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Introduction

1. The Islamic Republic of Iran (IRI) is an authoritarian theocracy that has always attempted to present itself as a democracy. The Constitution of the IRI, adopted in 1979 and further amended in 1989, covers a long list of fundamental rights and democratic values including some of the rights of detainees and principles of fair trial. For example, it guarantees presumption of innocence, prohibition of torture, and the right to access to legal counsel. However, numerous laws, including the Islamic Penal Code (IPC) and the Criminal Procedure Code (CPC) undermine these and other fundamental rights and constitutional guarantees. In addition, there are laws and regulations such as the ‘Law on Respecting Legitimate Liberties and Protecting Citizens' Rights’ or the ‘Executive Regulations of the Organisation of Prisons and Security and Corrective Measures’ (the Prisons Regulations) that prescribe various rights and protections for detainees and prisoners. In practice, however, those rights and protections are routinely ignored and violated particularly in relation to those accused or convicted of offences that are arbitrarily and too widely labelled by the authorities as security-related. To that must be added draconian criminal laws and cruel and inhumane punishments as well as major flaws in the structure and administration of the IRI’s Judiciary and criminal justice system. The above create a toxic mix the result of which is the ongoing and systematic violations of the rights of individuals, in particular the accused and detainees. Such violations intensify, or indeed become better known and get more coverage, at times of social and political unrest and periods of more intensified suppression.
2. Below I will seek to give an overview of the statutory and practical legal framework of treatment of detainees and prisoners by Iranian authorities. The aim is to provide a legal background that contributes to the investigations into the atrocities committed by Iranian authorities in November 2019 against protesters.¹ I will first explain the prisons management system in Iran noting the separate regime for security detention centres. The following sections will then touch upon arrest and detention, use of torture in interrogations and violations of due process and fair trial rights.

¹ Amnesty International, ‘Trampling humanity: Mass arrests, disappearances and torture since Iran’s 2019 November protests’, September 2020, available at: <https://www.amnesty.org/en/documents/mde13/2891/2020/en/>

Prisons and detention centres

3. The management and supervision of all prisons and detention centres across the country are supposedly regulated by Iran's Prisons Organisation according to the Prison's Regulations. However, the use of security and secret detention facilities that are run not by Prisons Organisation but by security and intelligence agencies is a fact and by no means a secret. IRI officials have admitted not only the existence of such facilities but also the fact that they are not under effective control and oversight. Many individuals, particularly those accused of national security-related offences, are routinely detained and interrogated in facilities run by security and intelligence entities such as the Islamic Revolutionary Guard Corp (IRGC) and Ministry of Intelligence.
4. In 2006, Ali Akbar Yasaqi, the then head of the Prisons Organisation, confirmed the existence of 100 detention centres outside the control of the Prisons Organisation. He said in an interview that "It is true that according to the law, there should be no detention centre without the supervision of the Prisons Organisation, but whether the law is enforced is a matter we can think about." Yasaqi also revealed that 'agreements had been signed in the past for the management of such facilities' which indicated that, intelligence and security bodies, with the full knowledge and agreement of the IRI high ranking officials, were authorised to run their own special detention facilities. He further stressed that "there are many such facts in the society and it should not be a surprise".²
5. Referring to the Executive Regulations on the Management of Security Detention Centres that was adopted in November 2006, Yasaqi also stated that the new regulations would bring all such detention centres under the control of Prisons Organisation. Not surprisingly, it did not do that.
6. According to article 1 of the regulations, 'security detention centres' are defined as: 'a place of detention of suspects who are admitted there due to security and military sensitivities' although it fails to define 'security'. The detainees should be admitted in such facilities only 'with the written order of competent judicial officials' and they can be kept there 'until a final decision is made'.
7. The security bodies named under the Executive Regulations include the Ministry of Intelligence, and the intelligence units of the IRGC, the police forces and the armed forces.

² ISNA, 'Interview with the Head of the Prisons Organisation', 23 December 2006, [link](#).

