

## Concluding observations Committee on Economic Social and Cultural Rights E/C.12/IRN/CO/2 para 17

### Full recommendation

*The Committee recommends that the State party take urgent legislative steps to specifically criminalize domestic violence, including marital rape. It also recommends that the State party take steps to ensure that victims of domestic violence have access to effective means of redress and immediate protection, including through a sufficient number of safe houses.*

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

#### A. The State party should take urgent legislative steps to specifically criminalize domestic violence, including marital rape

The Islamic Republic of Iran does not have laws which specifically criminalize domestic violence. Article 630 of the Islamic Penal Code (2013) excludes husbands from criminal liability when they commit murder, assault and battery against their wife if the husband catches their wife committing a *zina* offence (adultery and fornication) with another man.<sup>2</sup> Article 1105 of the Iranian Civil Code recognizes the husband as the head of the family, which means that his orders must be respected by his wife and children.<sup>3</sup> ‘Disobedience’ can be used as a legal ground for battery.<sup>4</sup> Article 1108 of the Civil Code stresses that if a wife refuses to have sex with her husband without a reasonable excuse,<sup>5</sup> she is not entitled to ‘spousal maintenance’.<sup>6</sup> Although the legal minimum age for marriage is 13 years old under Iranian law,<sup>7</sup> girls as young as 9 lunar years can marry, subject to parental consent and court approval.<sup>8</sup> Therefore, 9 lunar years old married girls and older are also subject to the Civil Code Article 1108’s obligation to fulfil the sexual needs of their husbands.

Rape is not classified as a distinct crime under Iranian law but is considered as a *zina* offence without consent.<sup>9</sup> Marital rape is not recognized as a crime at all. The legal definition for ‘coerced *zina*’ is restricted to forced vaginal and anal penetration by a penis -therefore

<sup>1</sup> ESCR.2.2.S.1; ESCR.3.2.S.1

ESCR.2.2.P.1; ESCR.2.2.P.2

ESCR.2.2.O.2

<sup>2</sup> Iran Human Rights Documentation Centre <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>3</sup> Amnesty International, 2015, <https://www.amnesty.org/download/Documents/MDE131112015ENGLISH.pdf>

<sup>4</sup> Iran Human Rights Documentation Centre [https://iranhrdc.org/wp-content/uploads/pdf\\_en/LegalCom/Womens\\_Rights\\_Commentary\\_389929723.pdf](https://iranhrdc.org/wp-content/uploads/pdf_en/LegalCom/Womens_Rights_Commentary_389929723.pdf)

<sup>5</sup> A reasonable and valid excuse for a wife to refuse sexual relations is when the husband has contracted a venereal disease. Iran Human Rights Documentation Centre, [https://iranhrdc.org/wp-content/uploads/pdf\\_en/LegalCom/Womens\\_Rights\\_Commentary\\_389929723.pdf](https://iranhrdc.org/wp-content/uploads/pdf_en/LegalCom/Womens_Rights_Commentary_389929723.pdf)

<sup>6</sup> Amnesty International, 2015, <https://www.amnesty.org/download/Documents/MDE131112015ENGLISH.pdf>

<sup>7</sup> Article 1041 of the Civil Code as amended up until December 2000, NGO Submission to the Committee on the Rights of the Child, 2016, [https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT\\_CRC\\_NGO\\_IRN\\_19809\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_19809_E.pdf)

<sup>8</sup> Iran Human Rights Documentation Centre, [https://iranhrdc.org/wp-content/uploads/pdf\\_en/LegalCom/Womens\\_Rights\\_Commentary\\_389929723.pdf](https://iranhrdc.org/wp-content/uploads/pdf_en/LegalCom/Womens_Rights_Commentary_389929723.pdf)

<sup>9</sup> Article 221 of the Islamic Penal Code (2013), Iran Human Rights Documentation Centre, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

excludes other forms of penetration- and only when the perpetrator and the victim are unmarried -therefore explicitly excludes marital rape.<sup>10</sup> Beyond rape, no other form of sexual assault is specifically criminalized under the Islamic Penal Code.<sup>11</sup>

As a result, the Islamic Republic of Iran's legislative framework is insufficient to combat domestic violence and marital rape.<sup>12</sup> In 2017, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran found that Article 1108 of the Iranian Civil Code, which obliges wives to fulfill the sexual needs of their husbands at all times, "might even condone sexual abuse".<sup>13</sup>

