

## Special Rapporteur on violence against women, its causes and consequences E/CN.4/2006/61/Add.3 para 73 (e)

### Full recommendation:

*In order to enhance women's access to justice through a transparent legal and judiciary reform it is recommended that the Government: Prohibit by law cruel corporal punishments such as stoning and flogging.*

### Assessment using Impact Iran human rights indicators<sup>1</sup>

The Penal Code of the Islamic Republic of Iran imposes corporal punishment for a significant number of crimes. Articles 386 to 416 contain regulations allowing the imposition of a range of punishment under *qesas-e ozv* (retaliation for injured limb or body part).<sup>2</sup> Such punishments include amputation of limbs, cutting of body parts and blinding. Under Article 278 of the Penal Code, the crime of theft, when meeting certain conditions,<sup>3</sup> is sentenced with “amputation of the full length of four fingers of the right hand of the thief [...]”.<sup>4</sup> At least 149 crimes continue to be punishable by flogging in Iran such as: consumption of alcohol, drug use and petty drug dealing, theft, adultery, “flouting” of public morals, illegitimate relationships, and mixing of the sexes in public.<sup>5</sup>

Although in 2002 then-Head of the Judiciary Ayatollah Shahroudi issued a ban on stoning,<sup>6</sup> it remains a punishment for acts of adultery by a woman and a man who meet the condition of *ehsan*<sup>7</sup> under the Islamic Penal Code (2013).<sup>8</sup> In 2007, the Iranian Judiciary confirmed that a man who had been convicted of adultery 10 years earlier was stoned to death in Qazvin province.<sup>9</sup> The practice reportedly continued despite the issuance of the ban.<sup>10 11</sup> In 2013, the spokesman for the

<sup>1</sup> CCPR.7.1.S.1; CCPR.7.1.P.1; CCPR.7.1.O.1

<sup>2</sup> Islamic Penal Code of the Islamic Republic of Iran (2013) as referenced in “Flawed Reforms: Iran’s next Code of Criminal Procedure”, Amnesty International, 2016, <https://www.amnesty.org/download/Documents/MDE1327082016ENGLISH.PDF>

<sup>3</sup> The conditions stipulated under this provision include but are not limited to the following: “The stolen property has a legitimate value”, “the stolen property was placed in herz [a secure place]”, “the thief breached the herz [the secure place]”, and “the theft was not committed in a time of famine” Article 268, Islamic Penal Code of the Islamic Republic of Iran (2013), Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>4</sup> Article 278 Islamic Penal Code of the Islamic Republic of Iran (2013) Islamic Penal Code of the Islamic Republic of Iran, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>5</sup> For a list of acts punishable by flogging in Iranian law, see: Abdorrahman Boroumand Center <https://www.iranrights.org/library/document/3643>

<sup>6</sup> European Parliament Report, 2003, <https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A5-2003-0334+0+DOC+XML+V0//EN>

<sup>7</sup> The condition of *ehsan* is described under Article 226 of the 2013 Islamic Penal Code, English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>8</sup> Article 225, Islamic Penal Code (2013), English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>9</sup> Radio Farda report: < [https://www.radiofarda.com/a/f1\\_stoning\\_Iran/401521.html](https://www.radiofarda.com/a/f1_stoning_Iran/401521.html) >

<sup>10</sup> Iran Human Rights, <https://iranhr.net/en/articles/603/>

<sup>11</sup> Radio Farda report: < [https://www.radiofarda.com/a/f7\\_Stoninig\\_3\\_men\\_in\\_Iran/479480.html](https://www.radiofarda.com/a/f7_Stoninig_3_men_in_Iran/479480.html) >

Iranian Parliament's Justice Commission confirmed that while the Penal Code no longer prescribes stoning, it remains a valid punishment under *Shari'a*, which is enforceable under the Penal Code.<sup>12</sup>

Iranian authorities have regularly resorted to corporal punishments, in particular flogging. Over 100 flogging sentences and 19 sentences of amputation were issued over the course of 2017.<sup>13 14</sup>  
<sup>15 16</sup> In 2020 the Abdorrahman Boroumand Center documented 160 flogging sentences.<sup>17</sup>

Iranian authorities do not systematically or thoroughly release information on corporal punishment sentences or their implementation. Reports of flogging cases rarely appear in the Iranian media as they are usually from small towns and villages.<sup>18</sup>

The Human Rights Committee has explicitly stated that flogging, amputation and stoning are not compatible with the International Covenant on Civil and Political Rights (ICCPR).<sup>19</sup> The text of article 7 of the ICCPR allows for no limitation. Violation of *jus cogens* norms, such as the prohibition of torture or other ill-treatment, cannot be justified on the basis of inconsistent domestic laws.<sup>20</sup>

Despite the existence of several means and mechanisms that should accept complaints regarding all violations against citizens' rights, such as the Article 90 Commission of the parliament (The mission of this commission - which was established based on Article 90 of the Constitution- in the parliament is to receive the citizens' complaints against all government institutions and to send the case to the judiciary for judicial procedure), or Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts,<sup>21</sup> there is not enough evidence to suggest that these complaints are independently investigated and adjudicated.

The Islamic Republic of Iran has not legally prohibited cruel corporal punishments.

#### Recommendation Status:

This recommendation has **NOT** been implemented.

<sup>12</sup> Mohamadali Esfanani, in an interview with Fars News Agency that Radio Zamaneh reported it: <https://www.radiozamaneh.com/53576> >

<sup>13</sup> Report of the Special Rapporteur on the human rights situation in the Islamic Republic of Iran, 12 March 2018, <https://undocs.org/A/HRC/37/68>

<sup>14</sup> Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/3126> ; See also Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/3270>

<sup>15</sup> See Amnesty International urgent action: <https://www.iranrights.org/library/document/3587>

<sup>16</sup> See Arya News Service, translated by the Abdorrahman Boroumand Center, <https://www.iranrights.org/library/document/3190>

<sup>17</sup> Abdorrahman Boroumand Center, <https://www.iranrights.org/projects/flogging>

<sup>18</sup> Joint submission to the Human Rights Committee, Abdorrahman Center, Iran Human Rights Documentation Center (IHRDC), Impact Iran and Human Rights Activists in Iran, 2020, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fIRN%2f42313&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fIRN%2f42313&Lang=en)

<sup>19</sup> UN Human Rights Committee (HRC), CCPR/C/79/Add.85,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/79/Add.85&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/79/Add.85&Lang=en)

<sup>20</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 27 September 2018, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/300/93/PDF/N1830093.pdf?OpenElement>

<sup>21</sup> The Law on "Respect for Legitimate Freedoms and Civil Rights, adopted on May 5, 2003 < <https://rc.majlis.ir/fa/law/show/94150> >