8. The 2006 Executive Regulations revoked all previous “agreements between the [Prisons] Organisation and security bodies” but allowed for the detention of individuals accused of national security offences in special detention facilities established in the central prisons of each province.
9. While the above may appear as a positive move, it fails on many fronts which is among others due to a big hole in the Regulations. Crucially, Article 3 of the Regulations states that, if it is not possible to establish such facilities in provincial prisons due to lack of space or “appropriate conditions”, security and intelligence bodies can allocate a suitable space in their own facilities or establish new facilities elsewhere. The regulations also effectively allow intelligence and security bodies to oversee the running of such facilities with minimal and random checks.
10. According to article 2 of the said Regulations,

‘In addition to the judge hearing the case, the prosecutor or his representative is obliged to visit the mentioned detention centres at least once every fifteen days and report it to the head of the judiciary.’
11. For anyone reading the above provision it may appear as a significant safeguard that can prevent abuse. It is not. There is no public record that such visits ever took place in security detention centres and even if they did, they would be highly ineffective and inadequate. Regardless of their complicity and lack of independence, not only judges and low-ranking prosecutors are not allowed to visit such places, but also even the highest-ranking judicial authorities have been excluded from setting foot in those facilities.
12. For example, when in August 2021, it was announced that the Head of Judiciary Mohseni Ejei had visited security wards in Evin Prison (including Ward 209 controlled by Ministry of Intelligence and also 2-A and 2-B controlled by IRGC) it was described by the Head of Prisons Organisation as ‘unprecedented’,³ confirming that no such visits had ever happened. Some officials (including the former IRI President, Ministers and MPs) had previously tried but refused entry to those wards particularly to those controlled by the

³ [Source](#)

IRGC.⁴ However, while the authorities have claimed that the visit was sudden and without-prior announcement, it is hard to believe that the security officials in charge of such places were unaware of the visit. It is unlikely that the said visit would have happened had it not been for the scandal of leaked CCTV footages from the same prison (see below). At any rate, such once-in-decades, and very likely staged, visits, can hardly be seen as improvement or effective supervision. Authorities such as Mohseni Ejei, who himself has previously been in charge of Ministry of Intelligence, have been complicit and directly involved in many atrocities including those committed by security and intelligence forces.

13. As the leaked CCTV footages of Evin Prison show (see below), the supervision by Prisons Organisation is by no means a guarantee that the rights of prisoners will be protected. As will be further explained below, abuse and ill-treatment of detainees in prisons and detention centres that are supervised by Prisons Organisation is rife. The general conditions of those prisons are harsh, unsafe and life-threatening due to physical abuse and violence, severe overcrowding and inadequate sanitary conditions and medical care.
14. A 2021 report by Amnesty International has documented the cases of 72 men and women who have died in custody since January 2010 at 42 prisons and detention centres in Iran. According to the Amnesty's report, in 46 of the cases the death resulted from physical torture or other ill-treatment at the hands of intelligence and security agents or prison officials. A further 15 followed the lethal use of firearms and/or tear gas by prison security guards. In the remaining 11 cases, the deaths occurred in suspicious circumstances. Not a single official has since been held to account for these deaths.⁵
15. The above statement is supported by countless well-documented incidents and credible reports. One such widely publicised incident is the case of Kahrizak detention centre. In 2009, during the peaceful protests that followed the disputed 2009 presidential election in Iran, dozens of protesters were rounded up by security forces and taken to the Kahrizak in south Tehran. It was an official detention centre run by the Prisons Organisation and was primarily used for keeping drug-related offenders. According to eyewitnesses, many of the new arrivals were severely beaten and tortured. Three young men died as a result of their torture. Judicial authorities and officials from prisons organisation made every effort to

⁴ See: <https://www.reuters.com/article/us-iran-ahmadinejad-idUSBRE89L0LV20121022> ;
<https://www.peykeiran.com/Content.aspx?ID=8428>

⁵ <https://www.amnesty.org/en/latest/news/2021/09/iran-a-decade-of-deaths-in-custody-unpunished-amid-systemic-impunity-for-torture/>

falsify the cause of their death in order to cover up evidence of torture and murder at the facility.⁶ It is also worth mentioning that the main reason that Kahrizak atrocities became public and some of the responsible officials were prosecuted was that one of the victims was the son of Mr. Ruh-ul-Amini a close aide to the Supreme Leader, Khamenei.