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 criminalizing new forms of assault, harassment and violations of the rights of women and adopting preventive and support measures to stop violence against women."<sup>14</sup> In January 2020, the U.N. Secretary General expressed concerns about the slow progress of the bill, which has been under review since 2010<sup>15</sup> and as of February 2021 is under the review of the Iranian Parliament.<sup>16</sup> 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."<sup>17</sup><sup>18</sup> As of early February 2021, the available draft of the law<sup>19</sup> 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 Code<sup>20</sup>, the Family Law<sup>21</sup>, and the Islamic Penal Code<sup>22</sup>, which contain provisions effectively discriminating against women and fail to protect them adequately from violence.<sup>23</sup> In November 2019, the Islamic Republic of Iran rejected States' UPR recommendations asking for the criminalization of domestic violence and marital rape.<sup>24</sup>

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<sup>10</sup> Iran Human Rights Documentation Center, 2020, <https://iranhrdc.org/access-to-justice-for-victims-of-sexual-violence-in-iran/>

<sup>11</sup> Iran Human Rights Documentation Center, 2020, <https://iranhrdc.org/access-to-justice-for-victims-of-sexual-violence-in-iran/>

<sup>12</sup> See more: Iran Human Rights Documentation Center, 2020, <https://iranhrdc.org/access-to-justice-for-victims-of-sexual-violence-in-iran/>

<sup>13</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 2017, <https://www.refworld.org/docid/58bd7e2b4.html>

<sup>14</sup> Universal Periodic Review, Iran, 2019, <https://undocs.org/A/HRC/43/12>

<sup>15</sup> Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/eoir/page/file/1203136/download>

<sup>16</sup> New York Times, <https://www.nytimes.com/2021/01/05/world/middleeast/iran-sexual-violence-metoo-women.html>

<sup>17</sup> 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](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)

<sup>18</sup> 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/](http://www.isna.ir/news/98071612729/) (in Farsi).

<sup>19</sup> <https://shenasname.ir/laws/7023>

<sup>20</sup> The Civil Code: <<https://shenasname.ir/laws/6664>>

<sup>21</sup> The Family Law: <<https://shenasname.ir/subjects/family/1470>>

<sup>22</sup> The Islamic Penal Code: <<https://shenasname.ir/subjects/salamat/1571-mojazat92>>

<sup>23</sup> 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>

<sup>24</sup> Recommendations 26.253, 26.254, Universal Periodic Review, Iran, 2019, <https://undocs.org/en/A/HRC/43/12/Add.1>

There is a serious lack of comprehensive and readily available official data on the prevalence of domestic violence in the Islamic Republic of Iran.<sup>25</sup><sup>26</sup> The Census Bureau, a governmental agency responsible for data collection, does not permit international organizations to study the issue in the country.<sup>27</sup> The last extensive and published study on domestic violence carried out in the Islamic Republic of Iran dates back to 2004.<sup>28</sup><sup>29</sup><sup>30</sup> The assessment, developed throughout 32 volumes, was made available only to scholars and researchers at the Centre for Research in Tehran<sup>31</sup> until 2014 when all volumes had reportedly disappeared from the Ministry of Interior and the Ministry of Health.<sup>32</sup> The study showed that about 66 per cent of women sampled responded that they had been subjected to domestic violence in the first year of their marriage.<sup>33</sup><sup>34</sup> Despite the lack of comprehensive official data, cases of domestic violence are regularly reported and considered widespread in the Islamic Republic of Iran.<sup>35</sup><sup>36</sup> In January 2021 the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran reported that “hotline and 358 social emergency units had been established across the country to respond to social issues” including domestic violence and that “8 per cent of calls to the hotline and 10 per cent of in-person social emergency unit visits concern violence against women”.<sup>37</sup> In July 2019, the head of the Medical Examiner’s Office of Tehran Province reportedly announced that more than 16,420 cases of domestic violence had been reported to the office, an increase since 2018.<sup>38</sup> In February 2019, Habibollah Massoudi Farbod, deputy of social affairs of the State’s Welfare Organization reportedly announced that during 2018, about 10 thousand calls relating to violence against women were made to the

<sup>25</sup> Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/eoir/page/file/1203136/download>

<sup>26</sup> Amnesty International, ‘You shall procreate’ (p. 31), March 2015, <https://www.amnesty.org/download/Documents/MDE1311112015ENGLISH.pdf>

<sup>27</sup> Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/eoir/page/file/1203136/download>

<sup>28</sup> The study was undertaken by the Women’s Centre for Presidential Advisory, the Interior Ministry and the Ministry of Higher Education of the Islamic Republic of Iran and published in 2004. The study was conducted based on questionnaires and only main cities were visited. Moradian, A., *Domestic Violence against Single and Married Women in Iranian Society*, The Chicago School of Professional Society, August 2009 <https://iranian.com/2009/09/10/domestic-violence-against-single-and-married-women-in-iranian-society/>

<sup>29</sup> Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/eoir/page/file/1203136/download>

