

*THE ILLEGAL USE OF POTENTIALLY-
LETHAL WEAPONS BY IRAN'S SECURITY
FORCES DURING NOVEMBER 2019
PROTESTS*

Expert Report Presented to the Aban Tribunal

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Professional Background

1. My name is Bahar Saba and I am a human rights researcher with a decade of experience working in the field of human rights in the Middle East and North Africa with a particular focus on the situation of human rights in Iran.
2. I hold an L.L.B from the University of Tehran (2008), an L.L.M in human rights law from the University of Nottingham (2011) and an MPhil in Modern Middle Eastern Studies from the University of Oxford (2018). Since 2011, I have worked in various capacities with multiple human rights organisations including Amnesty International, Reprieve and ARTICLE 19. I have also assisted multiple human rights organisations and institutions as a consultant as well as on a *pro-bono* basis. In addition to Iran, I have worked on the human rights situation in different countries in the Middle East and North Africa region, including Bahrain, Egypt, Saudi Arabia and the United Arab Emirates.
3. I am a native speaker of Persian.
4. In addition to legal and human rights law expertise gained through education and years of work in the field, I have received a training on open source investigations delivered by Bellingcat, an independent international collective of researchers, investigators and citizen journalists who carry out open source investigations including in relation to violations of human rights, as well as a training on identifying and documenting police and security equipment delivered by Omega Research Foundation: an independent research organisation based in the United Kingdom that provides objective and evidence-based research on the global manufacture, trade in, and use of, military, security and police equipment.

Instruction

5. I have been requested by the co-counsel to provide my expert opinion on the legality of the use of less-lethal force (referred to in this report as potentially-lethal force) by the Iranian authorities and security forces against protestors and bystanders during the nationwide protests that took place in Iran in November 2019. Accordingly, the use of lethal force such as firearms during the protests falls outside the scope of this report. This is notwithstanding the fact that a significant number of witnesses whose testimonies with regards to the use of less-lethal weapons have been relied upon for this report, have also witnessed the use of firearms by State security forces against unarmed protestors and bystanders who posed no imminent threat of death or risk of serious injury. Moreover, only extra-custodial use of force has been examined in this report and the use of potentially-lethal weapons such as batons, restraint instruments, chemical irritants and electric shock weapons in detention centres and prisons against individuals who were arrested and detained in relation to the protests and were in the custody of the State falls outside its scope.

Information Relied upon and Methodology

6. My professional assessment and opinion expressed in this report have been primarily based on witness statements obtained by the Aban Tribunal. I accessed these statements as part of my work as a legal consultant and expert on the situation of human rights in Iran on a joint Communication by Associate Professor of International law and director of the Kalshoven-Gieskes Forum on International Humanitarian Law and its IHL Clinic, Dr. Robert Heinsch - and his team of law clinic students and supervisors - as well as Justice for Iran (which with the consent of witnesses had received the statements) to the Office of the Prosecutor of the International Criminal Court (ICC). The Communication, pursuant to Article 15 of the Rome Statute, urges the ICC Prosecutor to initiate a preliminary examination into the situation in Iran related to the acts perpetrated by the Iranian authorities and forces during the nationwide protests of November 2019 and in their aftermath which the Communication concludes amounted to crimes against humanity.
7. In total, I have analysed 67 witness statements. These statements belonged to individuals in 28 cities in 16 provinces. Of the 67 witnesses whose testimonies I have examined, 60 provided information about the use of potentially-lethal force by Iran's security forces during the November 2019 protests. They included those who stated that they had sustained injuries as a result of the use of potentially-lethal force and those who had witnessed other protestors and bystanders sustaining injuries as a result of the use of potentially-lethal force. Some witnesses had both sustained injuries themselves and witnessed the use of potentially-lethal weapons by State security forces against other protestors and bystanders.
8. Due to the serious risks that the disclosure of the identities of witnesses would give rise to, their confidentiality has been strictly maintained including through concealing the cities their testimonies pertain to.
9. I have studied and corroborated these witness statements - to the best of my ability - against each other, against facts and evidence published by international organisations, NGOs and visual evidence with regards to the events that happened in Iran during the protests of November 2019 as well as the general trends of violations of human rights as investigated and documented by reliable human rights organisations and the UN bodies and experts over the past years.
10. In addition to witness statements, I have also examined and relied on the following:
 - Video footage of the protests depicting the use of potentially-lethal force by Iran's security forces against protestors and bystanders. These videos have been verified by Amnesty International;

- Images of injuries sustained by witnesses;
- Information received from Amnesty International with regards to the eye-injuries sustained by individuals as a result of the use of multiple shot projectiles (likely birdshots) during the protests;
- Reports of human rights organisations including, Amnesty International, Justice for Iran, the Center for Human Rights in Iran, Human Rights Activists in Iran and other credible organisations that have documented the violations that took place in the context of November 2019 nationwide protests;
- Guidance on Less-Lethal Weapons in Law Enforcement published by the Office of the United Nations High Commissioner for Human Rights¹ (OHCHR) (the UN Guidance);
- The reports of human rights organisations such as Physicians for Human Rights (PHR) and Omega Research Foundation with regards to less-lethal weapons and the health impacts of these weapons. In particular, a joint report by Physicians for Human Rights and the International Network of Civil Liberties Organizations (INCLO) entitled “Lethal in Disguise: the Health Consequences of Crowd Control Weapons”², as well “A Visual Guide to Law Enforcement and Security Equipment”³ by Omega Research Foundation and Amnesty International’s “Use of force: guidelines for implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”⁴ have been relied on;
- Reports of United Nations’ experts and bodies including the reports of the UN Special Rapporteur on the situation of human rights in Iran;
- Rulings by national and international human rights courts including the European Court of Human Rights;
- Iran’s domestic laws and legislations;
- Official documents, including statements by the Iranian authorities, published by State and State-affiliated media as well as official State websites.

11. In my analysis, I have applied the existing international law and standards on the use of force by law enforcement, in particular the Code of Conduct for Law Enforcement Officials⁵ and the UN Basic Principles on the Use of Force and Firearms by Law

¹ United Nations Office of the High Commissioner, “Guidance on less-lethal weapons in law enforcement”, 2020, available at: https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf.

² Physicians for Human Rights and the International Network of Civil Liberties Organizations, “Lethal in Disguise: the Health Consequences of Crowd-Control Weapons”, 2016, available at: <https://phr.org/our-work/resources/lethal-in-disguise/>.

³ Omega Research Foundation, “Visual guide to law enforcement and security equipment”, 2021, available at: <https://omegaresearchfoundation.org/new-resource-guide-law-enforcement-and-security-equipment>.

⁴ Amnesty International, “Use of force: guidelines for implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”, 2015, available at: https://www.amnesty.org.uk/files/use_of_force.pdf.

⁵ UN General Assembly, Code of conduct for law enforcement officials, 5 February 1980, A/RES/34/169, available at: <https://www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx>.

Enforcement Officials⁶ as well as laws and principles pertaining to the rights to peaceful assembly, life, physical integrity, and the prohibition of torture and other ill-treatment to the facts and evidence.

Terminology

12. In this statement, the ‘Iranian authorities’ and ‘Iranian officials’ refer to high ranking officials many of whom have command and superior responsibility over the security forces on the ground and/or effective control over institutions with the authority to stop abuses from taking place and to investigate violations of human rights and international crimes. They include – but are not limited to - the Islamic Republic of Iran’s Supreme Leader, the Heads of the three branches of the government, members of the Supreme National Security Council as well as officials at the local level including provincial and city governors.
13. In this statement, ‘State security forces’ or ‘Iran’s security forces’ refers to various forces including the Islamic Republic of Iran’s police forces (NAJA) and its sub-forces such as the Special Anti-Riot Police, the Islamic Revolutionary Guard Corps (IRGC) and the para-military force under its control, Basij, the Ministry of Intelligence forces as well as the country’s regular army. It also encompasses plain-clothes forces, whose affiliation is not easily identifiable due to the lack of uniforms and/or nametags or individually assigned service numbers and could belong to the Ministry of Intelligence, the IRGC, Basij or other forces.
14. In this statement, ‘potentially-lethal force’ is used synonymously with ‘less-lethal force’ and ‘less-lethal weapons’ and refers to “[w]eapons designed or intended for use on individuals or groups of individuals and which, in the course of expected or reasonably foreseen use, have a lower risk of causing death or serious injury than firearms.”⁷ They include hand-held kinetic impact weapons (also referred to as striking weapons) such as batons, chemical irritants, kinetic impact projectiles as well as water cannons. Nonetheless, as will be detailed further in this statement, less-lethal weapons may kill or inflict serious, irreversible or permanent injury in particular if not used by trained law enforcement officials according to their specifications and in strict compliance with international law principles on the use of force.⁸ For this reason, I have used the term ‘potentially-lethal’ when referring to these weapons.
15. Ammunition containing multiple shot metal projectiles such as birdshots and buckshots, which are inherently indiscriminate and cause serious or irreversible injuries, permanent disabilities, or even death, should not be used as less-lethal

⁶ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, available at: <https://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx>.

⁷ OHCHR, “Guidance on Less-Lethal Weapons in Law Enforcement”, p. 45.

⁸ See OHCHR, “Guidance on Less-Lethal Weapons in Law Enforcement”.

ammunition and for policing of assemblies. The UN Guidance explicitly states that these types of ammunitions should not be used and organisations such as the Omega Research Foundation consider them as lethal and advocate for their categorisation as such. However, given that they were widely and unlawfully used by State security forces during the November protests as crowd control weapons, they have been studied in this report which exclusively deals with less-lethal weapons.