16. From the above and numerous further reports and documented cases, it is evident that the IRI fails to bring its prisons and detention centres under effective control and independent judicial oversight. The Prisons Organisation itself is complicit in many atrocities and when such atrocities are exposed they engage in denial and cover-up. In addition, the Iranian law expressly recognises and allows the use of security and intelligence detention centres that are run separately from the regular prisons system. The risk of abuse and mistreatment of detainees in such facilities is even higher.
17. Importantly, it must also be noted that none of the rules and regulations mentioned above touches on tens and hundreds of other unofficial and secret places and safe houses that are not categorised as either prisons or detention centres, but yet exist and are regularly used by security and intelligence forces without any control and oversight.

Arrests and Detention

18. In addition to general law enforcement forces, i.e. ‘commanders, officers, and rank-and-file police officers who have received the required training’, Iranian law grants wide ranging powers to arrest and detain individuals to an array of intelligence and security forces, including IRGC forces, Basij paramilitary forces and Ministry of Intelligence personnel, with no effective oversight of their actions.⁷ This has facilitated the already widespread practice of arbitrary arrest and detention of individuals by law enforcement and security officials.⁸
19. The CPC regulates the issuance of warrants and summonses prescribing the right of the individual to be presented with a warrant and informed of the reasons for arrest and alleged offences at the same time.⁹ Such statutory safeguards, however, are routinely violated.

⁶ <https://www.iranhumanrights.org/2016/09/saeed-motazavi-kahrizak/>

⁷ Art. 29 of the Criminal Procedure Code (CPC).

⁸ Art 180 of the CPC; Amnesty International, ‘Flawed Reforms: Iran’s New Code of Criminal Procedure’, 2016, p. 27, available at: <https://www.amnesty.org/en/documents/mde13/2708/2016/en/>

⁹ Art. 181 of the CPC.

Individuals can be arrested without being presented with a warrant or on vague and too-widely-defined grounds such as national security. Indeed, those accused of such offences can be arrested without having received a summons in advance.¹⁰

20. The CPC also prescribes a detainee's right to inform (by phone or other means) a third person (e.g. a relative or lawyer) that they have been detained. However, it quickly takes it away by giving power to the enforcement officers and judicial authorities to restrict this right when they deem it 'necessary'.¹¹ This often results in many detainees not being allowed to inform their relatives about their detention effectively making them forcibly disappeared. Not knowing the whereabouts of their loved ones or even the fact that they have been arrested, distressed relatives are left with no option but to visit hospitals, morgues, police stations, prosecution offices, courts, prisons and other known detention centres to enquire about them which are often to no avail.
21. Arrested individuals are routinely subjected to lengthy detentions without trial, a situation compounded by poor conditions, torture and ill-treatment, and the denial of access to legal counsel and communication with family members. Since September 2020, brothers Vahid Afkari and Habib Afkari have been held in windowless solitary confinement cells and denied access to adequate healthcare, fresh air, telephone calls and face-to-face family visits. Authorities arbitrarily arrested them in 2018 after their participation in protests, forcibly disappeared them and repeatedly tortured them for months. They were sentenced to lengthy imprisonment after grossly unfair trials.¹²
22. Following, and in response to, November 2019 protests, Iranian authorities carried out mass arrests where according to statements of officials, at least 7,000 individuals were arrested.¹³ Among such cases, Amnesty International has documented a number of cases where injured protesters and bystanders were arrested from hospitals while seeking medical care for gunshot wounds. The post-protests arrests were often violent and also extended to human rights defenders and rights activists, journalists, and also family members of victims and individuals who attended funeral or other ceremonies to commemorate those killed during the protests.

