-called “flagrant addicts” were arrested in a “cleanup” operation in Bojnord, North Khorasan Province, according to Commander Mohammad Qodrati, chief of the anti-narcotics police in the province.⁵⁴

Suggestion for List of Issues Prior to Reporting

- *How does the Government respond to reports that individuals executed for drug offences were arrested without a warrant?*
- *Please clarify how and to what extent complaints made by persons in conflict with the law regarding violations of Art. 181 and Art. 46 of the Code of Criminal Procedure regarding arrest procedure are made available to the public, including information regarding the outcome of such complaints*
- *In light of the previous Concluding Observations recommendation to “ensure that arrest warrants contain the names of the accused and are based on a judge’s review of material evidence” and “release detainees who have been held on the basis of general and blanket arrest warrants, in the absence of evidence” (para. 17), please provide information as to how many people have been arrested en masse with blanket warrants, their charges, and the length of their detentions*

*Pretrial detention*⁵⁵

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.⁵⁶

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 arrest-related information on a daily basis to provincial Ministry of Justice authorities. The parents, spouse, children, and brothers or sisters of arrested persons are entitled to receive such arrest-related information from these authorities: Article 49 describes accountability to these familial relations on the part of judicial officials as “imperative” providing it does not “conflict with social or familial respectability.”

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.

In practice, 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.

⁵² Iran Students News Agency, November 11, 2019 (<https://www.isna.ir/news/98082113382/>)

⁵³ Khabar Online, October 1, 2019 (<https://www.khabaronline.ir/news/1305873>)

⁵⁴ Youth Journalists’ Club, May 13, 2020 (<https://www.yjc.ir/fa/news/7353749/>)

⁵⁵ Cf. par. 18 of the Committee’s 2011 concluding observations: “The State party should 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, in full compliance with article 9 of the Covenant. The State party should also take immediate steps to eliminate incommunicado detention, taking due care to ensure compliance in practice.”

⁵⁶ No such obligation appears in the former Code of Criminal Procedure for Public and Revolutionary Courts

Family members are also routinely denied information about the whereabouts of arrested loved ones. For example:

- Alireza Madadpur (executed in August 2016) was subject to incommunicado detention and interrogation without the presence of a lawyer for 25 days following his arrest in November 2011 in the course of a raid on a house to which he had reported for janitorial work.⁵⁷
- The family of Mika'il Shahbazi (executed in May 2016) was not informed of his arrest in February 2013 until days later.⁵⁸
- Following arrest, Mohsen Nasiri was taken to an undisclosed location and denied contact with his family for two weeks.⁵⁹
- Reza Hosseini's wife reports he was held incommunicado for eleven months.⁶⁰

Suggestion for List of Issues Prior to Reporting

- 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 provide updated and disaggregated statistics (including by gender, type of offence, and province) about the average length of pre-trial detentions, and the frequency of resort to pre-trial detention;
- 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 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.⁶¹

*Forced confessions and torture in detention*⁶²

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.

Article 60 of the CCP prohibits coercion and leading, inviting, insulting, or impertinent questions during interrogation, and declares statements and confessions made in response to such interrogations legally

⁵⁷ ABC interview with source with knowledge of the case. Omid Memorial entry for Alireza Madadpur: <https://www.iranrights.org/memorial/story/-7968/ali-reza-madadpur>; August 2016 statement of the Special Rapporteur for Human Rights in Iran: <https://www.iranrights.org/library/document/3012>.

⁵⁸ ABC interview with source with knowledge of the case, May 24, 2016. Omid Memorial entry for Mika'il Shahbazi <https://www.iranrights.org/memorial/story/74744/mikail-shahbazi>

⁵⁹ ABC interview with source with knowledge of the case, June 3, 2016. Omid memorial case of Mohsen Nasiri, Abdorrahman Boroumand Center (<https://www.iranrights.org/memorial/story/-7770/mohsen-nasiri>)

⁶⁰ Omid Memorial entry for Reza Hosseini: <https://www.iranrights.org/memorial/story/74843/reza-hosseini>.

⁶¹ Report of the Working Group of the Universal Periodic Review: Islamic Republic of Iran, December 27, 2019 (<https://undocs.org/A/HRC/43/12>)

⁶² Cf. par. 14 of the Committee's 2011 concluding observations: "The State party should ensure that an inquiry is opened in each case of alleged torture and cruel, inhuman or degrading treatment in detention facilities, and that the perpetrators of such acts are prosecuted and punished appropriately. It should ensure that effective reparation, including adequate compensation, is granted to every victim. The State party should also 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, except against a person accused of torture or other ill-treatment as evidence that the "confession" or other statement was made."

void.⁶³ It also stipulates that records of the dates, times, and lengths of interrogation sessions should be kept and certified with defendants' fingerprints.

Article 169 of the Islamic Penal Code 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.

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.

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" (including all capital drug crimes per the 2017 drug law amendment) 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.

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. 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. For example:

- Mika'il Shahbazi's death sentence was issued on the basis of confessions he made while being interrogated without access to a lawyer.⁶⁴
- During interrogation without a lawyer and under coercion, Mohsen Nasiri made a confession on the basis of which his sentence was issued.⁶⁵
- Reza Hosseini's wife reports he was interrogated under torture for 70 days following his arrest.⁶⁶
- Mahmud Barati (executed September 2015) reported being tortured for ten days after his summer of 2006 arrest for purposes of extracting a confession. Barati recanted the confession in subsequent phases of trial, insisting it had been coerced and that his interrogators had promised to release his family members who had also been arrested should he accept the charges. The individual who possessed the narcotics at issue in the case also retracted his confession - the only other evidence against Barati - in a written letter. These allegations did not result in a retrial or investigation.⁶⁷

⁶³ Article 129 of the CCPPRC declared these kinds of questions "forbidden"

⁶⁴ ABC interview with source with knowledge of the case, May 24, 2016. Omid Memorial entry for Mika'il Shahbazi (<https://www.iranrights.org/memorial/story/74744/mikail-shahbazi>)

⁶⁵ ABC interview with source with knowledge of the case, June 3, 2016, and case documents on file with ABC. Omid memorial case of Mohsen Nasiri, Abdollah Boroumand Center (<https://www.iranrights.org/memorial/story/-7770/mohsen-nasiri>)

⁶⁶ Omid Memorial entry for Reza Hosseini: <https://www.iranrights.org/memorial/story/74843/reza-hosseini>.