Background to the Protests

16. On 15 November 2019, following the government of Iran's announcement about a significant and sudden increase in the price of petrol, protests started to break out in a few cities. The following day, protests spread out to a larger number of cities. In response, the Iranian authorities and security forces resorted to brutal force in order to repress the protests. Police and security forces used unlawful lethal force as well as potentially-lethal force killing and injuring thousands of unarmed protestors and bystanders who posed no imminent threat to life or risk of serious injury⁹ while arresting thousands and subjecting detainees to torture and other ill-treatment.¹⁰ These violations were committed amid a week-long near total internet shutdown across the country which facilitated the commission and concealment of gross human rights violations and crimes under international law.¹¹

Types of Potentially-lethal Force Used in November 2019

17. Various types of potentially-lethal weapons were used by Iran's security forces during the protests of November 2019. The following list is by no means an exhaustive list of the potentially-lethal weapons used by State forces during the protests and other types of weapons are likely to have been used. The weapons listed below have been most commonly identified by witnesses and/or appear in video footage of the protests. It must be noted that due to a lack of required information and the issue falling outside my area of expertise, I have not identified in my report the particular make and brands of the following weapons (for instance what type of launchers have been used to fire

⁹ Amnesty International, "They shot our children: Killings of minors in Iran's 2019 November protests", (4 March 2020) available at: <https://www.amnesty.org/en/documents/mde13/1894/2020/en/>; "Iran: Details of 324 Deaths in Crackdown on November 2019 Protests", (20 May 2020), available at: www.amnesty.org/en/documents/mde13/2308/2020/en/; Justice For Iran, "Shoot to Kill: Preliminary Findings of Justice for Iran's Investigation into the November 2019 Protests", (28 February 2020), available at: <https://justice4iran.org/15229/>; Center for Human Rights in Iran (CHRI), "Report: Gunning Them Down. State Violence against Protesters in Iran", (May 2020), available at: <https://www.iranhumanrights.org/wp-content/uploads/Iran-Human-Rights-November-2019-January-2020-Protests.pdf>.

¹⁰ Amnesty International, "Trampling Humanity: Mass Arrests, Disappearances and Torture Since Iran's 2019 November Protests", (2 September 2020), available at: <https://www.amnesty.org/en/documents/mde13/2891/2020/en/>.

¹¹ Amnesty International, "A Web of Impunity : The Killings Iran's Internet Shutdown Hid", (16 November 2020); available at: https://iran-shutdown.amnesty.org/wp-content/uploads/2020/11/Amnesty_recorded_victims_15-18_Nov_2019_Iran-version20201115.xlsx, ARTICLE 19, "Iran: Tightening the Net 2020: After Blood and Shutdowns", (September 2020), available at: www.article19.org/wp-content/uploads/2020/09/TTN-report-2020.pdf.

multiple shot projectiles or tear gas cannisters). In addition to a brief explanation of the below weapons, I have included the injuries and health complications associated with each.

18. Launched **Kinetic Impact Projectiles** – these are projectiles, often referred to as “plastic” or “rubber bullets”, which are contained in weapon-launched cartridges or grenades that are either hand-thrown or weapon launched. Cartridges or grenades can contain projectiles that differ in size, velocity and accuracy. Projectiles could be single or multiple:¹²
 - a) *Single projectile specifically designed for crowd control* – these are a single less-lethal projectile which, when designed with higher level of accuracy and used in strict compliance with international human rights law and standards, can have a legitimate law enforcement use. As will be detailed below, these are the only types of kinetic impact projectiles that can be used and all other types should be prohibited. Single rubber balls and foam tipped projectiles are among this category.¹³
 - b) *Rubber-coated metal bullets* – this projectiles impact with excessive energy and can cause serious injury or even death.¹⁴ They should not be used.¹⁵
 - c) *Multiple shot projectiles – rubber or wood* – are indiscriminate and inaccurate and therefore should not be used.¹⁶
 - d) *Multiple shot metal pellets (birdshot and buckshot)* – these are metal projectiles that can range from small 'birdshot' pellets (ranging from 1.27mm to 4.57mm) to larger 'buckshot' balls (ranging from 5mm to 25mm) that are generally fired from shotguns. Multiple shot pellets cause an indiscriminate spray that spreads and cannot be aimed. As Omega Research Foundation states, this ammunition is designed to penetrate soft tissue and should be considered lethal.¹⁷ These types of ammunition are typically used for hunting with the size of the pellets chosen on the basis of the size of target animals.

19. Kinetic impact projectiles can cause serious and irreversible eye injuries including total and permanent loss of vision, bleedings in organs such as the liver and kidney, muscle and bone injuries such as bruising, fractures and even permanent damage to the neurovascular structures, bruising and contusions of the skin and soft tissue, superficial or deep lacerations, concussions and bruising inside the brain as well as different types of bleeding in the brain and skull fractures. Injuries caused by kinetic impact projectiles can be fatal.¹⁸

¹² Omega Foundation, “A visual guide”, Chapter 4.

¹³ Omega Foundation, “A visual guide”, pp. 83, 84.

¹⁴ Omega Foundation, “A visual guide”, pp. 79, 80.

¹⁵ UNODC and OHCHR, “Resource book on the use of force and firearms in law enforcement”, 2017, p. 94 and OHCHR, “Guidance on Less-Lethal Weapons in Law Enforcement”, para. 7.5.8.

¹⁶ Omega Foundation, “A visual guide”, pp. 81, 82, and OHCHR, “Guidance on less-lethal weapons in law enforcement”, para. 7.5.6, and UNODC and OHCHR, “Resource book on the use of force and firearms in law enforcement”, p. 94.

¹⁷ Omega Foundation, “A visual guide”, pp. 77, 78.

¹⁸ See Physicians for Human Rights and International Network for Civil Liberties Organizations, “Kinetic Impact Projectiles”, available at: <https://www.inclo.net/pdf/lethal/KIPfactsheet.pdf>.

20. **Chemical Irritants** - are a group of chemicals that produce sensory irritation and pain in the eyes, upper respiratory tract and skin. The term ‘chemical irritants’ refers to tear gas (CS, CN, and CR) and pepper spray. Chemical irritants can result in breathing difficulties, coughing and suffocation, vomiting and injuries to the skin including irritation, burning, and blistering as well as allergic reactions which may be severe. If canisters are directly fired at individuals they can result in bruises, internal bleeding and damage to organs, broken bones, eye trauma including permanent damage to eyesight or loss of vision, head injuries and even death.¹⁹
21. **Batons** – are a type of hand-held kinetic impact weapons or what is commonly referred to as striking weapons. Batons are designed for hitting an individual in order to force them to comply through causing pain.²⁰ Various types of batons exist but it appears that straight and side-handled batons are more commonly used in Iran. Spiked batons, which are batons with sharp spikes, must not be used as they are inherently cruel, inhuman or degrading weapons.²¹ Batons can cause bruises, broken bones, internal bleeding and damage to organs, concussion and other head injuries.²²
22. **Electric shock weapons** – deliver a high voltage electric shock for a short duration to a target individual and include stun guns, stun batons, and projectile electric shock. Electric shock weapons can cause injuries such as severe pain, burns to the skin, lacerations, and cardiac arrest.²³ Only certain types of electric shock weapons, that is projectile electric shock weapons, may be used in extreme and limited circumstances where there is a real and immediate threat to life or risk of serious injury. Other types such as stun guns and stun batons must not be used.²⁴
23. **Water cannons** - are high-pressure systems which shoot streams of water. They are often mounted on crowd control vehicles and the water could be mixed with chemical irritants or dye.²⁵ Water cannons can cause direct injury such as trauma to the body or internal injuries from the force of the water stream and indirect injuries from forced falls and slipping on the water as well as by objects that are picked up by the stream of water and propelled as missiles. In cold weather, water cannons could result in hypothermia and frostbite.²⁶

¹⁹ Omega Foundation, “A visual guide”, p. 86.

²⁰ Omega Foundation, “A visual guide”, p. 64

²¹ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, “Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment”, UN Doc. A/72/178, 2017, para. 51, available at: <https://digitallibrary.un.org/record/1302624?ln=en>.

²² Omega Foundation, “A visual guide”, p. 64

²³ Omega Foundation, “A visual guide”, p. 50

²⁴ Omega Foundation, “A visual guide”, Chapter 2.

²⁵ Omega Foundation, “A visual guide”, p. 137

²⁶ Omega Foundation, “A visual guide”, p. 137 and PHR & INCLO, “Lethal in disguise”, p. 59.

International Law and Standards on the Use of Force

24. Prior to examining the legality of the use of potentially-lethal force by the Iranian authorities and security forces in November 2019, I will briefly set out below the principles on the use of force under international law and standards. In particular, I rely on the Code of Conduct for Law Enforcement Officials (the Code) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1990 (the Basic Principles). Both instruments have been endorsed by a large number of States and as stated by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, “are widely accepted as authoritative statements of the law.”²⁷
25. As a state party to international conventions including the International Covenant on Civil and Political Rights (ICCPR), Iran has an obligation to respect and protect the rights to peaceful assembly, life, physical integrity and freedom from torture and other ill-treatment. A component of fulfilling this obligation is through ensuring these rights by adopting laws that are in line with their international obligations including laws that place limits on the use of force by law enforcement officials. As emphasised by the Special Rapporteur on Extrajudicial Executions, “[e]nacting an adequate domestic legal framework for such use of force by police officials is thus a State obligation, and States that do not do this are in violation of their international obligations.”²⁸ Furthermore, the Human Rights Committee has clarified that “States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities.”²⁹
26. International law and standards impose stringent restrictions on the use of force – whether lethal or less-lethal – due to the serious risk they pose to the life and physical integrity of individuals. Any use of force by law enforcement officials must strictly adhere to the principles of:³⁰
- a) Legality – meaning the power to use force must be based in domestic laws that are themselves in line with international law and standards;
 - b) Necessity – force may only be used in exceptional circumstances and when strictly necessary for achieving a legitimate law enforcement objective. The principle requires that

²⁷ Report of the Special Rapporteur on extrajudicial executions, UN Doc. A/HRC/26/36 (2014), para. 44. The Basic Principles were welcomed by General Assembly of the United Nations in its resolution 45/121 of 14 December 1990.

²⁸ Report of the Special Rapporteur on extrajudicial executions, UN Doc. A/HRC/26/36 (2014), para. 47.

²⁹ Human Rights Committee General Comment No. 6 (1982), para. 3.

³⁰ See Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, UNODC and OHCHR, “Resource book on the use of force and firearms in law enforcement” and Amnesty International, “Use of force: guidelines for implementation of the UN Basic Principles”.

only the minimum force required for achieving the objective is used and that the use of force is stopped once the objective is achieved. Unnecessary or excessive use of force may amount to torture or other ill-treatment;

c) Proportionality – law enforcement objectives cannot be achieved at any cost. There shall be a balance between the type and level of force used and the potential harm that may arise from the use of force and the threat posed by an individual or group of individuals;

d) Non-discrimination – law enforcement officials shall not discriminate against any person or groups on grounds such as race, ethnicity, sex, gender identity, sexual orientation, political, religious or other opinion or similar criteria;

e) Accountability - law enforcement officials must be held accountable for their actions, including any decision to use force.