¹⁰ Art 180 of the CPC; Amnesty International, 'Flawed Reforms: Iran's New Code of Criminal Procedure', 2016, available at: <https://www.amnesty.org/en/documents/mde13/2708/2016/en/>

¹¹ Art. 50 of the CPC.

¹² <https://www.amnesty.org/en/documents/mde13/4250/2021/en/>

¹³ https://www.radiofarda.com/a/f4_naghavi_hosseini_arrest_seven_thousands_protest/30293828.html

Interrogations and use of torture

23. Under Iranian law, interrogation of the accused person, which constitutes part of the pre-trial investigations, can be carried out by judicial authorities (Prosecutor's office) as well as by law enforcement forces if the accused is in their custody following arrest in cases of 'evident' crimes or when they are delegated with investigating powers by judicial authorities.¹⁴
24. The IRI's Constitution prohibits torture "for the purpose of extracting confession or acquiring information".¹⁵ It also prohibits all affronts to the dignity of detainees and prisoners.¹⁶
25. The 'Law on Respecting Legitimate Liberties and Protecting Citizens' Rights' has also outlawed use of torture and prohibited interrogators and law enforcement officers from harming the accused. For instance, the said law is explicit that using of blindfold or tying of limbs is forbidden during detention and interrogation. Officials should also refrain from covering the face of the accused or sitting behind their back during interrogation. The CPC also prohibits the use of 'force, coercion, insulting language, leading questions and questions irrelevant to the charges' during interrogations. Answers by the accused to such questions as well as statements obtained as a result of torture or other forms of coercion, are invalid.¹⁷ However, the above legal safeguard and provisions could not be further from the reality. Routinely, it is the opposite of the above that happens in interrogation rooms and during the investigations and in detention centres and prisons.
26. While killing and injuring unarmed protesters and bystanders are more visible through conventional media and social media platforms, cruel treatment of detainees and prisoners (whether at the pre-trial investigative phase or while serving their sentence) almost always take place away from the public eye.
27. As reported by Amnesty International, Iran's police, intelligence and security forces, and prison officials have committed, with the complicity of judges and prosecutor, torture and other ill-treatment, against those detained in connection with the nationwide protests of November 2019. The report documents the harrowing accounts of dozens of protesters,

¹⁴ Art. 98 of the CPC.

¹⁵ Art. 38 of the IRI Constitution.

¹⁶ Art 39, *ibid.*

¹⁷ Art 60 of the CPC.

bystanders and others who were violently arrested, forcibly disappeared or held incommunicado, systemically denied access to their lawyers during interrogations, and repeatedly tortured to ‘confess’.¹⁸

28. Amnesty International’s research found that

‘victims were frequently hooded or blindfolded; punched, kicked and flogged; beaten with sticks, rubber hosepipes, knives, batons and cables; suspended or forced into holding painful stress positions for prolonged periods; deprived of sufficient food and potable water; placed in prolonged solitary confinement, sometimes for weeks or even months; and denied medical care for injuries sustained during the protests or as a result of torture.’¹⁹

29. Other documented methods of torture included:

- Stripping detainees and spraying them with cold water,
- Subjecting detainees to extreme temperatures and/or bombardment of light or sound;
- Suspending detainees from their hands and feet from a pole;
- Forcible extraction of the nails from fingers or toes;
- Pepper spraying;
- Forced administration of chemical substances;
- Using electric shocks;
- Waterboarding; and
- Mock executions.²⁰

30. There have also been numerous reports revealing that ‘interrogators and prison officials perpetrated sexual violence against male detainees, including through stripping and forced nakedness, sexual verbal abuse, pepper spraying the genital area, and administering electric shocks to the testicles’.²¹