⁶⁷ According to information published on the websites of HRANA (Human Rights Activists News Agency) and the Iran Human Rights Organization on September 7, 2015. Additional information was taken from the Amnesty International statement on September 7, 2015 and the website of Iran Human Rights Organization on September 9, 2015. Omid Memorial entry for Mahmud Barati: <https://www.iranrights.org/memorial/story/-7974/mahmud-barati>.

- Sai'd Baluchi was subjected to torture, including electrical shocks and drilling of the feet, marks of which were later evident on his body, in order to extract a confession.⁶⁸
- On October 2, 2018, four nationals of Afghanistan - Shah Mohammad Miran Zehi, Ahmad Shah Issa Zehi, Mohammad Miran Zehi, and Eid Mohammad Miran Zehi - were executed at Birjand Central Prison. They had been sentenced in January 2017 for armed trafficking of 140 kilograms of drugs into Iran and were alleged to have killed a border guard. In an open letter in July 2017, the four men rejected the charges, maintained their innocence, and reported that they had made their confessions under torture and other ill-treatment. According to the letter, officials subjected the men to torture, including by pulling out their toenails while they were in detention. The men said that they had only confessed to the charges against them hoping that the torture and ill-treatment would cease.⁶⁹
- Ali Reza and Mohammad Garavand, an uncle-nephew pair, were arrested on October 27, 2016 by Anti-Narcotics forces in Pakdasht province. Both were in a vehicle in which a package containing 2.75 kilograms of heroin was discovered. Ali Reza, the driver, insists he did not know what was in the package, which he was transporting at the request of a friend who unbeknownst to him had been pressured by Anti-Narcotics agents. Ali Reza also insists that his 21-year-old nephew Mohammad was only incidentally in the car after Ali Reza happened to see him on the street and offered him a ride, and that Mohammad had no part in the drug activity - a claim he maintained through all stages of investigation and trial. The Garavands report being tortured in initial detention: Ali Reza lost consciousness twice, and Mohammad was injured in several areas of his body. Ali Reza says he falsely confessed to being the owner of the heroin under this torture.⁷⁰

Suggestion for List of Issues Prior to Reporting

- 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.
- Please provide information on investigations into allegations of torture and ill-treatment by the police or detention personnel, on the outcome of such investigations and on the remedies accorded to the victims.

*Right to Legal Assistance of One's Own Choosing*⁷¹

CCP Article 48 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

⁶⁸ ABC interview with source with knowledge of the case, October 16, 2015. Omid Memorial entry for Sa'id Baluchi: <https://www.iranrights.org/memorial/story/-7669/said-baluchi>.

⁶⁹ Human Rights Activists in Iran News Agency, July 25, 2017 (<https://www.hra-news.org/letters/a-375/>)

⁷⁰ Based on interviews conducted by ABC with Alireza and Mohammad Garavand, June 10, 2018

⁷¹ Cf. par. 21 of the Committee's 2011 concluding observations: "The State party should ensure that all legal proceedings are conducted in full accordance with article 14 of the Covenant, including guaranteeing (a) the right to legal assistance of one's own choosing, including for pretrial detainees...[and] (c) the intervention and presence of lawyers in all cases, including during the investigation stage"

contents of such meetings confidential,⁷² and that lawyers must turn over handwritten notes taken during the meeting for inclusion in the case file.

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."⁷³ In practice, ABC has no knowledge of a criminal case, drug-related or otherwise, where an attorney has been present during interrogations.

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 (which may include drug 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.⁷⁴

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.⁷⁵

Even where lawyers are present during trial proceedings, they are routinely not afforded the opportunity to speak or otherwise defend their clients effectively. 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.

A lawyer introduced by the family of Mikail Shahbazi met him only days before trial, and he was sentenced along with another defendant in a 30-minute session.⁷⁶

One Iranian lawyer described crowded groups of shackled defendants, mostly charged with offenses stemming from personal use of drugs, being tried in haste during her time as an intern to a judge in Tehran in 2003-2004. She reports that trials would last five minutes and that lawyers were completely

⁷² Article 91 of the Code of Criminal Procedure stipulates that all preliminary investigation proceedings are to remain confidential unless otherwise specified in law

⁷³ "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.

⁷⁴ The former CCPPRC 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

⁷⁵ "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>)

⁷⁶ ABC interview with source with knowledge of the case, May 24, 2016. Omid Memorial entry for Mika'il Shahbazi (<https://www.iranrights.org/memorial/story/74744/mikail-shahbazi>)

absent. A clerk at a Sentence Implementation Office told her that their enormous caseload was beyond the capacities of judges to adjudicate.⁷⁷ Reports collected by ABC indicate that such overwhelming caseloads persist.

Suggestion for List of Issues Prior to Reporting

- *What measures - including instructions to law enforcement - are in place to ensure that persons arrested enjoy effective legal representation from the start of their detention, and during interrogation?*
- *How does the aforementioned Note to Article 48 of the CCP comply with the right to communicate with a counsel of own choosing ex Article 14(b) of the ICCPR?*
- *What criteria are followed to include lawyers in the aforementioned lists, and what complaint mechanisms are in place for excluded lawyers?*

Court-Appointed Counsel

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.

However, as practiced, the Article only regards the trial phase, meaning that capital defendants are commonly⁷⁸ 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-consuming... judicial procedure privileges the rights of society and the crime victim over the rights of the accused."⁷⁹

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.

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 2018.⁸⁰ 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.⁸¹ Lack of

⁷⁷ ABC interview with Leila Alikarami, July 2018 (https://www.youtube.com/watch?v=7_wsoHr-R6I)

⁷⁸ ABC has no knowledge of a single case of prosecution where the defendant's attorney was present during interrogation.

⁷⁹ "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>

⁸⁰ Interview with Islamic Republic News Agency, 5 October 2018. (<http://www.irna.ir/fa/News/83122225>)

⁸¹ 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 per case. This amount, which many attorneys find insulting, does not even cover transportation costs for the 10 to 20 trips on average that lawyers must make to court per case. Attorney at law Abdolsamad Khorramshahi explained how these contraventions to the requirement for the presence of an attorney during the

funding, compounded by authorities' lack of respect for the right to defense, puts defendants, including those facing the death penalty, in a precarious position.