27. In the context of protests, the State and its law enforcement officials should seek to de-escalate situations that might result in violence. Non-violent means must be exhausted first and force of any kind may be resorted to when there exists no other means available that are likely to achieve the legitimate objective.³¹ Where it becomes absolutely necessary to use force, prior warning should be given unless doing either would be manifestly ineffective. Moreover, as the Human Rights Committee has stated, “any use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination applicable to articles 6 and 7 of the Covenant on Civil and Political Rights, and those using force must be accountable for each use of force.”³² Law enforcement must use force in a manner designed to minimise damage or injury and respect and preserve human life and ensure that assistance and medical aid is provided as soon as possible to those injured.³³

The use of weapons with lethal ammunition

28. The right to life is the “supreme right from which no derogation is permitted.” As a norm of *jus cogens*, the right to life is protected by international and regional treaties, including Article 6 of the ICCPR, to which Iran is a State party, as well as customary international law. While the right to life is not absolute, the permissible grounds under which deprivation of life could lawfully take place are severely restricted. Deprivation of life which fails to comply with international or domestic law – which must be in line with international law- as a rule, is arbitrary and may amount to extrajudicial killing.

29. Under international law, States are obligated to take all necessary measures in order to protect the right to life including by ensuring that the conduct of law enforcement officials strictly complies with the relevant international standards such as the Code of

³¹ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 4

³² Human Rights Committee, General comment No. 37 on the right of peaceful assembly, September 2020, UN Doc. CCPR/C/GC/37, para 78, available at: <https://digitallibrary.un.org/record/3884725?ln=en>.

³³ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 5.

Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.³⁴

30. Due to the high risk of loss of life arising from the use of firearms, international law establishes a distinctly higher threshold for their use as well as the use of any other type of force that carries a high likelihood or risk of causing death. Under Basic Principle 9, “[t]he use of potentially lethal force for law enforcement purposes is an extreme measure, which should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat.”³⁵ Even a higher threshold is established for the *intentional* use of lethal force, that is when law enforcement officials shoot to kill. The last sentence of Basic Principle 9 states, “intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.” The “protect-life”-principle³⁶ stipulated under these principles means that the threat imposed to life must be so *imminent* that the use of lethal force is absolutely necessary and the only way to avert the risk.³⁷
31. Therefore, deliberate use of lethal force to alleviate threats that do not meet the above threshold, that is posing an imminent threat to life or risk of serious injury, for example threats to public or private property cannot be considered proportionate and lawful.

Use of weapons using less-lethal ammunition

32. Under international law and standards, weapons using less-lethal ammunition, including various kinetic impact projectiles referred to by names such as rubber bullets and plastic bullets should be used only for the purpose of addressing an imminent threat of injury to either a law enforcement official or a member of the public.³⁸ These weapons are subject to strict requirements of necessity and proportionality and may only be used in situations where other less harmful measures have proven to be or clearly are ineffective to address the threat.³⁹ As stated above, single projectile specifically designed for crowd control are the only type of kinetic impact projectiles that can have a legitimate law enforcement use.
33. Where absolutely necessary, kinetic impact projectiles could only be used with precision to target the individual posing the imminent threat of injury. They cannot be randomly and indiscriminately shot at crowds. To avoid causing serious injury, kinetic impact projectiles should only be fired from the distance that is allowed

³⁴ Human Rights Committee, General Comment No. 36, 3 September 2019, UN Doc. CCPR/C/GC/36, para. 13.

³⁵ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 9.

³⁶ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, A/HRC/26/36, 1 April 2014, para. 70.

³⁷ See also Amnesty International, “Use of force: guidelines for implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”,

³⁸ OHCHR, “Guidance on less-lethal weapons in law enforcement”, 7.1.

³⁹ General Comment No. 36, para. 14.

according to the type of ammunition that is being used. Firing from close range increases the risk of skin penetration, serious injury or even death while firing from too great a distance reduces the accuracy and precision resulting in the targeting of vulnerable upper body parts or of unintended bystanders. Kinetic impact projectiles can only be aimed at lower extremities and should not be targeted at the head, face or neck as they can result in skull fracture and brain injury, eye trauma, including permanent and complete loss of vision, or even death. Similarly, targeting of the torso may cause damage to vital organs and can be lethal.⁴⁰ The firing of kinetic impact projectiles from the air or from an elevated position, such as the rooftop of a building, is likely to increase their risk of hitting individuals in the head and other sensitive body parts.⁴¹

34. As stated above, metal pellets, such as those fired from shotguns, should never be used. Neither should rubber-coated metal bullets - which are particularly dangerous - be used. The use of multiple projectiles (rubber, wood or other material) fired at the same time should be prohibited as they are inaccurate and, in general, their use cannot comply with the principles of necessity and proportionality.⁴²

Use of other less-lethal weapons (batons, electric shock weapons, chemical irritants, and water cannons)

35. As the UN Guidance has stated “batons shall not be used against a person who is neither engaged in nor threatening violent behaviour; such use is likely to amount to cruel, inhuman or degrading treatment, or even torture.”⁴³ Spiked batons are listed as a type of inherently cruel, inhuman or degrading weapon and should not be used.⁴⁴
36. Various types of electric shock weapons including electric shock batons (stun batons), electric shock guns (stun guns), electric shock shields (stun shields) should not be used. Only projectile electric shock weapons, which are small weapons which fire probes or darts that deliver an electric shock to the target, may be used exclusively in extreme and limited situations – where there is a real and immediate threat to life or risk of serious injury.⁴⁵
37. Less-lethal weapons with wide area effect such as chemical irritants and water cannons are indiscriminate by design. As such, there is a high risk of affecting unintended groups and individuals. Moreover, while the impact of chemical irritants and water cannons are generally thought to be transient, they can cause serious harm

⁴⁰ PHR & INCLO, “Lethal in Disguise”, 3.1.

⁴¹ OHCHR, “Guidance on less-lethal weapons in law enforcement”, 7.1.

⁴² OHCHR, “Guidance on less-lethal weapons in law enforcement”, 7.1.

⁴³ OHCHR, “Guidance on less-lethal weapons in law enforcement”, 7.1.5.

⁴⁴ UN Special Rapporteur on torture, “Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment”, para. 51.

⁴⁵ Committee against Torture, “Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland”, 2013, para. 26.

and injury to individuals.⁴⁶ Such weapons should only be used in situations of more generalised violence only as a measure of last resort and following a verbal warning, and with adequate opportunity given for assembly participants to disperse.⁴⁷ Their use should comply with the principles of legality, precaution, necessity, proportionality, non-discrimination and accountability.

38. Tear gas canisters should not be targeted directly at individuals as they can cause serious injury. The direct firing of tear gas canisters at the head and neck could cause eye trauma including permanent and complete loss of vision, head injuries and even death.⁴⁸ Similarly, water cannon should not be used to target an individual or group of persons at close range due to the great risk of causing permanent loss of vision or secondary injuries if individuals are propelled energetically by the water jet or objects are propelled as missiles.⁴⁹

Circumstances of the Use of Potentially-lethal Weapons in November 2019

39. Potentially-lethal force was used by Iran's security forces during the November 2019 protests in circumstances and in a manner that were in flagrant violation of the strict regulations governing the use of force under international law. Witness testimonies and other available information including the findings of human rights organisations and video footage of the protests, reveal the general pattern of the use of force by State security forces: that is force was used in a manner that was unlawful and disproportionate to the situation and with the intent to punish and intimidate the protestors and bystanders and to cause pain and suffering. The overall objective of the use of force by the Iranian authorities and security forces during the November 2019 protests was to rapidly repress and put an end to the protests at the cost of killing and causing irreversible or serious injuries to the protestors and bystanders.
40. In the following sections, I will detail the patterns of use of each potentially-lethal weapon that was commonly used by State security forces during the November 2019 protests. However, before proceeding to explain the more specific patterns, I will point out the broader patterns of the use of force.
41. As existing evidence shows and as documented by human rights organisations including Amnesty International, lethal force was used against protestors and bystanders who did not pose an imminent threat of death or risk of serious injury. Amnesty International has stated that "there is no evidence that people were in possession of firearms or that they posed an imminent threat to life" adding that the organisation is aware of only two reported incidents where gunfire is believed to have been exchanged between several protesters and security forces. According to

⁴⁶ PHR & INCLO, "Lethal in Disguise", 3.2 and 3.3.

⁴⁷ General Comment No. 37, para 87.

⁴⁸ See PHR & INCLO, "Lethal in Disguise", 3.2.

⁴⁹ OHCHR, "Guidance on less-lethal weapons in law enforcement", 7.7.

Amnesty International, “even during these two incidents, based on the testimonies of surviving protesters and video footage analysed by Amnesty International, the security forces did not confine their use of lethal force to those posing an imminent threat to life as there is evidence that they also shot at unarmed protesters who were posing no threat whatsoever, killing several people.”⁵⁰

42. Acts of destruction of property and arson were committed during the November 2019 protests.
43. I am not in a position to determine whether and to what extent the damage caused to properties were done by the protestors or other actors. However, I would like to highlight that a considerable number of witnesses have raised questions about the identities of those engaging in acts of destruction and arson and the motives behind their actions. They have referred to factors such as the organised manner in which individuals engaging in such conduct arrived at the scene of the protests, including on motorcycles; the individuals not belonging to their localities and neighbourhood; as well as the inaction of police and security forces when some of these acts were being committed. They have alleged that these factors could suggest that vandalism and similar acts may have been committed by actors other than the protestors, likely those affiliated or organised by the State, as a pretext to justify the use of force against the protestors by State security forces.
44. I am not able to independently verify these accounts. However, regardless of who committed acts of destruction and for what purpose, it is crucial to highlight that lethal weapons such as firearms, as well as multiple shot metal pellets such as birdshots and buckshots, multiple shot rubber pellets, or even single shot projectiles cannot be used in order to protect property. While certain types of weapons such as tear gas and water cannons may lawfully be used in a state of generalised and widespread violence in which destruction of property is committed, the objective of protecting property cannot be achieved at any cost including at the cost of causing severe injury or death to individuals for example by firing tear gas cannisters along a direct and flat trajectory into the crowds. As will be detailed below, the types of weapons and the manner in which they were used by Iran’s security forces did not constitute appropriate police action.
45. A number of witnesses have stated that protestors engaged in throwing stones towards the security forces. This can also be seen in some video footage of the protests. Generally, witnesses stated that protestors started throwing stones only after security forces attacked them to disperse their peaceful protests and fired tear gas, kinetic impact projectiles, and used batons for that purpose. They have stated that they mostly wanted to prevent the security forces from getting closer to them and reduce the harm they were exposed to as a result of the security forces’ use of lethal and potentially-

⁵⁰ AI, “Details of 324 Deaths in Crackdown on November 2019 Protests”, p. 1.

lethal weapons. It appears therefore that the actions of the security forces, which included the use of potentially-lethal weapons, generally escalated overwhelmingly peaceful protests. This is also evident in a number of videos verified by Amnesty International in which State security forces are seen using tear gas, batons and water cannons to disperse peaceful protestors or charging towards them while riding motorcycles.⁵¹ Nonetheless, throwing stones by the protestors would not justify the use of lethal weapons or weapons such as multiple shot metal projectiles (birdshots and buckshots) and multiple shot rubber projectiles or other weapons such as tear gas and batons in the manner they were used - for example the direct shooting of cannisters and beatings on sensitive body parts.

