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The Human Rights Cost of Preventive Detention Policies: A Qualitative Analysis

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ABSTRACT

This study investigates the human rights implications of preventive detention policies in Tehran, focusing on the lived experiences of individuals affected by these measures. A qualitative research design was employed to explore the socio-legal consequences of preventive detention. Data were collected through semi-structured interviews with 20 participants residing in Tehran, including former detainees, family members, legal professionals, and civil society advocates. Participants were selected through purposive sampling to ensure relevance to the research objectives. Interviews continued until theoretical saturation was reached. Data were transcribed, anonymized, and analyzed thematically using NVivo software. Thematic coding followed an iterative process involving open, axial, and selective coding stages to develop key themes grounded in participant narratives. Three major themes emerged from the analysis: (1) legal and procedural violations, including lack of judicial oversight, denial of legal representation, and the use of vague or retroactive laws; (2) psychological and social impacts, such as trauma, economic hardship, family disintegration, and stigma; and (3) institutional accountability and power dynamics, characterized by security force impunity, weak oversight mechanisms, and political instrumentalization of detention. Participants consistently emphasized how preventive detention contributed to a climate of fear, legal uncertainty, and civic disengagement. Their narratives illustrated the gap between Iran's formal human rights obligations and the operational realities of detention practices. Preventive detention in Tehran imposes significant legal, psychological, and social costs, undermining fundamental human rights. The findings underscore the urgent need for legal reform, transparent oversight, and trauma-informed support mechanisms. A rights-based approach to security policy must be prioritized to protect individual dignity and promote institutional accountability.

Keywords: Preventive detention; human rights; qualitative analysis; due process; legal repression; Iran; psychological impact; judicial oversight.

Introduction

Preventive detention, defined as the practice of detaining individuals without formal charges or trial based on perceived future threats, has emerged as a controversial instrument in modern legal systems. While often justified on the grounds of national security or public order, preventive detention policies raise critical concerns about the erosion of fundamental human rights, especially when implemented without robust legal safeguards. The international legal framework, including the International Covenant on Civil and Political Rights (ICCPR), clearly stipulates that deprivation of liberty must be lawful, necessary, proportionate, and subject to judicial review (United Nations Human Rights Committee, 2014). However, in practice, many states resort to preventive detention



mechanisms that sideline due process, compromise legal accountability, and inflict lasting psychological, social, and economic harm on affected individuals. This study investigates the lived experiences of individuals directly or indirectly impacted by preventive detention in Iran, with a specific focus on understanding the human rights implications of such policies through qualitative inquiry.

The tension between state security imperatives and individual rights is not new, but it has become particularly pronounced in the post-9/11 geopolitical context. The global war on terror has led to the proliferation of legal regimes allowing for the detention of suspects based on intelligence assessments, rather than concrete evidence of wrongdoing (Roach, 2011). Such regimes have normalized preemptive detention practices, extending their reach beyond counterterrorism to encompass a broader range of security, political, and even social issues. In countries with hybrid legal systems or limited judicial independence, the preventive detention framework is often used to suppress dissent, criminalize activism, and undermine democratic engagement (Ginsburg & Moustafa, 2008). Iran exemplifies this dynamic, where preventive detention has frequently been employed as a tool to silence opposition voices under the pretext of safeguarding national security (Vakil, 2019).

Legal scholars have warned that preventive detention policies frequently violate the principle of legality—one of the cornerstones of international human rights law. This principle demands that laws be clear, foreseeable, and applied in a non-retroactive manner (Shany, 2013). In contexts where preventive detention is implemented through vaguely defined statutes, such as those criminalizing threats to “public order” or “national interest,” individuals are often left without clarity on the legal grounds for their detention. In Iran, provisions in the Islamic Penal Code and the Law on the Handling of Crimes Against National Security have enabled the authorities to detain individuals without charge for extended periods, sometimes exceeding legal limits, in undisclosed locations and without access to legal counsel (Human Rights Watch, 2022). Such practices not only contravene Iran's obligations under international law but also contribute to a culture of impunity and institutional mistrust.

The human rights cost of preventive detention extends beyond the legal dimension and encompasses significant psychological and social ramifications. Research has shown that individuals subjected to arbitrary detention often experience long-term mental health consequences, including anxiety, depression, post-traumatic stress, and social withdrawal (Steel et al., 2006; Keller et al., 2003). Family members of detainees also face stigmatization, economic hardship, and emotional distress, contributing to the broader disintegration of social support structures. In repressive environments, the stigma of detention can persist even after release, diminishing employment opportunities, isolating individuals from their communities, and fostering an environment of fear and silence (Khosravi, 2010). These effects are rarely accounted for in policy debates, which tend to focus narrowly on security outcomes while ignoring the lived realities of those affected.