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.⁸² 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."

The court appointed a lawyer (at most) two weeks prior to Alireza Madadpour's trial at a Revolutionary Court, during which he and three other defendants were sentenced to death in proceedings lasting just 20 minutes. The lawyer was permitted only to read from a prepared statement.⁸³

After about 45 days of detention, Ali Reza and Mohammad were summoned for their first trial at Branch 23 of the Revolutionary Court in Tehran. Though the court appointed two attorneys for them, they report they did not enjoy an effective defense. In a trial which lasted only 14 minutes, during which the Garavands were not allowed to defend themselves, they were sentenced to death.⁸⁴

Suggestion for List of Issues Prior to Reporting

- Please provide information about the number of cases referred to pro-bono attorneys in Iran in the reporting period.
- 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.

Compulsory drug detention and rehabilitation centres (Art. 6, 7, 9, 10, 14)

investigation create a vicious cycle of negligence in court:

"Unfortunately, in many cases where pro-bono lawyers are assigned, lawyers are inexperienced and, since they are not remunerated very much, show little interest in the defense of such clients. Their appearance in court is thus mostly symbolic and out of obligation. And we see in murder cases where the lawyer has not even read the file once, which naturally has its consequences. Let's say that a defendant has confessed to a murder under pressure from police or the court, or any other reason, and that the lawyer, having not read the file, and is not fully familiar with the case and cannot present a good defense. As a result, an innocent person is hanged. In many pro-bono cases, pro-bono lawyers feel obligated because the court has assigned the case to them.... They have no way of refusing, barring exceptional circumstances. There needs to be institutional change, and pro bono lawyers must be paid a fee that motivates them to know the case and defend their clients with more rigor."

Khorramshahi voiced the opinion that death penalty cases should be assigned to lawyers with at least 10 years of experience and they should be properly remunerated; unfortunately, seasoned and novice lawyers alike tend to avoid taking on criminal cases because of the obstacles and costs they face in the police station, prosecutor's office (dādsarā), and courts (Hamideh Gudarzi: "No Incentive for Pro-bono Defense", Iran Online, 18 February 2019. <http://www.ion.ir/news/449419/>).

⁸² February 1, 2018 report by the Iran Student News Agency (ISNA)

⁸³ ABC interview with source with knowledge of the case. Omid Memorial entry for Alireza Madadpur: <https://www.iranrights.org/memorial/story/-7968/ali-reza-madadpur>; August 2016 statement of the Special Rapporteur for Human Rights in Iran: <https://www.iranrights.org/library/document/3012>.

⁸⁴ Based on interviews conducted by ABC with Alireza and Mohammad Garavand, June 10, 2018. Initially sentenced to death, the Garavands' sentences have been converted upon appeal to 30 years imprisonment, a fine of two billion Rials (c. 45,000 USD), and government expropriation of a vehicle.

Compulsory drug detention and treatment have been unanimously recognised by human rights bodies as contravening the prohibition against inhuman and degrading treatment and the prohibition of arbitrary detention, in addition to the right to health.⁸⁵

Due to reports of widespread human rights violations in these settings and their fundamental ineffectiveness in addressing drug dependence, a 2012 joint statement by 12 UN Agencies (including OHCHR, UNODC, WHO, and UNAIDS) called for all member states to close Compulsory Drug Detention Centres (CDDCs).⁸⁶

In 2015, the Working Group on Arbitrary Detention has clarified that “compulsory detention regimes for purposes of drug ‘rehabilitation’ through confinement or forced labour are contrary to scientific evidence and inherently arbitrary”, and that ‘Drug consumption or dependence is not sufficient justification for detention.’⁸⁷ Similarly, this Committee repeatedly expressed concern at the situation of those confined in such centres and the kind of treatment imposed, and urged state parties to strictly comply with their obligations under Article 9, among others by observing the principles of legality and proportionality of detention and due process rights.⁸⁸

National legislation and policy

People found or suspected to be using drugs by the police are divided between centers/prisons under the control or supervision of the Prison Organization or the police, and the centers supervised by the Ministry of Health. In Tehran Province and Karaj, more people are held in Greater Tehran (Fashafuye) prisons than Ministry centers.

According to the Ministry of Justice's report for Persian year 1395 (2016-2017), the Prison Organization has 173 closed prisons, 6 open prisons, 32 detention centers, 25 camps, 29 juvenile rehabilitation centers under its supervision.⁸⁹

In Iran, compulsory drug treatment centres are disciplined by the Anti-Narcotics Law. They were introduced in 2010 as a way to respond to a reported increase in drug use in the country, and as a way to reduce pressure on overcrowded prisons.⁹⁰ Under Articles 15 and 16 of the Anti-Narcotics Law, people identified as “addicts” are obligated to seek treatment in government or private rehabilitation centers. The law distinguishes between individuals who “voluntarily” join a treatment programme – who are given a certificate of exemption from criminal prosecution; and those who do not voluntarily stop using drugs (defined by the law as “flagrant addicts”). The law prescribes that individuals in the second category be detained in compulsory treatment centres for a period of 1-3 months, that can be extended for another 3-month period. Notably, no distinction is made between people who use and people who are dependent on drugs, and no individualised assessment of the necessity and proportionality of the detention is envisaged.

⁸⁵ Among others, see: Human Rights Council, Report of the United Nations High Commissioner for Human Rights: Study on the impact of the world drug problem on the enjoyment of human rights (4 September 2015), para. 46-49.