46. I must also emphasise here that while my focus has been on the use of potentially-lethal weapons, State security forces also used lethal weapons, that is firearms (such as AK47 and G3) against the protestors and bystanders.⁵² At least 26 witnesses whose testimonies I have examined stated that they saw State security forces use both live ammunition as well pellet rounds such as birdshots and/or buckshots and ten witnesses have stated that in addition to witnessing the use of potentially-lethal weapons such as batons and tear gas, they also saw security forces using live ammunition. This clearly demonstrates the level of violence the Iranian authorities and security forces used for repressing the protests.

47. Overall, Iran's security forces:

- used weapons which should be prohibited as they are completely inappropriate for policing assemblies such as multiple shot metal and rubber projectiles such as birdshots. These weapons were also used against children and the elderly. These weapons are inherently indiscriminate and cause serious and painful injuries, permanent disabilities or even death;
- targeted sensitive parts of the bodies of protestors and bystanders by batons and multiple shot pellets, increasing the risk of serious or even fatal injuries;
- used inherently indiscriminate weapons such as tear gas and in some cases water cannons when the protests were peaceful or in circumstances where there was no widespread and generalised violence. These weapons were also used when vulnerable individuals including children and elderly persons were present;
- as is evident in video footage and eyewitness accounts, routinely fired tear gas cannisters along a direct and flat trajectory into the crowd. Firing tear gas cannisters in this manner cannot be considered an appropriate police action as it can cause serious or even fatal injuries;

⁵¹ See for example Amnesty International, "A web of impunity: the killing Iran's internet shutdown hid", IRN019, IRN021, IRN008, IRN57, IRN076, IRN109, and IRN071, available at: <https://iran-shutdown.amnesty.org/>.

⁵² See AI, "They shot our children" and "Details of 324 Deaths in Crackdown on November 2019 Protests".

- according to some witnesses, used potentially-lethal weapons without issuing any warnings in advance;
- according to witnesses, in some cases used types of weapons which are inherently cruel, inhuman or degrading such as spiked batons and weapons that carry a great risk of arbitrary force amounting to torture or other forms of ill-treatment such as stun guns.

The Pattern of the Use of Kinetic Impact Projectiles

48. Witness testimonies reveal a similar if not identical pattern of the use of kinetic impact projectiles by State security forces which flagrantly violated international law and standards on the use of force and people's right to life and the right to be free from torture and other ill-treatment.

Prohibited types of ammunition were used

49. Multiple shot metal projectiles (birdshots and buckshots), which as stated above are inherently indiscriminate, cause serious or irreversible injuries, may even cause death and should be considered lethal, were widely used. According to witnesses, multiple shot rubber projectiles were also used. Similarly, these weapons are indiscriminate, cannot be aimed and should not be used in policing of assemblies.

Shooting from close range

50. Among the witnesses whose testimonies I have examined, seven witnesses stated that multiple shot projectiles including metal projectiles such as birdshots were fired from close range with witnesses saying that in some cases security forces fired these weapons from a distance of two, four, five or maximum ten meters. Firing metal projectiles from close range significantly increases the risk of causing serious injuries or even death.

Shooting indiscriminately

51. Multiple shot projectiles are inherently indiscriminate and cannot be aimed either at specific body parts or specific target individuals. The indiscriminate nature of these weapons was exacerbated by the manner in which the security forces used these weapons, that is firing at the crowd, both protestors and bystanders in an indiscriminate manner. Witnesses have described that: when forces fired multiple shot projectiles "everyone was hit in some body part"; that whoever was close enough to the security forces would be hit"; that the pellets were sprayed widely; and that forces fired at the crowd without any care. One witness stated that "there was no need for them to aim as they would fire once and a multitude of people would be shot".

Targeting the upper body

52. As stated above multiple shot projectiles are inherently indiscriminate and cannot be aimed either at specific body parts or specific target individuals. As will be detailed below under the section on injuries reported by victims, witnesses have both reported being shot at in the face, head, neck, torso, and the abdomen, as well as seeing a large number of protestors and bystanders who were shot in the upper and sensitive body parts sustaining serious or irreversible injuries such as loss of vision.

Shooting at fleeing individuals

53. Among the witnesses whose testimonies I have examined, nine witnesses said that security forces fired kinetic impact projectiles and multiple shot metal projectiles at individuals, both protestors and bystanders, who were fleeing including by chasing them into alleyways and shooting at them.

Shooting from moving vehicles

54. Among the witnesses whose testimonies I have examined, one witness said that security forces fired multiple shot metal projectiles from a moving vehicle. As stated, these types of ammunition are inherently indiscriminate and firing them from a moving vehicle would increase their indiscriminate impact.

Shooting from an elevated position

55. Among the witnesses whose testimonies I have examined, two witnesses said that security forces fired multiple shot metal projectiles from rooftops. Firing from an elevated position increases the risk of injuries to upper and sensitive body parts such as the face, head, neck, and torso which may be severe, irreversible or even fatal.

The Pattern of the Use of Chemical Irritants

56. As evidenced by witness testimonies as well as video footage, chemical irritants in particular tear gas was widely used by security forces against protestors and bystanders during November 2019 protests. As will be detailed below, in using chemical irritants, Iran's security forces did not comply with the principles of legality, precaution, necessity, proportionality, non-discrimination and accountability.

Shooting tear gas cannisters along a flat and direct trajectory

57. Among the witnesses whose testimonies I have examined, eight witnesses stated that security forces shot tear gas cannisters directly at protestors and bystanders and three reported injuries sustained as a result of direct shooting of the cannisters. One witness stated that his sibling was shot in the abdominal area with a tear gas cannister resulting in bruising. Another witness stated that forces stationed in a Basij station

fired directly into the crowd as a result of which he was shot in the head with a tear gas cannister. The witness subsequently lost consciousness. Finally, one witness reported that he was shot with a tear gas cannister in the leg resulting in painful swelling and contusion. Multiple video footage of the protests also depict security forces firing tear gas cannisters along a direct and flat trajectory into the crowd.⁵³

Shooting into homes and other confined spaces

58. Among the witnesses whose testimonies I have examined, six witnesses stated that they saw security forces firing tear gas cannisters inside people's homes (including through the window and inside the yards) and confined places such as inside of a metro station as well as a shopping centre. One witness stated that security forces fired tear gas inside the houses which gave refuge to people while another stated that they saw forces firing tear gas at a house's window and the cannister entering the house. A witness stated that tear gas was fired inside his home where his children were present. When he went outside and objected to the security forces, he was reportedly threatened with arrest. One witness recounted that they had heard from a nurse that security forces had directly fired tear gas inside of a clinic.

Excessive amounts of tear gas used

59. Witness testimonies also indicate that a significant quantity of tear gas was used by security forces during the November 2019 protests. Among the witnesses whose testimonies I have examined, nine witnesses stated that large quantities of tear gas were used by security forces. Witnesses stated for example, that security forces had used so much tear gas that the city was covered in its smoke and that the forces themselves were affected by it; that so much tear gas was used that visibility had diminished; that the tear gas used was very strong and people were suffocating; that forces were constantly firing tear gas and people's eyes were tearing severely and had become sore; and that such large quantities of tear gas were used that people had difficulty breathing and had fallen on the ground (presumably losing consciousness). One witness stated that in the chaos and lack of visibility caused by the excessive use of tear gas, a mother had lost her child. In at least one video, where tear gas is fired (directly into the crowd) children are present.⁵⁴

Shooting while on motorcycles and from elevated positions

60. Among the witnesses whose testimonies I have examined, two witnesses stated that State forces fired tear gas cannisters when on motorcycles and from the roof-tops. In

⁵³ See for example, AI, "A web of impunity", IRN 071, IRN057, and IRN132.

⁵⁴ AI, "A web of impunity", IRN057. Multiple videos verified by Amnesty International show tear gas having filled the air. In some people are heard describing that their eyes and breathing have been affected as a result of tear gas. See for example, IRN113, IRN115, and IRN041.

at least one video, security forces, most likely NAJA's special forces, are seen firing tear gas cannisters while on motorcycles.⁵⁵

The Pattern of the Use of Batons

61. Witness testimonies and video footage demonstrate that State security forces used batons in a manner that flagrantly violated international law and standards. Batons were used in circumstances and for purposes that are not permitted; that is against individuals who posed no imminent risk of injury and in order to disperse the protestors and prevent bystanders from joining the protests. Security forces further subjected individuals to beatings in an indiscriminate manner and targeted people in sensitive body parts including in the head, neck and face. As evidence shows, security forces struck with batons powerless individuals and protestors/bystanders already restrained or otherwise under their control.

Striking with the aim of dispersing protestors

62. Among the witnesses whose testimonies I have examined, nine witnesses specifically mentioned that security forces subjected protestors to beatings with batons in order to “disperse” the crowd and/or not allow people to gather. The circumstances explained by many more witnesses indicates that dispersing the protestors and preventing the bystanders from joining the protests was one of the main purposes of the use of batons by security forces. In multiple video footage, security forces are seen using batons to attack and disperse protests striking or attempting to strike individuals who pose no threat and are not acting violently.⁵⁶ In one video, security forces are seen hitting protestors with batons and also attacking vehicles that have blocked the road in protest, damaging them.⁵⁷

Striking sensitive body parts

63. Among the witnesses whose testimonies I have examined, 25 witnesses stated that State security forces subjected protestors and bystanders to beatings on sensitive body parts including the head, face, neck, back (spine), abdominal area, and genitalia. Witnesses repeatedly stated that security forces subjected both protestors and bystanders to beatings “wherever their hands reached” and “wherever in the body they could” and that they showed virtually no consideration that they were targeting sensitive body parts such as people's heads, necks and faces. Numerous witnesses made statements that indicated security forces subjected protestors and bystanders to beatings without any considerations as to the fact that their actions could cause serious injury or even the death of the victims. For example, witnesses stated that security forces intentionally aimed for upper body parts and would not target

⁵⁵ AI, “A web of impunity”, IRN042.