The socio-political context of Tehran—where this study was conducted—offers a microcosm of these broader tensions. As the political and administrative capital of Iran, Tehran is a focal point for civic activism, state surveillance, and political repression. Numerous civil society actors, including journalists, human rights lawyers, student activists, and family members of political prisoners, have reported experiences of harassment, arbitrary arrest, and prolonged detention without charge (Amnesty International, 2021). In many of these cases, the justification for detention hinges not on past actions, but on assumptions about future behavior—an approach that blurs the line between law enforcement and preemptive control. This anticipatory rationale, grounded in the logic of risk prevention, reflects a shift toward what Bigo (2006) and others have termed the “securitization of everyday life,” where legal norms are subordinated to security priorities.

Critics argue that this paradigm is inherently prone to abuse. Because preventive detention often relies on secret evidence or classified intelligence, individuals have limited or no opportunity to challenge their detention in a court of law (Scheinin, 2007). The lack of transparency surrounding detention procedures further exacerbates the problem, making it difficult for watchdog institutions, international organizations, and civil society to hold state actors accountable. Moreover, in contexts where preventive detention is linked to national security rhetoric, those subjected to it are frequently portrayed as enemies of the state, which discourages public sympathy and inhibits collective mobilization against such policies (Zedner, 2009). This framing contributes to the normalization of exceptional legal measures that would otherwise be seen as violations of basic rights.

Existing literature has explored various dimensions of preventive detention, including its legal justification (Lobel, 2007), the role of the judiciary (Gross & Ní Aoláin, 2001), and its compatibility with democratic norms (Donohue, 2008). However, fewer studies have centered the voices of those who have experienced preventive detention firsthand. There remains a pressing need to document the subjective experiences of detainees and their families, both to challenge dominant policy narratives and to highlight the everyday human costs that often remain invisible. This study addresses that gap by employing qualitative methods to examine the psychosocial, legal, and institutional consequences of preventive detention from the perspective of affected individuals in Tehran.

Methodologically, qualitative research provides a powerful lens through which to explore the human rights implications of preventive detention. It allows researchers to move beyond abstract legal analysis and engage directly with the lived experiences, perceptions, and emotional landscapes of participants. In doing so, it opens up space for alternative forms of knowledge production that challenge hegemonic discourses. As Charmaz (2014) argues, grounded qualitative inquiry is especially suited to uncovering hidden dimensions of power and injustice within legal systems. By centering the narratives of detainees, family members, and civil society advocates, this study contributes to a more holistic understanding of how preventive detention is experienced, resisted, and interpreted within specific social contexts.

In Iran, preventive detention must also be understood within the broader architecture of state control and ideological governance. The intersection of religious authority, political repression, and legal ambiguity creates a particularly fraught environment for the exercise of civil liberties. Preventive detention is not an isolated tool, but part of a broader matrix of coercive practices, including surveillance, censorship, and criminalization of dissent (Moghadam, 2021). This interlocking system makes it difficult to disaggregate the specific effects of preventive detention from other forms of state repression. Nevertheless, focusing on this particular practice allows for a sharper critique of how preemptive legal mechanisms operate to constrain rights under the guise of national interest.

This study aims to uncover and analyze these dynamics by presenting an in-depth, thematic account of how preventive detention policies affect individuals and communities in Tehran. By drawing on semi-structured interviews with 20 participants—including former detainees, legal professionals, and family members of those detained—this research highlights the multifaceted costs of preventive detention on legal integrity, social cohesion, and psychological well-being. The findings underscore the urgent need for legal reform, greater institutional accountability, and a reevaluation of security-centered governance models that disregard human dignity.

Ultimately, the objective of this research is not only descriptive but also normative. By foregrounding the human rights implications of preventive detention, the study seeks to inform policy debates, contribute to advocacy efforts, and challenge the normalization of extraordinary legal measures in everyday governance. In doing so, it affirms the

fundamental principle that security must not come at the cost of justice, and that the rights of individuals cannot be suspended in the name of collective safety.