<sup>30</sup> See ISNA <https://www.isna.ir/news/8307-07024> انتایج طرح ملی بیرونی خشونت خانگی - علیه زنان در ۲۸ استان - اعلام آغاز A

<sup>31</sup> Moradian, A., *Domestic Violence against Single and Married Women in Iranian Society*, The Chicago School of Professional Society, August 2009 <https://iranian.com/2009/09/10/domestic-violence-against-single-and-married-women-in-iranian-society/>

<sup>32</sup> Young Journalists Club, <https://www.yjc.ir/fa/amp/news/5055566> ; Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International

September 2019, <https://www.justice.gov/eoir/page/file/1203136/download>

<sup>33</sup> Moradian, A., *Domestic Violence against Single and Married Women in Iranian Society*, The Chicago School of Professional Society, August 2009 <https://iranian.com/2009/09/10/domestic-violence-against-single-and-married-women-in-iranian-society/>

<sup>34</sup> ISNA <https://bit.ly/2OBLIsM>

<sup>35</sup> Amnesty International, ‘Iran 2019’, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/>

<sup>36</sup> Human Rights Activists in Iran En-HRANA, 2019 report, <https://www.en-hrana.org/wp-content/uploads/2020/01/Hrana-Annual-Report-2019.pdf>

<sup>37</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2021, <https://undocs.org/Home/mobile?FinalSymbol=A%2Fhrc%2F46%2F50&Language=E&DeviceType=Desktop>

<sup>38</sup> Human Rights Activists News Agency, 2019, <https://www.en-hrana.org/increase-in-domestic-violence-in-tehran-more-than-16-thousand-cases-were-filed>

public social welfare hotlines.<sup>39</sup> In April 2020, Mahmoud Aligoo, the head of the department of social harms of the State's Welfare Organization reportedly announced a dramatic increase in the number of cases of domestic violence, as Iran was going through a governmental mandated lockdown to combat the spread of the virus COVID-19.<sup>40 41</sup> Yet, cases of domestic violence are believed to be largely underreported.<sup>42</sup>

## **B. The State party should take steps to ensure that victims of domestic violence have access to effective means of redress and immediate protection, including through a sufficient number of safehouses**

Reports of cases of violence against women have shown that there is a general lack of accountability for perpetrators.<sup>43 44 45</sup> Victims wishing to file a complaint for domestic violence must present two adult male witnesses to the assault, an evidentiary burden difficult to meet -if not impossible.<sup>46</sup> Further, a woman can be given permission to leave the marital house only if she can prove to a court a significant risk of bodily harm or threat to her life and safety.<sup>47</sup> When perpetrators are convicted, sentences tend to be a payment of *diyah* (financial compensation)<sup>48</sup> unless the offence is found to have disrupted public order and the safety of society, in which case prison may be imposed.<sup>49</sup> Additionally, the absence of laws providing for the issuance of restraining orders puts victims under the risk of abusers' retaliation. In October 2018, a woman was reportedly murdered by her brother at the hospital where she was hospitalized after he stabbed her.<sup>50</sup>

Reports have shown that police and judges often consider domestic violence as internal family matters.<sup>51</sup> Police intervention has been reportedly discouraged and parties urged to

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<sup>39</sup> Human Rights Activists News Agency, 2020, <https://www.en-hrana.org/domestic-violence-increased-during-coronavirus-quarantines-and-stay-at-home-orders>

<sup>40</sup> Human Rights Activists News Agency, 2020, <https://www.en-hrana.org/domestic-violence-increased-during-coronavirus-quarantines-and-stay-at-home-orders>

<sup>41</sup> IRNA, 2020, <https://bit.ly/38UoMfb>

<sup>42</sup> Center for Human Rights in Iran, 2018, <https://iranhumanrights.org/2018/11/iran-must-pass-legislation-to-protect-women-against-violence/>

<sup>43</sup> Center for Human Rights in Iran, 2019, <https://iranhumanrights.org/2019/11/stop-violence-against-women/>

<sup>44</sup> Iran Human Rights Documentation Center, 2020, <https://iranhrdc.org/access-to-justice-for-victims-of-sexual-violence-in-iran/>

<sup>45</sup> Human Rights Activists News Agency, <https://www.en-hrana.org/articles>

<sup>46</sup> "The standard [of proof] for testimony in all offences shall be two male witnesses; unless in *zina*, *livat*, *takhibz*, and *mosaheqeh* which shall be proved by four male witnesses" Article 199 of the Islamic Penal Code (2013), Iran Human Rights Documentation Center, 2020, <https://iranhrdc.org/access-to-justice-for-victims-of-sexual-violence-in-iran/>