⁵⁶ See AI, “A web of impunity”, IRN022, IRN109, IRN074.

⁵⁷ AI, “A web of impunity”, IRN068.

individuals' lower body at all; that they showed no mercy when beating individuals; that they saw forces beating people up to the point when they would lose consciousness and looked like lifeless bodies; that security forces beat people with batons in a manner as if the victims "were not supposed to remain alive"; and that they were "beating with the intent to kill." One witness stated that it appeared as if the security forces were beating people with the intent to make them fall on the ground and never be able to stand again. Witnesses also stated that they saw multiple members of security forces beating one protestor/bystander at the same time. One witness stated that security forces would beat individuals "where [in the body] most damage would be caused".

Striking indiscriminately

64. Among the witnesses whose testimonies I have examined, nine witnesses specifically stated that security forces subjected people to beatings with batons indiscriminately. However, the manner in which batons were used by security forces as described by a larger number of witnesses indicate the indiscriminate use of batons by state forces. For example, witnesses stated that security forces would beat anyone who was in their vicinity. Some witnesses also stated that they saw security forces beating bystanders and people who were passing with one witness stating that security forces were beating bystanders with batons and shouting at them to leave the scene. One witness stated that that saw a young man being subjected to beatings with batons because he was filming the protest scene. Security forces reportedly subjected a woman who was accompanying the young man as well. According to another witness, multiple members of security forces subjected an individual to beatings including with batons because he had given refuge to the protestors. One witness described that it was rather a matter of chance whether someone was hit with a baton and where in the body they would be struck as forces were subjecting everyone to beatings without any care as to which part of their bodies they were striking. Beating "randomly" was another description of the conduct of the security forces provided by another witness.⁵⁸

Striking powerless individuals

65. Witness testimonies demonstrate that security forces subjected people who did not pose an imminent threat of injury and were not able to resist or flee as well as individuals who had already been restrained and were under the control of the security forces to beating with batons. A witness stated that he saw the security forces beating a woman who was barely able to stand with batons. Another witness recounted that he was hit with a baton from behind and that the security forces continued to beat him after he fell on the ground. According to another witness, when security forces found an individual who had been separated from the crowd, they would subject them to severe beatings before they either left them on the ground injured and wounded or

⁵⁸ See also AI, "A web of impunity", IRN109, IRN068.

arrested and took them away. Witness also stated that security forces chased individuals into alleyways where they subjected them to beatings with batons and that they saw multiple members of security forces beating one protestor/bystander at the same time. Vulnerable individuals including children and elderly people were also subjected to beatings with batons. In at least two videos, security forces are seen subjecting individuals who are restrained or otherwise under the forces' control to beatings including with batons. In one, security forces shoot at an individual from close range (potentially with kinetic impact projectiles or metal pellets) following which they proceed to subject the person to beatings.⁵⁹ In another video, a member of the security forces, in NAJA uniform, subjects an individual who has been restrained and is being carried by multiple other officials to beatings with batons in the back/abdominal area.⁶⁰

Use of batons by forces on motorcycles

66. Among the witnesses whose testimonies I have examined, three witnesses specifically mentioned forces subjecting protestors/bystanders to beatings with batons while they were riding their motorcycles. One witness stated that forces on motorcycles would drive among the protestors and start beating them with batons.

The use of spiked batons

67. In at least one instance, a witness reported the use of what from the description appears to have been a spiked baton. According to the witness, a protestor/bystander was struck in the head with a spiked baton with a heavy blow resulting in the victim falling unconscious while bleeding profusely from the head and face.

The Pattern of the Use of Electric Shock Weapons

68. Among the witnesses whose testimonies I have examined, seven witnesses described the use of what they referred to as “shockers” and from the descriptions and the circumstances of use appear to be stun guns with electrodes. One witness stated that a large number of Basij forces used stun guns in order to disperse the protestors and that each member of the Basij present had two stun guns which they first used to create noise in order to intimidate the protestors and then used them against anyone they reached. The same witness said that he saw security forces using a stun gun against an elderly man, targeting him in the chest. The victim subsequently fell on the ground motionless and the witness believes that he did not survive the strike. Witnesses also said that “shockers” (stung guns) were widely used and that if a person wanted to linger or try to speak with the security forces, they would subject them to beatings including with batons and stun guns.

⁵⁹ See AI, “A web of impunity”, IRN085.

⁶⁰ See AI, “A web of impunity”, IRN037.

69. As stated above, stun guns serve no tactical utility that cannot be achieved with another device and that the use of these weapons carry the risk of arbitrary force amounting to torture or other forms of ill-treatment. Only projectile electric shock weapons, may be used in extreme and limited circumstances where there is a real and immediate threat to life or risk of serious injury.

The Use of Water Cannons

70. At least five witnesses stated that security forces used water cannons against the protestors in order to disperse them with one witness stating that the water had been mixed with other substances as it caused irritation of the upper respiratory tract and shortness of breath in the people targeted indicating that chemical irritants may have been mixed with water. In two videos, security forces are seen using water cannons against peaceful protestors who are chanting slogans, with the aim of dispersing them before using tear gas.⁶¹
71. It must be noted that that water cannons were used in mid-November when generally the weather is cold in most parts of the country. One witness specifically stated that water cannons were used despite the weather being cold.

Injuries Reported by Witnesses

72. Injuries sustained by witnesses themselves as well as those they saw at the scene of the protests and at medical facilities are consistent with the injuries caused by the above mentioned potentially-lethal weapons as well as multiple shot metal pellets. The number of individuals who sustained injuries as a result of the security forces' use of potentially-lethal weapons is not known. However, given the type of weapons commonly used, including multiple shot metal and rubber projectiles and tear gas, which are inherently indiscriminate, and the manner in which they were used, for example the targeting of the victims' sensitive body parts such as their head, neck, face, and torso, it is reasonable to assume that a significant number of protestors and bystanders sustained injuries, including serious or irreversible injuries during November 2019 protests. This is evident by the testimonies of eyewitnesses some of whom have reported seeing tens of people injured at the scene of the protests.
73. It must be noted that given the climate of intense fear and reprisals, many individuals who have had to seek medical treatment at hospitals including for serious eye injuries have not reported their injuries due to fear of further persecution. Given the widely reported presence of security forces at hospitals and medical facilities in order to identify those injured during the protests and in some cases to arrest and detain them, it is possible that many injured individuals may have been warned by the Iranian

⁶¹ AI, "A web of impunity", IRN019, IRN21.

authorities against speaking to the media and human rights organisations. This is consistent with patterns of silencing witnesses as recorded by human rights organisations.⁶²

Deaths cause as a result of potentially-lethal weapons

74. I am not able to comment on the number of deaths caused as a result of the use of potentially-lethal weapons and multiple shot metal projectiles during the November 2019 protests. Amnesty International is aware of cases of two individuals, Yadollah Hajitaripour and Ziba Khoshgavar who were reportedly killed as a result of suffocation from tear gas. The organisation also knows two other individuals, including a child, who were killed as a result of beatings that caused head injuries. Mohsen Mohammadpour, a child, reportedly suffered fatal head injuries after being beaten by the security force. Faramarz Pourfarsadi, (an adult) reportedly died as a result of beatings on the head with batons. Amnesty International has also identified a young man, Bahman Ja'fari, who sustained fatal injuries and was killed on 17 November 2019 as a result of being shot with multiple metal pellets.⁶³
75. Given the types of weapons used, the manner of their deployment and the lack of medical care for those injured, it is highly likely that a larger number of individuals than those already identified were killed as a result of the State forces' use of potentially-lethal weapons.

Permanent disability – in particular loss of vision

76. Among the witnesses whose testimonies I have examined, one witness has reported the permanent loss of vision in one eye as a result of being shot in the eye with multiple shot projectiles. Ten witnesses said that they have seen individuals targeted with multiple shot projectiles – most likely metal – in the eye or in the structures close to the eyeball or know individuals who have lost their vision as a result of having been shot at with pellets. One witness said that they saw a child of around eight or nine years old being shot in close proximity to the eye while another stated that they saw a 15 or 16-year-old child being shot in the eye. The witness believed that the injury was of such gravity that the victim would have lost their vision. One witness said that they saw around 20 to 30 people shot in or in proximity to the eye, while another saw a young man who had been shot in the eye with pellets shouting 'I have gone blind'. Witnesses have also stated that they know people, among their relatives, friends or acquaintances who have lost their vision as a result of having been shot at with multiple shot pellets.

⁶² See AI, "Details of 324 Deaths in Crackdown on November 2019 Protests" and "Trampling Humanity".

⁶³ See AI, "They shot our children", and "Details of 324 Deaths in Crackdown on November 2019 Protests".

77. In correspondence with Amnesty International, the organisation shared information revealing that it had learned about the details of 84 individuals, who had received, between 15 and 19 November, specialised treatment for eye injuries sustained as a result of having been shot in the eye with pellet rounds, most likely multiple shot metal or rubber projectiles. The name of the city has been withheld for security reasons. The information, which Amnesty International had received from an informed source, further revealed that at least seven of the victims were children, that is under the age of 18, at the time they sustained injuries and that at least two victims were over the age of 70. Nearly half of the victims were in their 20s with many in their early 20s. The majority of victims referred to hospital on 17 November.
78. Amnesty International further stated that it had obtained seven X-ray images which vividly showed pellets lodged near or in the surface of victims' eyes.

Temporary damage to eyesight and the structures close to the eyeball

79. Among the witnesses whose testimonies I have examined, one witness stated that he was shot with pellets in the structures close to the eyeball as a result of which he lost his vision for a period of a few months, after which the victim gained his vision although he reports that his vision is now weakened. Another witness reported that he was shot in proximity to the eyeball. Given the large number of individuals who sustained injuries in the face as a result of multiple shot metal and rubber pellets, it is highly likely that many would have sustained temporary or even permanent damage to the eye, vision, or the structures close to the eyeball.