⁸⁶ ILO, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN WOMEN, WFP, WHO, and UNAIDS, Joint Statement: Compulsory drug detention and rehabilitation centres (March 2012)

⁸⁷ Among others, see Human Rights Council, Report of the Working Group on Arbitrary Detention. Un Doc. A/HRC/30/36 (2015), Para. 60

⁸⁸ Among others, see Human Rights Committee, “Concluding Observations on the third periodic report of Viet Nam”. UN Doc. CCPR/C/VNM/CO3 (29 August 2019), para. 31; Human Rights Committee, “Concluding Observations on the initial report of the Lao People's Democratic Republic”. UN Doc. CCPR/C/LAO/CO/1 (23 November 2018), para. 23

⁸⁹ Ministry of Justice report on the judiciary for the year 1395, 2017 (justice.ir/FileSystem/View/File.aspx?FileId=5282d9cd-913e-4c78-b3d8-b39475070de2)

⁹⁰ Ghiabi M. (2018), ‘Maintaining disorder: the micropolitics of drugs policy in Iran’, *Third World Quarterly*, 39(2), 277-297. Available at: <https://doi.org/10.1080/01436597.2017.1350818>

According to reports by informants in Iran,⁹¹ the law is complemented by guidelines (not publicly available), pursuant to which admission to the centres can follow:

1. Forced referral. After a person is arrested for drug use or possession a medical assessment concerning drug use is carried out and submitted to a judge, which orders the detention;
2. Family referral to the police; or
3. Voluntary referral of a person to the centre.

We wish to emphasize that such guidelines as described do not align with international standards – most notably those elaborated by this Committee and the Working Group on Arbitrary Detention (WGAD). As mentioned, WGAD has concluded that compulsory drug detention and rehabilitation are contrary to scientific evidence and therefore inherently arbitrary⁹² – regardless of an individualized medical assessment. Indeed, as drug detention and compulsory treatment are not evidence-based forms of drug treatment (in fact, scientific evidence is clear that they are ineffective and harmful practices), no competent and independent medical professional could ever conclude that confinement is a necessary and proportional measure for addressing drug use and drug dependence. As such, drug detention should be found by the Committee to be arbitrary even if preceded by a medical assessment and pursuant to a judicial decision.

Legislation and policy prescribes that centres (referred to as “camps”) should follow government regulations and obtain accreditation through a licensing scheme; and that accredited centres should be supervised by health, social welfare authorities, and/or law enforcement agencies.

Suggestion for List of Issues Prior to Reporting

- *Please provide details on the licensing process for compulsory drug detention centres;*
- *Please provide a copy of the guidelines and regulations in place concerning the management and operation of such centres, together with information on how compliance with such guidelines and regulations is monitored;*
- *Which steps is the Government taking to permanently close compulsory drug detention and treatment centres, in line with its obligations under international human rights law?*

Implementation and lack of transparency

The phenomenon of drug treatment centres in Iran is a complex one, with state-run compulsory centres operating alongside private or semi-private facilities. In addition to these regulated centres, a large number of illegal or unregulated camps operate across the country. Furthermore, reports have emerged of the creation of centers for detention of “flagrant addicts” (*mo'tadan-e motejaher*) across the city of

⁹¹ For safety reasons, the informants wish to be kept anonymous. More information can be provided by the submitting organisations upon request.

⁹² Human Rights Council, Report of the Working Group on Arbitrary Detention. Un Doc. A/HRC/30/36 (2015), Para. 60

Tehran by the Revolutionary Guards.⁹³ In 2015, two specialized centres for children were established in Sistan and Baluchistan, to which at least 107 children were referred.⁹⁴

Rather than being clearly separate institutions, public, private and illegal/informal centres exist in a continuum, with varying degrees of acknowledgment, financial support, and collaboration with state authorities and law enforcement.⁹⁵ Consequently, it was concluded that “despite their private and unrecognised status, [illegal treatment camps] perform a public, state-sanctioned role.”⁹⁶ As such, government compliance with its obligations under ICCPR should be assessed with regards to all drug treatment camps, irrespective of their formal nature. On this, we also recall General Comment no. 35 of this Committee, which states that “When private individuals or entities are empowered or authorized by a State party to exercise powers of arrest or detention, the State party remains responsible for adherence and ensuring adherence to article 9. It must rigorously limit those powers and must provide strict and effective control to ensure that those powers are not misused, and do not lead to arbitrary or unlawful arrest or detention. It must also provide effective remedies for victims if arbitrary or unlawful arrest or detention does occur.”⁹⁷

While informal camps have been operating for decades, government-run centres were first established in 2011,⁹⁸ described as “forced labour camps”⁹⁹ or “harsh conditions camps”.¹⁰⁰

A key reason why the government decided to institute compulsory drug treatment centres was to decongest prisons (many of which old and decrepit), by “diverting” people arrested for drug use. For example, on 21 June 2019, Esma'ili, Head of Prison Organization, said that 7000 people were detained in Iranian prisons for drug dependence, or for being convicted as drug traffickers despite having been found with less than 1gram of drugs. According to the official, they should have been considered “sick” and sent to detoxification and rehabilitation facilities.¹⁰¹

Since 2010, compulsory treatment centres have rapidly increased in number, becoming a central feature of Iran's drug policy.¹⁰² The rapid implementation and expansion of these institutions despite a wealth of evidence about their ineffectiveness is in itself a worrying development.¹⁰³

⁹³ In February 2019, a member of Parliament's Research and Education Commission stated that the Revolutionary Guards had “established centers for gathering “flagrant addicts” (*mo'tadan-e motejazer*) across the city.” Islamic Consultative Assembly News Agency, February 12, 2019 (<https://bit.ly/2VQUixK>)

⁹⁴ Roshanpajou M et al. (2019), ‘Children addiction treatment and rehabilitation residential centers in Iran: report of a pilot study’, *Journal of Substance Use*, 1-5. Available at: <https://doi.org/10.1080/14659891.2019.1675785>

⁹⁵ See Ghiabi M.(2018), ‘Maintaining disorder: the micropolitics of drugs policy in Iran’, p. 282 for a detailed breakdown

⁹⁶ Ibid.