¹⁸ Amnesty International, ‘Trampling humanity: Mass arrests, disappearances and torture since Iran’s 2019 November protests’, September 2020, available at:

<https://www.amnesty.org/en/documents/mde13/2891/2020/en/>

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

31. The above is not new or unprecedented. Many detainees throughout decades have been subjected to similar ill-treatment and torture. For example, labour rights activist Esmail Bakhshi was arrested by Iranian forces and severely beaten for taking part in a November 2018 labour protest in the city of Ahwaz. For three days, he said, he couldn't move in his solitary-confinement cell due to the unbearable pain: "Weeks after my release, I still feel intolerable pain in my broken ribs, left ear, and testicles." Shortly after Bakhshi publicly revealed that he had been tortured, security forces re-arrested him.²²
32. More recently the 25-year-old civil and labour rights activist Sepideh Gholian has made detailed accounts of abuse of prisoners in the women's ward.²³ She had also previously written a memoir about her time in Sepidar prison in her native Khuzestan province. She draws a harrowing picture of torture and ill-treatment of detainees intended to obtain forced confessions and describes the unbearable general conditions in Sepidar prison.²⁴ She has also provided an account of some detainees in the detention centre run by the Intelligence Ministry in the city of Ahwaz. Those detainees from Iranian Arab ethnic minorities, Gholian revealed, were severely tortured to confess that they were terrorists and members of Islamic State (IS) and participated in the recent armed attack against IRI armed forces.²⁵
33. Since last year increasing numbers of prisoners, including human rights and political activists, have been moved from Evin prison in Tehran to prisons outside the capital city without warning. In these prisons there is no separation of different categories of prisoners and any such inmates are locked up in the same wards as criminals who have committed serious offences such as murder. There have been numerous reports of political prisoners having been attacked by fellow prisoners. On 10 June 2019, 21-year-old Alireza Shir-Mohammadi who was detained in Greater Tehran Prison (aka Fashafooye Prison) for his alleged anti-regime Internet activism and was awaiting his appeal hearing, was stabbed to death by his cellmates who were criminals convicted of murder and drugs-related

²² <https://iranhumanrights.org/2019/01/iran-release-labor-activists-re-arrested-for-revealing-theyd-been-tortured/>

²³ <https://www.radiofarda.com/a/sepideh-gholiyan-special-interview-on-bushehr-prison-condition/31455674.html>

²⁴ Published by Iran Wire in June 2020, available at: <https://iranwire.com/fa/features/38973>

²⁵ Ibid.

charges.²⁶ Alireza had previously written an open letter and gone on hunger strike in protest against ‘fear for his life’ and ‘inhumane conditions of the prison’.²⁷

34. In addition to physical torture and harms to life and physical integrity of detainees, victims have also reported various forms of psychological torture including ‘the use of degrading verbal insults and profanities; the intimidation and harassment of their family members; threats to arrest, torture, kill or otherwise harm their family members, including elderly parents or spouses; and threats to rape detainees or their female family members’.²⁸
35. In such cases, torture is routinely used as an instrument not only to punish, intimidate and humiliate detainees (which are deemed by the authorities the enemies of the state), but also to elicit ‘confessions’ and incriminating statements about their involvement in the protests and also about their alleged associations with opposition groups, human rights defenders, media outside Iran, and even with foreign hostile governments. Since November 2019, hundreds of individuals have been sentenced to imprisonment and flogging and several to the death penalty following grossly unfair trials by Revolutionary Courts that systematically relied on ‘confessions’ obtained under torture. Such confessions sometimes also take the form of forced televised confessions which are regularly (following unrests or discovery of alleged plots against national security) broadcast in state propaganda TV programmes.²⁹
36. It is worth mentioning here the recent hacking incident that exposed a fraction of what happens in Iranian prisons. In the summer of 2021, a group of hackers calling itself Edalate Ali (The Justice of Ali) started releasing a series of footages of the abuse of inmates at Tehran’s notorious Evin prison, claiming it had hacked into the prison’s system and stolen hundreds of gigabytes of data. The videos depict some of the abuse that victims and rights groups have been describing for decades.³⁰ Given that such abuses have taken place where CCTVs are installed and the prison guards are aware that they are being monitored, the

²⁶ <https://www.bbc.com/persian/iran-48618124>

²⁷ Ibid.