Penetrating trauma

80. Among the witnesses whose testimonies I have examined, 13 witnesses reported sustaining penetrating injuries including serious injuries as a result of being shot with multiple shot metal or rubber projectiles such as birdshots and buckshots. Witnesses reported having been injured with a large number of small pellets (from 3 to over 60 pellets) in various body parts including in the face (the nose, tongue, lips, and cheeks), head, neck, torso, arms, abdomen, back (upper and lower) thighs, knees and lower legs. One witness stated that his face and tongue were so severely damaged that he was unable to eat solid food for a period of around two months. At least 19 witnesses reported seeing protestors and bystanders being shot with multiple shot metal or rubber projectiles with one witness saying that he saw over a hundred people having sustained injuries with pellets and another reporting seeing around 40 to 50 people injured with these types of ammunition. Elderly individuals and children were among those who were reported to have sustained injuries as a result of multiple shot projectiles including birdshots.
81. I have reviewed images of injuries of five witnesses who sustained injuries as a result of multiple shot metal and rubber projectiles. The images vividly demonstrate injuries

consistent with the spray patterns of multiple shot projectiles such as birdshots. Injury images show penetrating trauma – in some cases as many as 40 to 50 wounds – sustained in the back, face, legs, neck and face of the victims consistent with their testimonies. In one case, a head X-ray image demonstrates a pellet lodged in proximity to the eye of the victim. Photos of injuries demonstrate serious wounds including in the mouth, face and the tongue of one victim. Two other images demonstrate multiple wounds in a victim's both legs sustained by metal pellets along with large and severe bruising of the skin.

Lacerations

82. One witness stated that he was directly shot with a tear gas cannister in the head resulting in a laceration in his head. Witnesses also reported having seen other protestors or bystanders with bleeding heads and faces which could have been due to lacerations or penetrating trauma.

Bruising and contusions of the skin

83. Witnesses reported having sustained bruising as a result of being shot with kinetic impact projectiles, and being beaten with batons including on multiple body parts. Given the extensive use of batons and the manner in which they were used, as described above, it is highly likely that a large number of people who were subjected to beatings with batons would have sustained bruises.

Broken/fractured bones

84. One witness reported that he was hit with a shield and sustained a broken nose as a result. Another witness stated that a friend of him, with whom they were present at the protest scene, sustained a fractured bone in his hand as a result of being beaten with batons. Given the extensive use of batons and the manner in which they were used, as described above, it is likely that a large number of people who were subjected to beatings with batons would have sustained broken or fractured bones.

Secondary injuries

85. One witness stated that he was fleeing the security forces when he was kicked by a member of the security forces and fell on a burning substance. He reported having sustained skin burns as a result. A few other witnesses reported that the use of tear gas and the manner in which the security forces chased protestors with batons and/or motorcycles created stampedes and that they saw people falling on the ground. It is likely that these stampedes would have caused secondary injuries to protestors and bystanders.

Long term medical complications

86. As will be detailed below under the long-term impact on victims and survivors, long term medical complications and conditions such as recurrent infections, potential damage to nerves affecting mobility as a result of the use of potentially-lethal force by State security forces have also been reported.

The Absence of Medical Care at the Scene of the Protests

87. Those who have sustained injuries or are otherwise affected as a result of the use of potentially-lethal weapons should receive medical assistance at the earlier possible moment. Such assistance should be provided without any discrimination and regardless of whether the injured individual is suspected of involvement in a criminal offence. Access to ambulances must not be arbitrarily withheld from any injured or affected individual. Law enforcement officials must not hinder access to medical treatment and shall at all times cooperate with those providing medical assistance including by providing them with relevant information about the type of weapons they have used.⁶⁴
88. The examination of the testimonies of witnesses who have reported the use of potentially-lethal weapons by State Security forces reveals a clear pattern of absence and/or denial of medical care at the scene of the protests where individuals sustained injuries as a result of the use of force by State's security forces.
89. Of the 60 witnesses who reported the use of potentially-lethal force, 24 stated that ambulances were not present at the scene of the protests. In the few instances where witnesses saw an ambulance, they stated that those injured did not have access to them and were instead helped and taken away from the scene of the protests by civilians. Witnesses have also described that security forces continued to subject those injured to further beatings and/or arrested injured protestors and bystanders regardless of the severity of their injuries.
90. Not only state forces failed to provide medical care at the scene of the protests, according to some witnesses and as reported by human rights organisations, they were present in hospitals and medical centres identifying injured protestors and bystanders and making arrests.⁶⁵ Almost in every single case where witnesses said they had sustained injuries, they reported that they had not sought medical care at a hospital or had significantly delayed receiving medical treatment. Witnesses stated that: “no one

⁶⁴ OHCHR, “Guidance on less-lethal weapons in law enforcement”, 4.6.

⁶⁵ AI, “Trampling Humanity”, p.17.

dared to go to a hospital”; or “dared to show their injuries to anyone”; and that “going to a hospital meant you would be arrested” and face “imprisonment and execution”.

Long-term Impact on Victims

91. Witness statements reveal that the use of potentially-lethal weapons against protestors and bystanders during the November 2019 protests has resulted in long-term and severe physical and psychological damage to the victims and survivors.
92. One of the most severe and permanent disabilities caused by the unlawful use of potentially-lethal weapons, as detailed above, has been permanent loss of vision as a result of the use of kinetic impact projectiles and multiple shot pellets. Multiple witnesses whose testimonies were examined for this report stated that they suffered eye trauma as a result of the use of multiple shot projectiles in particular multiple shot metal pellets.
93. One witness stated that he permanently lost vision in one eye although the doctors were able to save the eyeball and did not remove it. Another witness who was shot with pellet rounds in/in proximity to the eye, described how he had lost his vision for over two months after which he regained partial vision. It took the victim months before he regained his vision completely although he reports that it is now weakened.
94. Witnesses have also stated that they have seen protestors and bystanders being shot at in the eye at the scene of the protests potentially resulting in serious eye trauma or knew of people who lost their vision because they were shot at with pellet rounds (possibly birdshots). One witness described that he saw an individual with a disability who used a wheelchair in hospital who had been shot at in the face with pellets and had lost vision in one eye. According to the witness, the victim had been a bystander. Another witness stated that they saw between 20 and 30 individuals who had sustained eye injuries as a result of multiple shot pellets.
95. Children and elderly individuals were also among those sustaining eye injuries. One witness described seeing a child as young as eight or nine years old who had been shot with metal pellets in the face and in proximity to the eye. Another witness saw and helped an elderly woman who had been shot in the eye with pellets.
96. In light of the widespread use of multiple shot metal pellets such as birdshots, which are inherently indiscriminate and the security forces’ pattern of shooting indiscriminately and at the upper bodies of the protestors and bystanders, it is highly likely that a significant number of individuals present at the scene of the protests, both protestors and bystanders, have sustained eye injuries possibly leading to temporary or permanent loss of vision. Given the presence of security forces in hospitals – as reported by human rights organisations and witnesses – who may have identified, recorded the names or even arrested those seeking medical care for eye injuries, it is

also likely that those who have had no choice but to seek medical care at hospitals due to the severity of their injuries including to the eye have been wary of reporting their injuries to human rights organisations.

97. It is important to highlight that delays in receiving medical care can contribute to the risk of long-term and permanent damage to victims who have sustained injuries as a result of the use of potentially-lethal weapons.⁶⁶ As stated above, witnesses have reported that despite sustaining injuries, in particular as a result of being shot at with multiple shot pellets such as birdshots, they did not seek medical treatment at hospitals and clinics as they feared arrest and detention by the security forces stationed at medical facilities. Many witnesses have described that they themselves removed the pellets from their bodies or had friends and family attend to their injuries. In the vast majority of these cases, those providing medical assistance had little to no medical training. As will be detailed below, many of the victims who have not been able to remove the pellet rounds that have lodged deeper into their bodies continue to suffer from their injuries.
98. Some witnesses injured with metal pellets have stated that they continue to feel pain and have recurring infections where pellets have lodged in their bodies. One witness stated that seven or eight metal pellets have remained in his upper thighs and in one knee and that he feels pain and frequently develops infections as he is still fearful to have them removed in a hospital. Another witness stated that the pellets that had remained in his scalp/head cause him pain when he sleeps. Chronic numbness of the limbs, fingers and toes, and reduced function in joints have also been reported by witnesses who were shot with metal pellets. One witness who was shot with metal pellets in the face and torso sustained a broken tooth and had difficulty eating for months as his tongue was severely injured. A witness who sustained a large number of wounds in his upper body and torso as a result of being shot with multiple shot metal pellets (likely birdshots) stated that the extent of his injuries was so grave that required him to stay at home for months and that he is still suffering from shortness of breath possibly due to damage to his respiratory system.
99. As highlighted by human rights organisations, the psychological impact of the use of less-lethal weapons has not been well-studied or documented.⁶⁷ However, cases for which some data is available indicate that the use of these weapons could result in significant psychological symptoms and long-term disability. The joint report by PHR and INCLO refers to one study pertaining to 297 individuals who had been exposed to the use of chemical irritants and sought care following the 2013 Gezi Park protests in Turkey. Subsequently, 117 psychiatric evaluations were conducted which revealed that around 43 percent of the victims had diagnostic criteria for acute stress disorder,

⁶⁶ PHR & INCLO, "Lethal in Disguise", p. 25.

⁶⁷ PHR & INCLO, "Lethal in Disguise", p. 44.

23 percent had diagnostic criteria for post-traumatic stress disorder (PTSD), and 7.7 percent had diagnostic criteria for major depressive disorder.⁶⁸

100. The impact of potentially-lethal weapons on mental health and psychological wellbeing of victims and survivors of November 2019 protests in Iran should be studied by experts and professionals in the relevant fields. However, some witnesses have made references that suggest significant and long-term psychological symptoms experienced by witnesses themselves or exhibited by their friends and family members who were exposed to the use of potentially-lethal weapons during the protests. One witness, for example, stated that he was suffering from depression after witnessing the use of potentially-lethal force including pellet rounds against the protestors and being subjected to beatings and tear gas during the protests himself. Another witness stated that his friend, a young man injured by multiple shot pellets during the protests, is showing symptoms of depression, is resorting to taking substances and is no longer able to work.
101. The ongoing fear of arrest and persecution as well as the social and economic damages suffered by victims and survivors, in particular as a result of losing their jobs and livelihood are also expected to cause mental and psychological harm. For example, one witness described how his injuries mean that he is not able to carry out the work he used to do prior to getting injured and that he is struggling to provide for his children.