⁹⁷ Human Rights Committee, ‘General Comment No.35 - Right to Liberty and Security’, UN Doc. CCPR/C/GC/35 (16 December 2014), para. 8

⁹⁸ Official site of Iran's Drug Control Headquarters

(<http://dchq.ir/html/modules.php?op=modload&name=News&file=article&sid=15348>)

⁹⁹ Among others: official site of Iran's Drug Control Headquarters

(<http://dchq.ir/html/modules.php?op=modload&name=News&file=article&sid=15348>); Tabnak, November 10, 2010

(<http://www.tabnak.ir/fa/news/130012/%D8%B1%D8%A7%D9%87%E2%80%8C%D8%A7%D9%86%D8%AF%D8%A7%D8%B2%D9%8A->)

¹⁰⁰ Hamshahri Online, December 3, 2010 (<http://hamshahronline.ir/news-122163.aspx>) and November 19, 2020

(<http://hamshahronline.ir/news-121042.aspx>)

¹⁰¹ <http://cudras.ir/1398/03/31/43-%D8%AF%D8%B1%D8%B5%D8%AF-%D8%AA%D8%B1%D9%83%DB%8C%D8%A8-%D8%B2%D9%86%D8%AF%D8%A7%D9%86%DB%8C%D8%A7%D9%86-%D9%83%D8%B4%D9%88%D8%B1-%D8%A7%D8%B2-%D8%AC%D8%B1%D8%A7%DB%8C%D9%85-%D9%85%D9%88%D8%A7/>

¹⁰² Ghiabi M.(2018), ‘Maintaining disorder: the micropolitics of drugs policy in Iran’.

¹⁰³ Among others, see D. Werb et al., “The Effectiveness of Compulsory Drug Treatment: A Systematic Review,” *International Journal of Drug Policy* 28 (2016): 1–9, <https://doi.org/10.1016/j.drugpo.2015.12.005>; Anne Bergenstrom and Gino Vumbaca, “Compulsory Drug Detention Centres: Time to Question Their Continued Use?,” *The Lancet Global Health* 5 (2017): e123–24, [https://doi.org/10.1016/S2214-109X\(16\)30352-7](https://doi.org/10.1016/S2214-109X(16)30352-7); Martin P Wegman et al., “Relapse to Opioid Use in Opioid-Dependent Individuals Released from Compulsory Drug Detention Centres Compared with Those from Voluntary Methadone Treatment Centres in Malaysia: A Two-Arm, Prospective Observational Study.,” *The Lancet. Global Health* 5, no. 2 (February 2017): e198–207,

Official statistics from 2013 indicate that 18 “Article 16” compulsory drug detention centres were in operation. According to the Ministry of Justice Report for the Iranian year 1395 (March 2016 - March 2017) “Article 16,” centres increased from 17 to 24.¹⁰⁴

Academic sources reported 50,000 individuals kept in these centres between 2011 and 2013.¹⁰⁵ Individuals detained are mainly people who are found or suspected to be using drugs, but also other vulnerable and marginalised populations (such as homeless persons, persons with disabilities, and sex workers), with the aim to remove “undesirables” from public spaces.¹⁰⁶ In 2016, more than 8,000 individuals were transferred to such centres by the police in Tehran alone.¹⁰⁷

These figures are believed to be a gross underestimation of the phenomenon, as updated, reliable and disaggregated official information on the number of treatment camps operating in the country and the persons detained are virtually non-existent. Centres are inaccessible to outsiders, and authorities are hostile towards independent research, thus hampering efforts to review these centres. Some internal studies of treatment centres have been conducted, which according to sources have found widespread issues in the management, licensing, and operating procedures of these camps - with torture and deaths actively covered up. However, these studies have been embargoed by state authorities and are thus not publicly available.

Suggestion for List of Issues Prior to Reporting

- Please provide updated and disaggregated information about the number of compulsory drug detention centres operating in Iran during the reporting period;
- Please provide updated and disaggregated information (including by age, gender, and location, about the number of compulsory drug detention centres operating in Iran during the reporting period;
- How does the government explain the continued existence and operation of hundreds of “illegal” treatment centres, and respond to reports of close links and collaboration between illegal centres and public authorities?
- Are compulsory drug detention centres open to external and independent assessment by experts and academics?
- What measures has the Government introduced to ensure monitoring and oversight of private drug detention and rehabilitation institutions?
- Has the Government vetoed the dissemination of any independent assessment of compulsory drug detention centres? In case, please provide any independent review of the aforementioned centres that is not publicly available

[https://doi.org/10.1016/S2214-109X\(16\)30303-5](https://doi.org/10.1016/S2214-109X(16)30303-5); RALF JÜRGENS and JOANNE CSETE, “In the Name of Treatment: Ending Abuses in Compulsory Drug Detention Centers,” *Addiction* 107, no. 4 (April 1, 2012): 689–91, <https://doi.org/10.1111/j.1360-0443.2011.03738.x>; Wayne Hall et al., “Compulsory Detention, Forced Detoxification and Enforced Labour Are Not Ethically Acceptable or Effective Ways to Treat Addiction,” *Addiction* 107, no. 11 (November 1, 2012): 1891–93, <https://doi.org/10.1111/j.1360-0443.2012.03888.x>; Thomas Kerr et al., “The Impact of Compulsory Drug Detention Exposure on the Avoidance of Healthcare among Injection Drug Users in Thailand,” *International Journal of Drug Policy* 25, no. 1 (2014): 171–74, <https://doi.org/https://doi.org/10.1016/j.drugpo.2013.05.017>

¹⁰⁴ Ministry of Justice report on the judiciary for the year 1395, 2017 (justice.ir/FileSystem/View/File.aspx?FileId=5282d9cd-913e-4c78-b3d8-b39475070de2)

¹⁰⁵ Moghanibashi-Mansourieh et al. (2018), ‘The Social Work Services in Screening Process of Compulsory Treatment Interventions in Addicts in Iran: A Content Analysis Study’, *Asian Social Work and Policy Review* 12, 86-93. DOI: 10.1111/aswp.12141

¹⁰⁶ Ibid. Also Ghiabi M.(2018), ‘Maintaining disorder: the micropolitics of drugs policy in Iran’.

¹⁰⁷ Moghanibashi-Mansourieh et al. (2018), ‘The Social Work Services in Screening Process of Compulsory Treatment Interventions in Addicts in Iran: A Content Analysis Study’.

Lack of fundamental legal safeguards (arbitrary arrest and detention)

This Committee has reiterated that detention – of any kind – must be accompanied by procedural and substantive safeguards established by law. The decision to detain a person must follow a determination of the necessity and proportionality of the measure including an individualised medical assessment, and the detainee must have the opportunity to challenge the lawfulness of the detention in a court of law.

