

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

Full recommendation:

In order to enhance women's access to justice through a transparent legal and judiciary reform it is recommended that the Government:

Abolish requirements that women present eyewitnesses in order to prove that they have been subjected to violence and allow women to prove violence through medical or police reports and other credible evidence;

Assessment using Impact Iran human rights indicators¹

Article 318 of the Code of Criminal Procedure refers to the fact that the method of proving and substantiating criminal complaints is through the evidence determined by the Islamic Penal Code. The Islamic Penal Code (IPC), approved in May 2013, in Articles 160 to 213 has introduced and explained the process of using evidence in criminal matters. For example, Article 160 of this law, in defining the evidence of a crime, i.e., in defining the reasons for proving whether a crime has taken place or has not taken place, points out that there are four ways that one can prove whether a crime took place; the first is through the confession of the accused, the second is through the testimony of those who witnessed the crime, the third is testimony under oath², and the fourth is through the knowledge of the judge.

In addition to the above articles of the IPC, the Code of Criminal Procedure provides the procedural steps that can be taken to detect a crime, to find the cause and clarify the perpetrator of the crime and facts, a set of which can be effective in proving whether a crime has occurred or not. For example, Articles 123 to 167 of this law provide for the possibility of inspection of the crime scene, local investigation, inspection and expertise to detect a crime, Articles 168 to 203 of this law refer to the investigation of the accused, and Articles 204 to 216 of the same law provide for the possibility of interviewing witnesses and informants in order to determine proof of a crime.

The above shows that at present, presenting witnesses to prove violence is not the only possibility of proving a crime, and other evidence, such as a police report or forensic report, might affect the proceedings.³ However, because in crimes of violence against women (especially in the case of domestic or community violence), women are often denied even the

¹ CCPR.2.1.S.1; CCPR.3.1.S.4; CCPR.14.1.S.1; CCPR.14.3.S.1; CCPR.2.1.P.1; CCPR.3.1.P.3; CCPR.14.3.P.1; CCPR.3.1.O.4; CCPR.14.3.O.1

² a situation in which a person does not necessarily witness what happened, but swears that the accused is guilty.

³ Article 161 and 162 of Islamic Penal Code: <https://shenasname.ir/subjects/salamat/1571-mojazat92>

right to file a complaint, and witnesses could be rare to find, the judge's knowledge plays a decisive role in determining whether a crime occurred, as well as guilt. In order to reach a decision, the judge must use all the documents, including the police report, the forensic report, and the statements of the plaintiff and the accused, to make a decision.⁴

However, as it is difficult to ascertain the clear definition of a judge's "knowledge" in various situations and judges often have a broad jurisdiction in this regard, its use in judicial decisions is largely arbitrary. For this reason, although presenting witnesses to prove a woman's innocence is not the only available avenue, all other resources can be considered ineffective.

During its last Universal Periodic Review (November 2019), the Government of the Islamic Republic of Iran stated that the Act on Protection, Dignity and Security of Women against Violence, will be "aimed at criminalising new forms of assault, harassment and violations of the rights of women and adopting preventive and support measures to stop violence against women."⁵ In January 2020, the UN Secretary General expressed concerns about the slow progress of the bill, which has been under review since 2010⁶ and as of February 2021, is under the review of the Iranian Parliament.⁷ The draft bill will then need to be vetted by the Guardian Council.

The Secretary General also noted that "critical articles were reportedly removed from the initial proposal of the Executive, including provisions protecting women from various forms of violence and criminalizing domestic violence."⁸ As of early February 2021, the available draft of the law¹⁰ suggests that the text may be insufficient to protect women in Iran from discriminations and violence. Even though the draft law may bring positive developments, it will remain limited by the Civil Code¹¹, the Family Law¹², and the Islamic Penal Code¹³, which contain provisions effectively discriminating against women and fail to protect them adequately from violence.¹⁴

Recommendation Status:

This recommendation has been **PARTIALLY** implemented.

⁴ Article 211, 212 and 213 of Islamic Penal Code: <https://shenasname.ir/subjects/salamat/1571-mojazat92>

⁵ Universal Periodic Review, Iran, 2019, <https://undocs.org/A/HRC/43/12>

⁶ Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/coir/page/file/1203136/download>

⁷ New York Times, <https://www.nytimes.com/2021/01/05/world/middleeast/iran-sexual-violence-metoo-women.html>

⁸ Report of the Secretary General, Situation of human rights in the Islamic Republic of Iran, 2020,

https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Secretary-General_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4320.pdf

⁹ See Radio Farda <https://en.radiofarda.com/a/new-watered-down-draft-law-on-violence-against-women-iniran/30173089.html> ; and ISNA www.isna.ir/news/98071612729/ (in Farsi).

¹⁰ <https://shenasname.ir/laws/7023>

¹¹ The Civil Code: <https://shenasname.ir/laws/6664>

¹² The Family Law: <https://shenasname.ir/subjects/family/1470>

¹³ The Islamic Penal Code: <https://shenasname.ir/subjects/salamat/1571-mojazat92>

¹⁴ This information is up-to-date and accurate as of early February 2021. For more up to date information on the passage of this bill, please click the following link: <http://www.impactiran.org/vawbill>