The Use of Potentially-lethal Force Amounting to Torture or Other ill-Treatment

102. Based on the examination of the types of potentially-lethal weapons used by the security forces in Iran in November 2019 and the manner and circumstances in which they were used, it is my conclusion that the Iranian authorities and security forces used these weapons in an unlawful, unnecessary and disproportionate manner. This constituted a violation of the rights to peaceful assembly, life, physical integrity and amounted to torture or other ill-treatment. While making a determination in every incident of use of potentially-lethal force would require the examination of the facts of that particular case, existing evidence including witness statements which describe similar, if not identical, patterns of the use of force by security forces as well as video footage and the types of injuries recorded demonstrate the widespread and systematic nature of the violation of individuals' multiple rights including their right to be free from torture and other ill-treatment.
103. The right to freedom from torture and other ill-treatment or punishment is an absolute right from which no derogation is allowed under international law. No exceptional circumstances, including states of emergency due to threats of terrorism or war may

⁶⁸ PHR & INCLO, "Lethal in Disguise", p. 45.

be invoked to justify torture or other ill-treatment. It is a norm of customary international law and therefore obligates all states and applies to all people at all times and in any jurisdiction.

104. It must be noted that while Iran has not ratified the Convention against Torture and other Cruel, Inhuman, or Degrading Punishment or Treatment (CAT), it is a state party to other human rights treaties such as the ICCPR that recognise the absolute prohibition of torture and other ill-treatment. Furthermore, as stated above, the absolute prohibition against torture and other ill-treatment is a norm of customary international law and is universally binding.
105. The Convention against Torture and other Cruel, Inhuman, or Degrading Punishment or Treatment defines torture as: “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”⁶⁹
106. Torture is so egregious a violation that it is not only a human rights violation but a crime under international law over which states shall exercise universal jurisdiction (Article 5.2 of CAT).
107. While torture is often associated with custodial settings such as police stations, detention centres and prisons, the use of force by State security forces in the context of protests may also amount to torture or other ill-treatment.⁷⁰
108. The jurisprudence of international and regional oversight mechanisms and regional courts increasingly confirms the applicability of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment to the extra-custodial use of force.
109. For example, in *Cestaro v. Italy* and *Bartesaghi Gallo and Others v. Italy*, the European Court of Human Rights found that the violent treatment of anti-globalization protestors including punching, kicking and beating with rubber

⁶⁹ UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984.

⁷⁰ See the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer on Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, UN doc. A/72/178, 20 July 2017, available at: <https://digitallibrary.un.org/record/1302624?ln=en>.

truncheons amounted to torture.⁷¹ In the case of *Myradova v. Azerbaijan*, where the plaintiff had lost sight in one eye due to excessive use of force by Azerbaijani police, the European Court of Human Rights, stated that the injuries sustained by the applicant established the existence of serious physical pain and suffering and that the violent treatment and the long term consequences must have also caused considerable mental suffering diminishing her human dignity. The Court found that there was a violation of the prohibition on torture and inhuman or degrading punishment or treatment.⁷² In another case against Azerbaijan, the Court held that “when a person is confronted by the police or other agent of the State, recourse to physical force which has not been made strictly necessary by the person’s own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention”.⁷³ In *Abdullah Yaşa and Others v. Turkey*, in which the applicant - who was thirteen at the time of the incident - was struck in the face by a tear gas canister, the Court held that “firing a tear-gas grenade along a direct, flat trajectory by means of a launcher cannot be regarded as an appropriate police action as it could potentially cause serious, or indeed fatal injuries”.⁷⁴ The Court found the act to be contrary to Article 3 of the European Convention on Human Rights stating that the use of force against the applicant under the conditions had not been an appropriate response to the situation or proportionate to the objective sought, namely the dispersal of a non-peaceful gathering. The Court further stated that the severity of the injuries sustained by the applicant “was not commensurate with the strict use by the police officers of a force necessitated by his behaviour”.⁷⁵

110. In the following paragraphs, I will detail why the manner in which Iran’s security forces used potentially-lethal weapons meets the elements of the above definition and as such amounts to torture or other ill-treatment.

Severe pain or suffering whether physical or mental

111. The injuries reported by witnesses, as described above, including eye injuries, and in particular permanent loss of vision, and severe penetrating trauma including in the head, face, neck and torso caused by weapons such as multiple shot metal projectiles would have caused severe pain and suffering in the victims. In some instances, victims have been sprayed by small multiple shot metal pellets such as birdshots leaving tens of small penetrating and painful wounds across their bodies. These

⁷¹ European Court of Human Rights, *Cestaro v. Italy* (application No. 6884/11), Judgment of 7 April 2015, paras. 170-190; and *Bartesaghi Gallo and Others v. Italy* (application Nos. 12131/13 and 43390/13), Judgment of 22 June 2017, paras. 114 and 117.

⁷² European Court of Human Rights, *Case of Muradova v. Azerbaijan*, no. 22684/05 of 2 July 2009.

⁷³ European Court of Human Rights, *Rizvanov v. Azerbaijan*, Judgment of 17 April 2012, para. 49.

⁷⁴ European Court of Human Rights, *Abdullah Yaşa and Others v. Turkey* (application No. 44827/08), Judgment of 16 July 2013, para. 48

⁷⁵ European Court of Human Rights, *Abdullah Yaşa and Others v. Turkey* (application No. 44827/08), Judgment of 16 July 2013, para. 50. Also see European Court of Human Rights, *Case of Ataykaya v. Turkey*, no. 50275/08, 22 October 2014.

injuries have also had long-term consequences including permanent disability and recurring infections and must have caused significant physiological and mental suffering. It must also be noted that the physical and mental pain and suffering caused by these injuries have been exacerbated by the climate of fear created by the Iranian authorities which have prevented victims from seeking medical treatment due to concerns for their safety and in order to avoid arrest and detention.

Intentional infliction

112. Generally speaking, intent means that a person means to engage in the conduct or to cause the consequence, or is aware that the consequence would occur in the ordinary course of events.⁷⁶ The Pre-Trial Chamber of the International Criminal Court has stated that the general mental element of a crime is fulfilled ‘where the suspect means to engage in the particular conduct with the will (intent) of causing the desired consequence, or is at least aware that a consequence (undesired) “will occur in the ordinary course of events” (Article 30(2) of the Statute)...’.⁷⁷
113. As described above, State security forces used types of ammunition that are inherently indiscriminate and carry a high risk of causing serious injury or even death such as multiple shot metal pellets. They further shot weapons firing these types of ammunition from close range, while riding motorcycles and vehicles, and from elevated positions and targeted the upper bodies of victims thus further increasing the risk of serious or irreversible injuries and even the death of the victims. Other weapons were used in a similar manner: tear gas cannisters were fired directly into the crowd, into homes and confined spaces, and from moving vehicles and elevated positions. Security forces stroke individuals with batons in their heads, faces, necks, spine and abdominal area. Individuals already restrained and under the control of the security forces were repeatedly beaten with batons and security forces chased and hit people fleeing with batons while riding their motorcycles.
114. The type of weapons used and the manner in which they were used reveal that the State security forces either meant to cause the consequences that followed their conduct (i.e. injuring the victims) or would have been aware that the consequence, that is injury or even death of the victim, would occur in the ordinary course of events. It must be noted again that State security forces did not provide medical care to those injured at the scene of the protests and arrested and detained injured individuals from hospitals and medical facilities further demonstrating their intent to cause pain and suffering to the victims.

⁷⁶ Rome Statute of the International Criminal Court, Article 30(2)(b).

⁷⁷ Prosecutor v. Bemba (Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo) ICC-01/05-01/08 (15 June 2009), para. 87.

For the purposes of punishing, intimidation, coercion and discrimination

115. Witness testimonies, in addition to video footage and documentation by human rights organisations such as Amnesty International provide strong evidence showing that the use of force by State security forces including potentially-lethal force has not been with the aim of achieving a legitimate objective but to repress and put an end to the protests through unlawful and excessive use of force which killed and severely injured protestors and bystanders:
- *Punishing* – the manner in which State security forces used potentially-lethal force against unarmed protestors who posed no imminent threat of death or risk of serious injury aimed to punish individuals for daring to take to the streets and participate in what the authorities consider “illegal assemblies” and to criticise and challenge the political system. Certain phrases were repeated in a large number of witness statements, for example: the security forces used force “as if they were fighting their enemy.” Moreover, as a number of witnesses have stated, Security forces used potentially-lethal force including tear gas and batons in order to punish individuals who gave refuge to protestors fleeing the security forces including by firing tear gas inside people’s places of residence.
 - *Intimidating* – Security forces used force in order to intimidate protestors and compel them to leave the scene of the protests. This was done by using weapons that were inherently indiscriminate, such as multiple shot projectiles and tear gas, and indiscriminately, excessively and unlawfully using other weapons such as batons. These weapons, which caused severe, painful and in some cases irreversible injuries were used in a manner that also intimidated and prevented bystanders and others from joining the protests. Some witnesses have stated that the type and level of force used was to an extent that instilled fear in people resulting in them and others leaving the scene of the protests and not returning. Those who sustained injuries were not able to return to protests as in many instances they were physically unable to.
 - *Coercion* – As state above and clearly stated by witnesses, State security forces used potentially-lethal force including batons, multiple shot projectiles and tear gas with the intent to disperse the protests, that is to coerce protestors and bystanders to cease exercising their right to protest and leave the scene of the protests.
 - *Discrimination* - State security forces used potentially-lethal force against individuals on discriminatory grounds, that is on the basis of their real or perceived political opinion. While the protests were prompted by a sudden and significant rise in fuel prices, many protestors soon showed their criticism of and opposition to the entire political system including by chanting slogans against high-ranking State officials such as the Supreme Leader and the then president Hassan Rouhani.

Public officials

116. Potentially-lethal force against protestors and bystanders was used by various branches of armed and security forces belonging to the State. They included the Islamic Republic Police Force (NAJA) including its special forces, as well as the

Islamic Revolutionary Guards Corps and Basij forces. Around half of the witnesses whose testimonies have been studied for this report identified forces belonging to NAJA, in particular its special forces, as forces who used multiple shot metal or rubber projectiles. At least 16 witnesses have also identified other forces including Basij and the IRGC to have used these types of ammunition alongside NAJA. At least nine witnesses have stated that forces belonging to Basij, the IRGC and/or plainclothes individuals used multiple shot metal or rubber projectiles against individuals.