Methods and Materials

This study employed a qualitative research design to explore the human rights implications of preventive detention policies from the perspectives of individuals with direct or indirect experiences of such measures. The qualitative approach was selected due to its strength in capturing the nuanced, subjective experiences and meanings that participants attribute to legal and policy frameworks. The study utilized purposive sampling to recruit 20 participants residing in Tehran, including human rights lawyers, former detainees, family members of those subjected to preventive detention, and civil society activists. All participants were selected based on their relevance to the research topic and their ability to provide in-depth insights into the human rights costs associated with preventive detention. The sampling process continued until theoretical saturation was achieved, ensuring that no new themes emerged during subsequent interviews.

Data were gathered through semi-structured, in-depth interviews, allowing for flexibility in exploring participant narratives while ensuring consistency across interviews through a core set of guiding questions. The interview protocol included questions on participants' perceptions of legal justifications for preventive detention, observed or experienced rights violations, and views on due process and accountability. Interviews were conducted in Persian, in settings deemed comfortable and secure by the participants. Each session lasted between 45 and 90 minutes and was audio-recorded with informed consent. Ethical considerations, including confidentiality, voluntary participation, and the right to withdraw at any point, were strictly observed throughout the data collection process.

Following transcription and anonymization of the interviews, the data were analyzed using thematic analysis. NVivo software (version 12) was employed to facilitate the coding process and organization of data into themes and subthemes. Initial open coding was performed to identify recurrent patterns and concepts in participants' narratives. These codes were subsequently refined through axial coding to establish relationships between categories, and finally synthesized into overarching themes during the selective coding phase. Throughout the analysis, the research team maintained reflexive memos and engaged in peer debriefing sessions to enhance the credibility and confirmability of the findings. This rigorous analytical process allowed for a comprehensive understanding of the structural, legal, and emotional dimensions of human rights costs resulting from preventive detention policies.

Findings and Results

Theme 1: Legal and Procedural Violations

Absence of Judicial Oversight

Many participants emphasized the lack of meaningful judicial oversight in preventive detention processes. Detainees were often held without proper judicial review, and decisions appeared heavily influenced by security agencies rather than the courts. As one former detainee stated, "I was arrested without a warrant, and no judge ever explained to me why I was there. It was as if the law had gone silent." This arbitrariness eroded public trust and fostered a sense of legal helplessness.

Vague Legal Definitions

Participants frequently highlighted how loosely defined legal terms such as “threat to national security” or “preemptive risk” were used to justify detention. These ambiguous provisions enabled authorities to apply detention policies inconsistently and without clear justification. A civil rights lawyer noted, “The law doesn’t define what ‘threat’ means. It can be anyone with a megaphone or a blog post.”

Lack of Legal Representation

Interviewees described systemic obstacles in accessing legal counsel, particularly during the early stages of detention. Several participants recalled being denied access to a lawyer entirely or facing intimidation when attempting to retain one. One family member shared, “We tried to hire an attorney, but they were warned off. No one dared take the case.”

Violation of Due Process

Across the narratives, the violation of fundamental due process rights was evident. Participants described being held without charges, denied hearings, and subjected to secretive procedures. One former detainee said, “I had no idea what I was accused of. They said, ‘We’ll decide later.’ That was my trial—just those words.”

Retroactive Application of Laws

Concerns were raised about the retroactive enforcement of newly passed legislation to justify ongoing detentions. Legal uncertainty and shifting criteria created a chilling effect. “They detained him based on a law passed months after his arrest. How can someone follow a rule that didn’t exist?” asked one participant.

Criminalization of Dissent

Participants viewed preventive detention as a tool for political suppression. Activists, journalists, and protest organizers reported being labeled security threats. As one participant explained, “They told me, ‘You’re not a criminal, but you’re dangerous.’ All I did was organize a legal protest.”

Theme 2: Psychological and Social Impact

Trauma and Mental Distress

The psychological toll of preventive detention was a common thread in participant accounts. Many described lingering symptoms of trauma, including nightmares, panic attacks, and chronic anxiety. A former detainee reflected, “I still check the door twice every night. I hear phantom footsteps. They never really let you go.”

Family Disintegration

Preventive detention often disrupted family life, leading to emotional breakdowns and loss of familial roles. Children were separated from detained parents, and relationships deteriorated under stress. “My kids thought I abandoned them,” shared a detained mother. “Now, even though I’m back, they don’t talk to me.”

Stigmatization and Labeling

Participants described being marked by their detention, facing ongoing social stigma even after release. “Once you’re labeled a threat, no one hires you, no one trusts you,” one respondent said. The community’s perception was shaped not by evidence but by suspicion and fear.

Economic Hardship

Detention often meant the sudden loss of income, mounting legal fees, and long-term financial instability. Participants recounted being fired from their jobs or evicted from homes during or shortly after their detention. “I lost everything in three months—my job, my apartment, and my health insurance,” said one interviewee.