²⁸ Amnesty International, ‘Trampling humanity: Mass arrests, disappearances and torture since Iran’s 2019 November protests’, September 2020, available at:

<https://www.amnesty.org/en/documents/mde13/2891/2020/en/>

²⁹ See: Justice for Iran and FIDH, ‘Orwellian State: The Islamic Republic of Iran’s State Media as a Weapon of Mass Suppression’, 2020, available at: <https://www.fidh.org/en/region/asia/iran/iran-new-report-demands-end-to-the-rampant-use-of-forced-confessions>

³⁰ <https://www.dw.com/en/videos-confirm-systemic-abuse-in-irans-jails/a-59064884>

abuse is undoubtedly more serious where there is no CCTV. This is what many former prisoners and detainees have described as only a glimpse, and indeed the tip of the iceberg, of the systemic abuse and mistreatment of prisoners not only in Tehran but also across all Iran's prisons. They emphasise on the much more wide-spread and systematic abuse that are either not recorded or not available to watch.³¹

37. Consistent with their typical reaction to such incidents, Iranian authorities spent days trying to deny the obvious abuse that was clearly visible on the leaked footage. They even claimed that Israel had hired actors to make the videos, but in the end, they had to admit that the footage came from surveillance cameras at the prison.³² They then attempted to rapidly sweep this under the carpet and gave a vague, yet extremely rare, apology (albeit to the Supreme Leader rather than to the victims) while claiming that they had already addressed the issues and the few prison guards have been disciplined.
38. This is typical and prevalent among Iranian authorities who fail to meaningfully investigate allegations of torture and abuse against detainees. A recent widely publicised example of this was the case of Navid Afkari where authorities refused to investigate the allegations of torture he had repeatedly raised throughout the court proceedings. Leaked voice recordings of him in court expose how his pleas for judges to investigate his torture complaints and bring another detainee who had witnessed his torture to testify were unlawfully ignored. He was executed on the basis of confessions that he maintained was obtained by force and under torture.³³ One year later, the said witness who had claimed he witnessed the torture of Navid Afkari died under “suspicious circumstances” in the Greater Tehran Prison after being transferred to solitary confinement.³⁴
39. Instead of investigating allegations of torture and other violations against detainees, judicial authorities in Iran tend to become complicit in the systematic repression by not only bringing serious charges of national security against those exercising their rights to freedom of expression, association and peaceful assembly, but also against those who publicise and protest against the violations.

³¹ <https://www.rferl.org/a/iran-evin-prison-abuse/31429924.html>

³² <https://www.dw.com/en/iran-prison-official-confirms-leaked-abuse-video/a-58964931>

³³ <https://www.amnesty.org.uk/press-releases/iran-secret-execution-wrestler-navid-afkari-travesty-justice>

³⁴ <https://www.rferl.org/a/iran-confirms-death-of-prisoner-who-claimed-he-witnessed-afkari-s-torture/31476423.html>

40. Iranian authorities also tend to resort to reprisal against anyone who challenges their cruel treatment at the hands of state officials. Niloufar Bayani was an environmental activist who was sentenced in 2019 to 10 years imprisonment for her ‘contacts with the enemy state of the USA’ and for ‘gaining illegitimate income’, a reference to her relations with the UN. In February 2020, Bayani wrote a letter in which she depicted her conditions in prison. She said she was interrogated for 9 to 12 hours daily, and tortured both physically and mentally. She accused officials of threatening to inject her with hallucinogenic drugs and to arrest and/or kill her relatives. In October 2020, she was charged with "publishing false information" for writing the letter.³⁵