In Iran, although guidelines on referral are formally in place for government-run centres (as described above), independent research has shown that these are rarely – if ever - followed. The “judicial order” required by Article 16 as basis for the detention is often either missing or released following unfair trials. The medical assessment is often inadequate, if carried out at all.¹⁰⁸

In many, if not most, cases people who are picked up, arrested or are reported as using drugs by family members are forcibly admitted to both public and private camps directly by the police.¹⁰⁹ In extreme cases, they are “sold” to or between camps by law enforcement officers. Corruption is thus reportedly widespread, with bribes being paid to the police by the owners of the centres, who are subsequently reimbursed by the government per client.

The police also cooperate with informal or illegal camps. As a police officer reported to an independent researcher in 2014:

“I am really happy that these camps exist; if a family calls us, instead of sending a soldier or a policeman, we call one of the people from the camps. So, if someone gets beaten, that’s the camp people, which also means that, if someone has to beat someone else, it’s always the camp people [and not the police]. Instead of taking the addict here to the police station, where he might vomit, feel sick and make the entire place dirty, he goes to the camp. Instead of coming here to shout and beat up people, or to bring diseases, HIV, he goes there. I call the camp if someone calls me.”¹¹⁰

Indefinite detention without review

As clarified by this Committee, international human rights law requires that people in detention be permitted to challenge the lawfulness of their detention and its continuity before an independent and impartial court. Further, detention ought to be reevaluated at appropriate intervals with regard to its continuing necessity. Individuals detained “must be assisted in obtaining access to effective remedies for the vindication of their rights, including initial and periodic judicial review of the lawfulness of the detention, and to prevent conditions of detention incompatible with the Covenant.”¹¹¹

No such mechanisms are in place in Iran, where in practice, people who use drugs can be arbitrarily detained for indefinite periods of time. Whilst official guidelines state that people who use drugs can only

¹⁰⁸ Ibid.

¹⁰⁹ Among others: Ghiabi M.(2018), ‘Maintaining disorder: the micropolitics of drugs policy in Iran’; Al-Monitor, October 22, 2015, “Tehran tries to make its addicts go to rehab” (<https://www.al-monitor.com/pulse/ar/originals/2015/10/iran-street-addicts.htm>) ; Dariush Farahani, *TrackPersia*, April 2, 2020, “Drugs in Iran: Inside the Government-sponsored ‘treatment camps’,” (<https://www.trackpersia.com/drugs-iran-inside-government-sponsored-treatment-camps/>)

¹¹⁰ Ghiabi M.(2018), ‘Maintaining disorder: the micropolitics of drugs policy in Iran’; p. 289.

¹¹¹ Human Rights Committee, ‘General Comment No.35 - Right to Liberty and Security’, UN Doc. CCPR/C/GC/35 (December 16, 2014), para. 19.

be detained in these centres for three months, with potential extension subject to a court ruling, testimonials from detainees, their families, and staff have confirmed that individuals are sometimes kept for longer than a year without any court ruling. No instrument appears to be implemented to review the necessity of the detention nor to allow for complaints to be raised by detained persons.

Suggestion for List of Issues Prior to Reporting

- *What mechanisms exist for individuals detained in drug treatment centres to request the review of the lawfulness of their detention?*
- *How is the necessity, reasonableness, and proportionality of the detention in drug treatment centres periodically reviewed by judicial bodies?*
- *How does the Government respond to allegations of widespread corruption in the management of compulsory drug detention centres?*

Inhuman and degrading conditions of detention

Conditions of detention in drug treatment centres are reportedly poor and inhuman. Facilities are often decrepit and overcrowded, characterised by a lack of personal space, privacy, and hygiene. People who visited or were detained in camps report that adequate food and clean water are seldom provided, no hot water or basic hygiene products are available, sanitation is poor, and individuals are forced to sleep in cramped rooms or on the floor.¹¹² A formerly detained person in a Tehran camp recounted:

“We were about 500 people and the camp had only three bathrooms. They gave us almost nothing to eat except a bowl of beans and a piece of bread the size of the palm of a hand. And they constantly hit us. If we said even one word, they would hit us.”¹¹³

Moreover, it appears that (except in exceptional cases), medications - including those for drug dependence and those prescribed for mental health conditions - are discontinued following admission to camps, with severe consequences.¹¹⁴ Notably, this Committee has found that the denial of opioid substitution therapy to person experiencing withdrawal can constitute inhuman and degrading treatment, when not torture.¹¹⁵

Family visits, including of children, are severely restricted, and sources indicate that no or minimal medical supervision occurs in the “camps.”¹¹⁶

¹¹² Dariush Farahani, *TrackPersia*, April 2, 2020, “Drugs in Iran: Inside the Government-sponsored ‘treatment camps’,” (<https://www.trackpersia.com/drugs-iran-inside-government-sponsored-treatment-camps/>); Tabnak, December 25, 2013, “Shocking report from Shafaq drug addicts’ camp” (<https://www.tabnak.ir/fa/news/366881/%DA%AF%D8%B2%D8%A7%D8%B1%D8%B4-%D8%AA%DA%A9%D8%A7%D9%86-%D8%AF%D9%87%D9%86%D8%AF%D9%87-%D8%A7%D8%B2-%DA%A9%D9%85%D9%BE-%D9%85%D8%B9%D8%AA%D8%A7%D8%AF%D8%A7%D9%86-%D8%B4%D9%81%D9%82>)

¹¹³ Al-Monitor, October 22, 2015, “Tehran tries to make its addicts go to rehab”, (<https://www.al-monitor.com/pulse/ar/originals/2015/10/iran-street-addicts.htm>)

¹¹⁴ Dariush Farahani, *TrackPersia*, April 2, 2020, “Drugs in Iran: Inside the Government-sponsored ‘treatment camps’,” (<https://www.trackpersia.com/drugs-iran-inside-government-sponsored-treatment-camps/>); Boroumandfar Z et al. (2020), ‘Ups and Downs of Drug Rehab Among Women: A Qualitative Study’, *BMC Women’s Health* 20(77). Available at: <https://doi.org/10.1186/s12905-020-00946-2>

¹¹⁵ Human Rights Committee, ‘Concluding Observations on the seventh periodic report of the Russian Federation’, UN Doc. CCPR/C/RUS/CO/7 ((28 April 2015).