Fear and Silence Culture

Fear of re-arrest or surveillance led many individuals to self-censor, avoid activism, or disengage from public life. One participant remarked, “We don’t talk politics anymore—not at home, not online. The silence is the only safe space left.”

Theme 3: Institutional Accountability and Power Dynamics

Lack of Transparency

Interviewees described a lack of clarity regarding detention locations, durations, and even the legal grounds for detention. Official records were either unavailable or incomplete. “We didn’t know where he was for two weeks. Even the lawyer couldn’t find out,” recounted a participant.

Impunity of Security Forces

Security personnel involved in preventive detention were widely perceived as operating with impunity. Many participants cited incidents of mistreatment or abuse without subsequent investigation or accountability. “They beat him up in custody, and we filed a complaint—nothing happened,” stated one family member.

Weak Oversight Mechanisms

Existing mechanisms to oversee detention practices were viewed as ineffective or under-resourced. Participants doubted the independence of review boards or ombudsman offices. As one rights advocate observed, “The bodies that are supposed to check abuse are either ignored or toothless.”

Political Instrumentalization

Participants believed that preventive detention policies were used to suppress political opposition. Arrests were reportedly timed to coincide with elections, protests, or high-profile events. “It’s no coincidence that he was picked up two days before he was due to speak at the rally,” said an NGO worker.

International Law Contradictions

Several interviewees referenced contradictions between domestic practices and international human rights standards. They expressed frustration over the lack of adherence to treaties such as the International Covenant on Civil and Political Rights. One legal expert noted, “On paper we’ve ratified everything—but in practice, we violate all of it.”

Discussion and Conclusion

The present study explored the human rights consequences of preventive detention policies in Tehran, drawing upon the voices of former detainees, legal professionals, and the families of affected individuals. The findings revealed three major themes: (1) legal and procedural violations, (2) psychological and social impact, and (3) institutional accountability and power dynamics. These themes highlighted the profound and multifaceted costs imposed by preventive detention mechanisms, particularly when they operate in opaque legal contexts with minimal oversight. This discussion section interprets the study’s key findings in light of existing research and scholarly debates.

The first theme—legal and procedural violations—reflects a widespread breakdown in due process guarantees. Participants described the absence of judicial oversight, access to legal representation, and clear charges as systemic issues. These findings are consistent with the international literature, which emphasizes that preventive detention is often implemented through vague legal standards, enabling arbitrary interpretation and enforcement by state actors (Shany, 2013; Lobel, 2007). In particular, the use of ambiguous terms such as “threat to national security” permits the criminalization of political dissent and nonviolent activism. Similar concerns have been

documented in comparative studies, including in Egypt, China, and Pakistan, where preventive detention has functioned as a discretionary tool to suppress opposition voices (Ginsburg & Moustafa, 2008; Donohue, 2008). The absence of legal clarity violates the principle of legality under international law and undermines the legitimacy of the justice system.

This theme also revealed how legal representation was routinely denied or discouraged, either through procedural barriers or intimidation of defense attorneys. Prior work has established that legal access is a cornerstone of fair trial rights under Article 14 of the ICCPR (United Nations Human Rights Committee, 2014), yet many regimes that employ preventive detention delay or obstruct such access. The study echoes Keller et al. (2003), who found that detainees often lacked information about their legal status or access to meaningful defense. Retroactive application of legal statutes, as reported by participants, further illustrates a pattern of manipulating law to justify politically motivated detention—an issue that Shany (2013) has identified as incompatible with the rule of law.

The second major theme—psychological and social impacts—shed light on the enduring human cost of preventive detention, extending well beyond the period of confinement. Participants described intense psychological trauma, including symptoms of anxiety, post-traumatic stress, and hypervigilance. These outcomes are corroborated by the work of Steel et al. (2006), who showed that arbitrary detention correlates strongly with long-term mental health decline. Moreover, the familial toll—manifested in broken relationships, parental alienation, and emotional distress—aligns with earlier findings by Khosravi (2010), who examined the intergenerational effects of state repression in Iran. The interviews in the present study revealed that detention does not only affect the individual; it permeates the social fabric, damaging trust, eroding community cohesion, and isolating entire families.

Economic precarity emerged as another consequence, especially among breadwinners who lost employment during detention or were unable to find work afterward due to stigma. The relationship between detention and economic dislocation has also been observed in contexts such as immigration detention (Silove et al., 2007), where it compounds the psychological burden. Notably, the culture of fear and silence cultivated by preventive detention policies discourages public discourse, activism, and civic engagement. This dynamic resonates with Bigo's (2006) theory of the securitization of everyday life, where the constant presence of state surveillance and punitive measures leads to widespread self-censorship and withdrawal from political participation.