Due Process and fair trial rights

41. The CPC prescribes the rights of detainees to be informed of their rights, access to legal counsel, challenge the lawfulness of detention, remain silent, not incriminate themselves and have recourse to complain about unlawful detention or torture or other ill-treatment during arrest or detention. The CPC also sets out relatively strict regulations for conducting and recording interrogations. For instance, it bans asking leading questions, deception and forcing or coercing the accused person during interrogation. However, in practice all such safeguards are routinely ignored.
42. Many individuals prosecuted over their participation in the November 2019 protests were tried in front of a Revolutionary Court on charges related to national security such as “spreading propaganda against the system”, “gathering and colluding to commit crimes against national security”, and more serious (potentially capital) crimes of “enmity against God” (*moharebeh*), “corruption on earth” (*efsad-e fel-arz*), and “armed rebellion against the state” (*bagh’y*).³⁶ However, many, including some of the same individuals in a double jeopardy, would also face separate criminal charges including “disturbing public order” and “destruction of property” in front of criminal courts. The selected Revolutionary and

³⁵ <https://www.dw.com/en/videos-confirm-systemic-abuse-in-irans-jails/a-59064884>

³⁶ According to article 303 of the CPC, Revolutionary Courts have jurisdiction over: crimes against national and external security, “enmity against God” (*moharebeh*), “corruption on earth” (*efsad-e fel-arz*), “armed rebellion against the state” (*bagh’y*), “gathering and colluding to commit crimes against the Islamic Republic”, armed activities, arson and “destruction and plunder of resources with the purpose of opposing the system”, “insulting the founder of the Islamic Republic and the Supreme Leader”, all drug-related offences, trafficking of arms and ammunition and other restricted items, and all other offences that pursuant to special laws fall within the jurisdiction of Revolutionary Courts.

Criminal courts that hear such cases are notorious for their total disregard of the most basic fair trial rights and standards.

43. As mentioned earlier, Iran's Constitution also guarantees the right of individuals arrested or detained to access legal counsel.³⁷ However, like many other constitutional rights, it has been eroded and significantly restricted under other laws and in practice. Iranian authorities have long denied individuals this right particularly, and crucially, during the pre-trial investigative stage. The CPC does not fully guarantee the right from the time of arrest and imposes further conditions and allows judicial authorities to delay and limit individuals' access to a lawyer in the case of certain offences including the overly broad category of crimes against national security.
44. A further restriction to the right to legal counsel is imposed by limiting the circle of lawyers who can represent the defendants in certain cases. According to the CPC, in crimes against the internal or external security of the country as well as in organised crimes, the accused must choose his/her lawyer from a list of qualified lawyers approved by the Head of the Judiciary.³⁸
45. However, despite the explicit prescription of the law, interrogators belonging to security and intelligence bodies and prosecution authorities consistently refuse to provide detainees (including those prosecuted in connection with the November 2019 protests) any access to even judiciary-approved lawyers during the investigation phase. In addition, while this provision explicitly applies only to the stage of pre-trial investigations, there are reports that accused individuals have been denied the right to appoint a lawyer at the trial stage. Prosecution authorities and judges of Revolutionary Courts invoke the CPC provision to deny some detainees access lawyers of their own choosing not only at the investigation phase, but also even during the trial. In such cases, as reported by Amnesty International, the authorities told defendants that they had to choose their lawyers from a list of judiciary-approved lawyers; the defendants who refused were consequently forced to represent themselves at trial.³⁹

³⁷ Article 35 of Iran's Constitution provides: "Both parties to a lawsuit have the right in all courts of law to choose a lawyer, and if they are unable to do so, arrangements must be made to provide them with legal counsel."

³⁸ Note to article 48 of the CPC (as amended in 2015).

³⁹ Amnesty International, 'Trampling humanity: Mass arrests, disappearances and torture since Iran's 2019 November protests', September 2020, p. 50.