<sup>47</sup> Amnesty International, 2015, <https://www.amnesty.org/download/Documents/MDE131112015ENGLISH.pdf>

<sup>48</sup> Amnesty International, 2015, <https://www.amnesty.org/download/Documents/MDE131112015ENGLISH.pdf>

<sup>49</sup> Article 614, Islamic Penal Code (2013), Iran Human Rights Documentation Center, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>50</sup> Center for Human Rights in Iran, 2018, <https://iranhumanrights.org/2018/11/iran-must-pass-legislation-to-protect-women-against-violence/>; <https://www.ilna.news/685150-قتل-زن-جوان-توسط-طیر-ادرش-در-بیمارستان-فائل-در-برابر-جسمان-همه-بخش-استان-ها-15-اقدام-به-مقتل-کرد>

<sup>51</sup> 2019 Country Reports on Human Rights Practices: Iran, U.S. Department of State, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/iran/>

settle out-of-court.<sup>52</sup><sup>53</sup> State institutions and Iranian authorities have been reportedly unwilling to investigate, punish perpetrators and provide social services to victims of sexual assault or rape.<sup>54</sup>

In 2014, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran stated that the number of safe houses was insufficient.<sup>55</sup> In the context of its 2014 Universal Periodic Review the Government stated that it established 24 ‘rehabilitation centres’ and 31 ‘health centres’ throughout the country for women and girls who have been subjected to domestic violence.<sup>56</sup> According to official sources, there are 400 ‘social emergency shelters’ countrywide that provide services to domestic violence victims, although these shelters are not necessarily specifically designed for domestic violence survivors.<sup>57</sup><sup>58</sup> The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran reiterated that the State lacks sufficient domestic violence shelters and reported that there were only 28, established in 27 out of 31 provinces, including 20 run by non-governmental organizations.<sup>59</sup><sup>60</sup><sup>61</sup> The Government stipulated that there were 357 social emergency centres for victims of violence and 31 girl-only medical centres.<sup>62</sup> The State’s Welfare Organization reported that shelters take approximately 2,000 victims of domestic violence a year.<sup>63</sup> In comparison and as aforementioned, 16,420 cases of domestic violence have been reported in 2019, just in Tehran.<sup>64</sup> Further, the existing shelters are generally located solely in major cities and are reportedly poorly resourced and advertised and are unable to provide long-term support.<sup>65</sup><sup>66</sup>

#### Recommendation Status:

This recommendation has **NOT** been implemented.

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<sup>52</sup> UN General Assembly, ‘Situation of human rights in Iran’ (para 32), 31 August 2015, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F70%2F352&Language=E&DeviceType=Desktop>

<sup>53</sup> Australian Department of Foreign Affairs and Trade, Country Information report, Iran, 2020, <https://www.dfat.gov.au/sites/default/files/country-information-report-iran.pdf>

<sup>54</sup> Iran Human Rights Documentation Center, 2020, <https://iranhrdc.org/access-to-justice-for-victims-of-sexual-violence-in-iran/>

<sup>55</sup> Report of the Special Rapporteur on the human rights situation in the Islamic Republic of Iran, 2014, <https://www.refworld.org/docid/5436a31f4.html>

<sup>56</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, September 2016, para 59, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/304/01/PDF/N1630401.pdf?OpenElement>

<sup>57</sup> Australian Department of Foreign Affairs and Trade, Country Information report, Iran, 2020, <https://www.dfat.gov.au/sites/default/files/country-information-report-iran.pdf>

<sup>58</sup> Report Danish Refugee Council, Ministry of Immigration and Integration Denmark, (p. 28), February 2018, <https://www.justice.gov/file/1047171/download>

<sup>59</sup> See [www.irma.ir/news/83656641/](http://www.irma.ir/news/83656641)

<sup>60</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, July 2020, <https://undocs.org/A/75/213>

<sup>61</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2021, <https://undocs.org/Home/Mobile?FinalSymbol=A%2Fhrc%2F46%2F50&Language=E&DeviceType=Desktop>

<sup>62</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, July 2020, <https://undocs.org/A/75/213>

<sup>63</sup> Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/eoir/page/1203136/download>

<sup>64</sup> Human Rights Activists News Agency, 2019, <https://www.en-hrana.org/increase-in-domestic-violence-in-tehran-more-than-16-thousand-cases-were-filed>

<sup>65</sup> [www.hamshahrionline.ir/x66FG](http://www.hamshahrionline.ir/x66FG); <https://www.radiozamaneh.com/488134> (in Persian).

<sup>66</sup> Ceasefire Centre for Civilian Rights, Centre for Supporters of Human Rights and Minority Rights Group International September 2019, <https://www.justice.gov/eoir/page/1203136/download>