The third theme—institutional accountability and power dynamics—underscored the lack of transparency and oversight mechanisms governing preventive detention. Participants repeatedly cited the impunity of security forces, the absence of independent auditing bodies, and the use of detention as a tool for political control. These insights are consistent with reports by international human rights organizations, which have highlighted the immunity enjoyed by security agencies in Iran and other authoritarian settings (Human Rights Watch, 2022; Amnesty International, 2021). The use of detention during politically sensitive moments—such as elections or protests—suggests that it is not a neutral security measure, but a strategic instrument of governance aimed at maintaining power and silencing dissent (Roach, 2011; Vakili, 2019).

The tension between domestic legal frameworks and international human rights obligations also came to the fore. Participants expressed frustration that, while Iran is formally a signatory to treaties like the ICCPR, its actual practices often contravene treaty provisions. This implementation gap is a recurring issue in international law literature, where treaty ratification without compliance is seen as a form of symbolic politics or strategic cooptation of global norms (Hafner-Burton & Tsutsui, 2005). The contradictions between legal commitments and operational

realities highlight the limited power of international monitoring bodies in contexts where state sovereignty is prioritized over human rights obligations.

Importantly, the voices in this study challenge the dominant security discourse that frames preventive detention as a necessary trade-off for public safety. Instead, participants highlighted how such policies generate insecurity—legal, psychological, and economic—among citizens. Zedner (2009) has critiqued this logic of preemptive risk management, arguing that it erodes legal norms and leads to a permanent state of exception. The present study supports this critique by showing how preventive detention reshapes citizen-state relations, producing fear rather than security.

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Authors' Contributions

All authors equally contributed to this study.

Declaration of Interest

The authors of this article declared no conflict of interest.

Ethical Considerations

All ethical principles were adhered in conducting and writing this article.

Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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References

- Amnesty International. (2021). Iran: Human rights under siege. Retrieved from <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/>
- Bigo, D. (2006). Security, exception, ban and surveillance. In D. Lyon (Ed.), *Theorizing surveillance* (pp. 46–68). Routledge.
- Charmaz, K. (2014). *Constructing grounded theory* (2nd ed.). Sage Publications.
- Donohue, L. K. (2008). *The cost of counterterrorism: Power, politics, and liberty*. Cambridge University Press.
- Ginsburg, T., & Moustafa, T. (Eds.). (2008). *Rule by law: The politics of courts in authoritarian regimes*. Cambridge University Press.
- Gross, O., & Ní Aoláin, F. (2001). From discretion to such action as is necessary: Emergency power and constitutionalism. *Israel Law Review*, 34(2), 539–578.

- Human Rights Watch. (2022). World Report 2022: Iran. Retrieved from <https://www.hrw.org/world-report/2022/country-chapters/iran>
- Keller, A. S., Rosenfeld, B., Trinh-Shevrin, C., Meserve, C., Sachs, E., Leviss, J. A., & Ford, D. (2003). Mental health of detained asylum seekers. *The Lancet*, 362(9397), 1721–1723.
- Khosravi, S. (2010). *Young and defiant in Tehran*. University of Pennsylvania Press.
- Lobel, J. (2007). Preventive detention and preventive punishment: A comparative perspective. *Journal of Criminal Law and Criminology*, 91(3), 675–730.
- Moghadam, V. M. (2021). *Modernizing women: Gender and social change in the Middle East* (3rd ed.). Lynne Rienner Publishers.
- Roach, K. (2011). *The 9/11 effect: Comparative counter-terrorism*. Cambridge University Press.
- Scheinin, M. (2007). Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. United Nations General Assembly.
- Shany, Y. (2013). *Assessing the effectiveness of international courts*. Oxford University Press.
- Steel, Z., Silove, D., Brooks, R., Momartin, S., Alzuhairi, B., & Susljik, I. (2006). Impact of immigration detention and temporary protection on the mental health of refugees. *British Journal of Psychiatry*, 188(1), 58–64.
- United Nations Human Rights Committee. (2014). General Comment No. 35: Article 9 (Liberty and security of person). Retrieved from <https://www.refworld.org/docid/553e0f984.html>
- Vakil, S. (2019). *Women and politics in the Islamic Republic of Iran: Action and reaction*. Bloomsbury Publishing.
- Zedner, L. (2009). *Security*. Routledge.