117. Video footage of the protests also show State forces, in particular various forces belonging to NAJA, using tear gas and batons against the protestors/bystanders and discharging weapons.
118. As stated by witnesses and seen in some video footages of the protests, where plainclothes forces use force, they are often in proximity to or are even acting in collaboration with uniformed forces including those belonging to NAJA. Among the witnesses whose statements I have examined, 14 witnesses stated that they saw NAJA or other uniformed forces in proximity to plainclothes forces. According to witnesses, in some instances, potentially-lethal weapons such as multiple shot metal or rubber projectiles were fired from the rooftop of Basij stations and other governmental buildings such as the governor's building.
119. Various branches of Iran's security forces, including the Ministry of Intelligence, the IRGC, and Basij often use plainclothes forces including in the context of repressing protests. The use of plainclothes forces is in fact one of the ways in which security forces evade accountability.
120. To this date, the Iranian authorities have not provided any evidence showing that any individuals or forces other than those belonging to the State have been responsible for the use of potentially-lethal weapons against the protestors and bystanders.

Not incidental or lawful sanctions

121. *Not incidental* – the use of potentially-lethal force by State security forces was not restricted to isolated incidents. In fact, there exists strong evidence showing that potentially-lethal force was unlawfully used by security forces on a systematic and widespread manner. Potentially-lethal force was used on a large scale across a wide geographical scope resulting in a large number of victims sustaining injuries.⁷⁸ Witnesses whose statements have been studied for the purpose of this statement have testified about the use of potentially-lethal force in 28 cities in 16 provinces across the

⁷⁸ The Trial Chambers in *Ntaganda* case stated that the term 'widespread' designates 'the large-scale nature of the attack and the number of targeted persons'. See Prosecutor v. Ntaganda (Judgement) ICC-01/04-02/06 (8 July 2019), para. 691.

country showing the geographical scope of the use of force. Furthermore, potentially-lethal force was used against a multiplicity of victims, who included protesters and bystanders, among them children, individuals with disabilities and elderly persons. While the number of individuals who have sustained injuries as a result of the use of potentially-lethal force is not known, the type of weapons used – many of which were inherently indiscriminate – and the manner in which they were used is highly likely to have left a large number of individuals injured. In addition to witnesses who said they have sustained injuries themselves, witnesses also said that they saw others, in some cases tens of individuals, injured as a result of the State security force’s use of potentially-lethal weapons. Potentially-lethal force was also used in a systematic manner, that is the use of force was organised and did not occur randomly. Various branches of State security forces, including different branches of NAJA such as anti-riot forces, as well as the IRGC and Basij and in some instances the army, were deployed in different cities across the country. These forces were equipped with weapons, vehicles and motorcycles. As detailed above, similar if not identical patterns of conduct committed by State security forces were reported by witnesses.

122. *Not lawful sanctions* – As detailed above, the manner in which State security forces used potentially-lethal force was in contravention of all principles of the use of force: security forces used weapons which must be prohibited including multiple shot metal and rubber projectiles and stun guns and used force in circumstances not allowed under international law including against individuals who posed no threat of death or serious risk of injury and for achieving objectives that are not legitimate including for dispersing the protests. They further targeted individuals’ sensitive body parts and organs increasing the risk of serious injury and even death.

Lack of Accountability and the Refusal to Investigate

123. Under international human rights law, there is an obligation on States to investigate all alleged or suspected violations of human rights, in particular the rights to life and freedom from torture and other forms of cruel, inhuman or degrading treatment or punishment.⁷⁹ As the UN Special Rapporteur on extrajudicial executions has stated, “An effective remedy is dependent on an effective investigation.”⁸⁰
124. Investigations of torture and other ill-treatment shall not be dependent upon lodging of a complaint by victims or their relatives and must be automatic as States have an obligation to carry out investigations in line with international law, *wherever there is reasonable ground* to believe that an act of torture has been committed in any territory under their jurisdiction.

⁷⁹ See for example, the Convention against Torture, the ICCPR, and the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016): The Revised United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, OHCHR, Geneva,

⁸⁰ The Special Rapporteur on extrajudicial executions, UN Doc. A/HRC/26/36 (2014), para. 83.

125. With regards to the use of force, the UN Guidance states that “in the event of injury, a report should contain sufficient information to establish whether the use of force was necessary and proportionate, and should set out the details of the incident, including the circumstances; the characteristics of the victim; the measures taken to avoid the use of force and to de-escalate the situation; the type and manner of force used, including specific weaponry; the reasons for the use of force, and its effectiveness; and the consequences. The report should conclude whether the use of force was lawful and, in any event, should identify any lessons learned from the incident.”⁸¹
126. Where an investigation into the use of force by law enforcement officials reveals evidence that a death or injury may have been caused unlawfully, the State should ensure that perpetrators are prosecuted through a judicial process and, if convicted, given appropriate punishment.⁸² Basic Principle 7 states that, “Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.”
127. Iran, as a state party to the ICCPR, as well as under customary international law has an obligation to ensure that any individual whose rights as recognised under the Covenant are violated has access to justice and an effective remedy.
128. Despite its international human rights obligations, Iran has failed to put in place a legal framework in order to restrict the use of force by its armed and security forces and to prevent against arbitrary deprivation of life and torture and other ill-treatment.
129. Iran’s laws prohibit torture in general terms but do not recognise a specific crime of torture. There exists no definition of torture under Iranian law.⁸³
130. The primary piece of legislation regulating the use of force is the 1995 Law on the Use of Firearms by Armed Forces in Necessary Incidents. The Law regulates the use of firearms in the context of “illegal” assemblies, that is assemblies which have not received a licence. While the Law fails to provide any definition of “arms”, it is evident from its provisions that it only pertains to the use of firearms. Under Article 4 of the Act, armed forces may “legally” resort to firearms in order to “return order to and control illegal assemblies where their control is deemed impossible without the use of arms.” In permitting armed forces to use firearms in assemblies, the Law makes no mention of the high threshold placed on the use of firearms under international law and standards namely, to protect against an imminent threat of death or risk of serious injury. As such, the Law effectively allows the security and armed forces to use firearms in order to disperse assemblies that are deemed illegal.

⁸¹ OHCHR, “Guidance on less-lethal weapons in law enforcement”, 3.4.

⁸² The Minnesota Protocol, para. 17.

⁸³ See Amnesty International, “Flawed Reforms: Iran’s New Code of Criminal Procedure”, 10 February 2016, available at: <https://www.amnesty.org/en/documents/mde13/2708/2016/en/>.

131. Furthermore, Iran lacks any regulatory framework on the use of potentially-lethal force (less-lethal force) including kinetic impact projectiles, chemical irritants, hand-held kinetic weapons such as batons, electric shock weapons and water cannons. The failure of the State to pass legislation in line with international law to regulate the use of firearms and less-lethal weapons by its law enforcement and other forces exhibits a failure to protect the right to life and the right to physical integrity and freedom from torture and other ill-treatment under the law. Such failure further opens the hands of the authorities and security forces to use any types of weapons and in any manner and circumstances they deem necessary without any consequences. As demonstrated in this report, the authorities and security forces indeed deployed these weapons for achieving illegitimate and unlawful objectives and in an unlawful and arbitrary manner.
132. In addition to the absence of a regulatory framework, certain practices adopted by the Iranian authorities and security forces are deliberately aimed at creating a situation of impunity by making it impossible for individuals, including victims, to identify individual members of the security forces who were suspected of unlawfully or excessively using force including potentially-lethal weapons.
133. During the November 2019 protests, a large number of the security forces who resorted to force including potentially-lethal force wore masks, balaclavas or other types of coverings of their faces.⁸⁴ They did not wear any nametags or individually assigned service numbers making it impossible for protestors and bystanders to identify them. At least 20 witnesses stated that security forces using weapons, including potentially-lethal weapons, had covered their faces by balaclavas, masks, keffiyehs, and helmets. Some witnesses specifically mentioned that the forces were not wearing nametags or individually assigned numbers.
134. Ultimately and while two years have passed since the violations and crimes committed in November 2019, the Iranian authorities have not carried out any investigations into the use of force including potentially-lethal weapons by the security forces against the protestors and bystanders.
135. Iran's failure to investigate the use of potentially-lethal weapons against the protestors and bystanders, which, as demonstrated above, constitute torture or other ill-treatment, is an ongoing violation of the right of individuals to be free from torture or other ill-treatment and the right to an effective remedy.

⁸⁴ In the case of *Ataykaya v. Turkey*, the European Court of Human Rights found that the “inability of eyewitnesses to identify the officer who fired the shot because he was wearing a balaclava, is in itself a matter of concern” and that such practice had helped to create a situation of impunity and protecting those responsible from prosecution. See <https://hudoc.echr.coe.int/eng#%7B%22languageisocode%22:%5B%22ENG%22%5D,%22appno%22:%5B%2250275/08%22%5D,%22documentcollectionid%22:%5B%22CHAMBER%22%5D,%22itemid%22:%5B%22001-145973%22%5D%7D>

136. The Human Rights Committee, in its General Comment No. 31, has explained that such failure may in itself give rise to a separate breach of the ICCPR and has further elaborated on how impunity enables repeated cycles of violations:

[...] As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. These obligations arise notably in respect of those violations recognized as criminal under either domestic or international law, such as torture and similar cruel, inhuman and degrading treatment (article 7), summary and arbitrary killing (article 6) and enforced disappearance (articles 7 and 9 and, frequently, 6). Indeed, the problem of impunity for these violations, a matter of sustained concern by the Committee, may well be an important contributing element in the recurrence of the violations. When committed as part of a widespread or systematic attack on a civilian population, these violations of the Covenant are crimes against humanity (see Rome Statute of the International Criminal Court, article 7).⁸⁵

137. The refusal of the Iranian authorities to respond to the repeated calls by the United Nations' experts and bodies as well as non-governmental human rights organisations to conduct prompt, impartial, transparent and independent investigations into the gross violations of human rights and crimes under international law committed by officials and security forces during the November 2019 protests has meant that while perpetrators continue to enjoy impunity and positions of power, victims, survivors, their families and the society as a whole is denied truth and justice.
138. Individuals who were injured, including those who sustained permanent disabilities as a result of the security force's use of potentially-lethal weapons continue to live with the long-term consequences of their injuries which, among others, impact their psychological wellbeing and their livelihood, diminishing their human dignity. They continue to be denied the right to justice and access to effective remedies.

⁸⁵ UN Human Rights Committee (HRC), General comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant, 26 May 2004, CCPR/C/21/Rev.1/Add.13, Para. 18, available at: <https://www.refworld.org/docid/478b26ae2.html>.