¹¹⁶ Boroumandfar Z et al. (2020), ‘Ups and Downs of Drug Rehab Among Women: A Qualitative Study’, *BMC Women’s Health* 20(77)

On this point, we stress that drug detention settings, as other closed settings, are high-risk environments for the spread of infectious diseases such as COVID-19. Such risk is compounded in compulsory drug treatment facilities by the poor conditions and infrastructure, and a detainee population that often suffers from multiple health vulnerabilities, including histories of drug use, incarceration, poverty, and/or infection with HIV or hepatitis C. As a consequence, the danger that COVID-19 poses to this population cannot be underestimated. Despite this danger, and in contrast with other detention settings such as prisons, limited information exists on whether and which measures have been implemented by Iranian authorities to prevent and contrast the spread of COVID-19 in these centres, thereby protecting the health and life of those detained. In early April, Iranian media reported that Article 16 centers in Tehran Province have been closed in response to the spread of COVID-19, leading to the release of at least 4,000 detainees. According to Ministry of Health official Amin Shahrokhi, only 520 among those were released with judicial orders from centers under the Ministry's supervision. The official had no information on the releases from Fashafuye centers, which are under the supervision of the Prison Organization and the Police.¹¹⁷ At the same time, people continue to be arrested and detained for drug use during the emergency - often in overcrowded and unsanitary facilities: on 28 May 2020, the same official announced that 4362 people who use drugs were "rounded up" in Tehran, including some showing COVID-19 symptoms. Among those, 27 tested positive to the virus. It is unclear whether these were admitted to hospitals or detained in drug treatment centres, or whether "Article 16" drug treatment centres were created specifically for people who use drugs who tested positive to COVID-19.

Violence and abuse are reportedly integral to the management of many centres. Individuals are regularly denied food, held in solitary confinement,¹¹⁸ and/or beaten as a form of punishment, for not following orders or for trying to leave the camps, as described by a formerly detained person:

"I fled twice from the camp, I was beaten when I was found by the camp wardens, and I was brought back to the camp. For the family, it is better that you remain in camp and become clean – so that you are not out and tarnishing the family's reputation. People are in there for 21 days, 2 months, 3 months, some people stay there til the very end..."

Similarly, a woman detained in a women-only camp recounted: "The first time at the camp, they were about to beat me. If someone had a pain and was mourning, they shouted at her or slapped her".¹¹⁹ Another woman reported to the same researchers: "I have hypertension and diabetes. I have to take my medicines. But here they did not allow me to take them. One of the women had a bad cold and they did not allow her to take an acetaminophen."¹²⁰

Suggestion for List of Issues Prior to Reporting

- *How does the Government respond to allegations of inhuman and degrading conditions of detention in compulsory drug detention centres?*
- *What mechanisms exist for individuals detained in drug treatment centres to submit complaints about conditions of detention and in compulsory drug detention centres?*
- *Are essential medicines, including Opioid Substitution Therapy, available and provided in*

¹¹⁷ <https://www.justice.ir/FileSystem/View/File.aspx?FileId=5282d9cd-913e-4c78-b3d8-b39475070de2>

¹¹⁸ Tabnak, December 25, 2013, "Shocking report from Shafaq drug addicts' camp" (<https://www.tabnak.ir/fa/news/366881/%DA%AF%D8%B2%D8%A7%D8%B1%D8%B4-%D8%AA%DA%A9%D8%A7%D9%86-%D8%AF%D9%87%D9%86%D8%AF%D9%87-%D8%A7%D8%B2-%DA%A9%D9%85%D9%BE-%D9%85%D8%B9%D8%AA%D8%A7%D8%AF%D8%A7%D9%86-%D8%B4%D9%81%D9%82>)

¹¹⁹ Boroumandfar Z et al. (2020), 'Ups and Downs of Drug Rehab Among Women: A Qualitative Study', *BMC Women's Health* 20(77)

¹²⁰ Ibid.

drug detention centres? Please provide details on the availability essential medicine, including information on budgetary allocations;

- *What measures has the Government adopted to prevent and control the spread of COVID-19 in compulsory drug detention centres?*
- *If persons have been released from compulsory drug detention centres in response to the COVID-19 emergency, please provide updated and disaggregated information on the number of persons released and measures adopted to ensure continuity of care.*
- *Are people arrested and detained for drug use during the emergency? If so, are they tested for COVID-19, and how are they treated if found to be positive?*
- *Have drug treatment centres been created specifically for COVID-19 positive individuals? In case, what medical treatment is provided in these centres?*

Non-evidence based drug treatment amounting to ill-treatment

Non-governmental organisations have received information indicating widespread and systematic use of non-evidence based treatment methods both in licensed and in illegal camps. In some cases, it appears that punishment and conduct amounting to torture or ill-treatment are effectively used as “rehabilitation methods”.

Drug “treatment” is invariably abstinence-based and aimed at “detoxification”,¹²¹ with violence being often constitutive part of the treatment. Among others, “beating-treatment”, “water-treatment”, “dog-treatment” and “chain-treatment” have been reported as forms of intervention.¹²²

Upon admission to camps individuals are generally held in “withdrawal rooms” (in small or big groups) where a process of detoxification reportedly takes place without the presence of medical professionals. In some cases, detainees are thrown in cold water during winter.

The problematic nature of the treatment methods imposed in the centres has been acknowledged by official figures. In September 2018, a member of Parliament’s Social Commission stated that the treatment in rehabilitation camps was not in line with standards in the field.¹²³

Suggestion for List of Issues Prior to Reporting

- *Does the Government have policies and guidelines in place regulating the treatment provided in compulsory drug detention centres? In case, please provide details, and elaborate on how drug treatment in detention centres is monitored by the Government;*
- *How does the Government ensure that the treatment imposed in drug detention centres complies with its human rights obligations as well as with best scientific evidence and practice?*
- *Please provide details on the presence and number of medical professionals employed in drug detention centres;*
- *What steps has the Government taken to investigate allegations of torture and ill-treatment in compulsory drug detention centres? Please provide updated and disaggregated information on*

¹²¹ Ghiabi M.(2018), ‘Maintaining disorder: the micropolitics of drugs policy in Iran’; Mohsen Roshanpajouh et al., “Children Addiction Treatment and Rehabilitation Residential Centers in Iran: Report of a Pilot Study.

¹²² Ghiabi M.(2018), ‘Maintaining disorder: the micropolitics of drugs policy in Iran’, p.289.

¹²³ The Member of Parliament further stated that drug users start using other forms of drugs in camps illustrating that the treatments are not in line with scientific research and experts’ advice. See: Islamic Consultative Assembly News Agency, September 3, 2018 (<https://bit.ly/2F6ygpB>)

the numbers of investigations, prosecutions and convictions for all cases of torture and ill-treatment in drug detention centres that have taken place in the reporting period.

Failure to promote and protect life: mortality rates in drug treatment centres¹²⁴

The government does not provide reliable, updated and disaggregated figures on mortality rates and causes of death in detention, however available information suggests a high number of deaths in drug detention centres, pointing to a state failure to protect the life of people in detention.

For example, 39 deaths were reported in 2012 alone by the Deputy of Prevention and Treatment of Addiction office in the State Welfare Organization, while a 2013 report denounced 53 deaths in Shafaq Camp, in the Tehran municipality.¹²⁵

Research conducted on mortality rates in selected drug camps found evidence of 107 deaths between 2011 and 2016. Because of the lack of comprehensive official reports and the limited nature of the study, this figure is likely to be an underestimate. Nevertheless, according to researchers the proportion of deaths among the subjects sentenced to "Article 16" residential treatment (47 per 100000 individuals) was more than double the ratio of deaths among individuals voluntarily referred to normal residential treatment centers. The same study found that the "mortality rate among mandatory residential treatment centers under article 16 addiction amendment was 13 times more than the total mortality rate among the ones referred to residential treatment centers, which could be due to the worse condition of the centers compared to that of the voluntary treatment centers."

Not all the death certificates analysed by the aforementioned study indicated the cause of death. Nevertheless, it appears that least half of the deaths occurred within the first five days of detention, with an average time of occurrence of death after admission to residential drug treatment of 11 days. Overdose or overdose-related complications were indicated as the leading causes of death. This suggests that most individuals died in the phase of forced withdrawal, and as a direct consequence of the imposed detoxification and denial of life-saving medicines.

In other cases, head blows are indicated as the cause of death. This corroborates informal reports of deaths caused by beatings from owners and operators of camps.

The same study found that the number of deaths increased by eight times between 2011 and 2016. This finding points to a systemic lack of oversight, accountability and reform of inadequate and harmful treatment methods, leading to preventable deaths.

Suggestion for List of Issues Prior to Reporting

- *How is the government recording and reporting deaths in centres?*
- *How many people, and what causes of death?*

¹²⁴ Unless otherwise specified, the information in this paragraph comes from: Roshanpajouh et al. (2019), "Assessment of the Burden and Causes of Mortality in Compulsory Residential Drug Treatment Centers Under the Supervision of State Welfare Organization," *Iranian Journal of Psychiatry and Clinical Psychology* 25(2): 164–77. Available at: <https://doi.org/10.32598/ijpcp.25.2.164>

¹²⁵ Tabnak, December 25, 2013, "Shocking report from Shafaq drug addicts' camp" (<https://www.tabnak.ir/fa/news/366881/%DA%AF%D8%B2%D8%A7%D8%B1%D8%B4-%D8%AA%DA%A9%D8%A7%D9%86-%D8%AF%D9%87%D9%86%D8%AF%D9%87-%D8%A7%D8%B2-%DA%A9%D9%85%D9%BE-%D9%85%D8%B9%D8%AA%D8%A7%D8%AF%D8%A7%D9%86-%D8%B4%D9%81%D9%82>)

- *What steps has the Government taken to investigate deaths in compulsory drug detention centres? Please provide updated and disaggregated information on the numbers of investigations, prosecutions and convictions for all cases of preventable deaths in drug detention centres that have taken place in the reporting period.*

Lack of follow-up procedures

There are no comprehensive programmes in place for monitoring the 'client' after release from the centre - despite the increased risk of overdose following release from detention. As a result, many 'clients' return to use and purchase drugs, thus exposing themselves to law enforcement. Once arrested or reported, the process begins again. This creates a vicious cycle whereby individuals are forcibly detained in drug treatment camps numerous times, with a severely detrimental impact on their health, wellbeing, and livelihood. Drug treatment specialists interviewed in Iran stated that the patients they see have on average been forcibly interned in CDDCs more than 5 times.¹²⁶

Suggestion for List of Issues Prior to Reporting

- *What measures and programmes are in place to monitor the health and wellbeing of individuals after their release from compulsory drug detention centres?*
- *How is the Government measuring the effectiveness of the drug treatment imposed in these centres?*
- *Please provide updated and disaggregated information on overdoses following release, relapse rates, and readmission rates.*

Lack of monitoring and oversight

The state has a heightened responsibility to protect the life and health of persons deprived of liberty, and this Committee has reiterated that detention independent monitoring and reporting systems should be in place to oversee detention facilities.¹²⁷

While regulations prescribe that drug treatment camps be regularly inspected by medical professionals, some centres are reportedly never visited by doctors or psychiatrists.

Centres reportedly operate with complete lack of oversight by the authorities on the conditions of detention, the health of detainees, and the kind of treatment imposed: informants in Iran, including several 'owners' of treatment centres, declared that they are seldom visited by any MoH/SWO representatives.

No information is available on financial monitoring and oversight, despite recurring allegations of corruption.

In addition, no effective and independent review of allegations of violence, ill-treatment, and deaths in drug treatment camps is reportedly carried out.

Suggestion for List of Issues Prior to Reporting

¹²⁶ Unpublished research. On file with the submitting organisations and available upon request.

¹²⁷ Among others, see Human Rights Committee, 'Concluding Observations on the third periodic report of Croatia', UN Doc. CCPR/C/HRV/CO/3 (30 April 2015).

In light of the above, we respectfully suggest that the Committee raises the following issues with the Government of Iran:

- *What measures and procedures are in place for the monitoring of licensed compulsory drug detention centres, including financial monitoring?*